Le Contrôleur général des lieux de privation de liberté

Annual report 2017

Contents

Glossary

IGA (AAI)	Independent government agency (Autorité administrative indépendante)
ANAFÉ	French National Association for the Assistance of Foreigners at Borders (Association nationale d'assistance aux frontières pour les étrangers)
ANVP	French National Association of Prison Visitors (Association nationale des visiteurs de prison)
APA	Personal care allowance (Allocation personnalisée d'autonomie)
APT	Association for the Prevention of Torture (Association pour la prévention de la torture)
ARS	Regional Health Agency (Agence régionale de santé)
ASE	Child Welfare (Aide sociale à l'enfance)
ASP	Public services and payments agency (Agence des services de paiement)
ASPDRE	Committal for psychiatric treatment at the request of a representative of the State (Admission en soins psychiatriques à la demande d'un représentant de l'État, formerly HO)
ASPDT	Committal for psychiatric treatment at the request of a third party (Admission en soins psychiatriques à la demande d'un tiers, formerly HDT)
CAT	Committee against Torture (United Nations)
CCNE	National Ethics Advisory Council (Conseil national consultatif d'éthique)
CD	Long-term Detention Centre (Centre de détention)
ECHR	European Convention on/Court of Human Rights
CEF	Juvenile detention centre (Centre éducatif fermé)
CEL	Electronic liaison register (Cahier électronique de liaison)
CESEDA	Code for Entry and Residence of Foreigners and Right of Asylum (Code de l'entrée et du séjour des étrangers et du droit d'asile)
CGLPL	Controller General of places of deprivation of liberty (Contrôleur général des lieux de privation de liberté)
CHG	General Hospital (Centre hospitalier général)
CHS	Psychiatric hospital (Centre hospitalier spécialisé)
CICI	Interministerial Committee on Immigration Control (Comité interministériel de contrôle de l'immigration)
ICRC	International Committee of the Red Cross (Comité international de la Croix-Rouge)
CME	Public health institution medical committee (Commission médicale d'établissement)
CMP	Mental health centre (Centre médico-psychologique)
CNCDH	National Consultative Commission on Human Rights (Commission nationale consultative des droits de l'homme)
CNE	National Assessment Centre (Centre national d'évaluation)
CNOM	National Order of Doctors (Conseil national de l'Ordre des médecins)
CNSA	National Solidarity Fund for the autonomy of elderly and disabled people (Caisse nationale de solidarité pour l'autonomie)
CNSM	National Council for Mental Health
CP	Prison with sections incorporating different kinds of prison regime (Centre pénitentiaire)
CPADH	Commission for the Rights and Autonomy of Disabled People
CPIP	Prison rehabilitation and probation counsellor (Conseiller pénitentiaire d'insertion et de probation)
CPP	Code of criminal procedure (Code de procédure pénale)
CPT	European Committee for the Prevention of Torture (Council of Europe)
CPU	Single multidisciplinary committee (Commission pluridisciplinaire unique)

CRA	Detention centre for illegal immigrants (Centre de rétention administrative)
CRED	Red Cross helpline for prisoners (Croix-Rouge écoute des détenus)
CSL	Open Prison (Centre de semi-liberté)
CSP	Public Health Code (Code de la santé publique)
DAP	Prison administration department (Direction de l'administration pénitentiaire)
DDD	Defender of Rights (Défenseur des droits)
DCPAF	Border Police Central Directorate (Direction centrale de la police aux frontières)
DCSP	Public Security Central Directorate (Direction centrale de la sécurité publique)
DGCS	General Directorate for Social Cohesion (Direction générale de la cohésion sociale)
DGESCO	General Directorate for School Education (Direction générale de l'enseignement scolaire)
DGGN	General Directorate of the French national gendarmerie (Direction générale de la gendarmerie nationale)
DGPN	General Directorate of the French national police force (Direction générale de la police nationale)
DGOS	General Directorate for Healthcare Services (Direction générale de l'offre de soins)
DGS	General Directorate for Health (Direction générale de la santé)
DISP	Interregional Directorate for Prison Services (Direction interrégionale des services pénitentiaires)
PPD	Personal Protective Device
DSPIP	Directorate for prison rehabilitation and probation services (Direction des services pénitentiaires d'insertion et de probation)
ENAP	French National School for Prison Administration (École nationale de l'administration pénitentiaire)
ENM	French National School for the Judiciary (École nationale de la magistrature)
EPM	Prison for minors (Établissement pénitentiaire pour mineurs)
EPSM	Public mental health institution (Établissement public de santé mentale)
EPSNF	National public health institution at the remand prison of Fresnes (Établissement public de santé national de Fresnes)
UPR	Universal Periodic Review (United Nations)
ESAT	Medical-social facility aimed at helping disabled adults to better integrate socially through work (Établissement et service d'aide par le travail)
GAV	Police custody (Garde à vue)
GÉNÉPI	French National Student Group for Educating Prisoners (Groupement étudiant national d'enseignement aux personnes incarcérées)
GENESIS	French national management of prisoners for individual monitoring and safety (Gestion nationale des personnes écrouées pour le suivi individualisé et la sécurité, software)
GIP	Public Interest Group (Groupement d'intérêt public)
HAS	French National Authority for Health (Haute autorité de santé)
HDT	Hospitalisation at the request of a third party (Hospitalisation à la demande d'un tiers, now ASPDT)
HL	Free, i.e. voluntary hospitalisation (Hospitalisation libre)
HO	Hospitalisation by court order (Hospitalisation d'office, now ASPDRE)
ITF	Prohibition to enter French territory (Interdiction du territoire français)
JLD	Liberty and custody judge (Juge des libertés et de la detention)
LRA	Detention facility for illegal immigrants (Local de rétention administrative)
MA	Remand prison (Maison d'arrêt)
MAF	Women's remand prison (Maison d'arrêt "femmes")
MAH	Men's remand prison (Maison d'arrêt "hommes")
MC	Long-stay prison (Maison centrale)

MCO	Medicine, surgery, obstetrics activities
NPM	National Preventive Mechanism
MDPH	*Département*-level centre for disabled people (Maison départementale des personnes handicapées)
NPI	New real estate programme (Nouveau programme immobilier)
OFII	French Office for Immigration and Integration (Office français de l'immigration et de l'intégration)
OFPRA	French Office for the Protection of Refugees and Stateless Persons (Office français de protection des réfugiés et apatrides)
OIP	International prisons watchdog (French section) (Observatoire international des prisons, section française)
UNODC	United Nations Office on Drugs and Crime
OPCAT	Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
OQTF	Obligation to leave French territory (Obligation de quitter le territoire français)
OSCE	Organization for Security and Co-operation in Europe (Organisation pour la sécurité et la coopération en Europe)
PAD	Citizen's Advice Centre (Point d'accès au droit)
PAF	Border police (Police aux frontières)
PASS	Healthcare access centre for disadvantaged people (Permanence d'accès aux soins de santé)
PCH	Disability compensation benefit (Prestation de compensation du handicap)
PF	Family visiting room (Parloir familial)
PIPR	Centre for Rehabilitation and Preventing Reoffending (Pôle d'insertion et de prévention de la récidive)
PJJ	Judicial youth protection service (Protection judiciaire de la jeunesse)
PLAT	Counter-Terrorism Plan (Plan de lutte contre le terrorisme)
PLF	Finance Bill (Projet de loi de finances)
PMA	Assisted reproduction (Procréation médicalement assistée)
PMI	Mother and Child Protection (Protection maternelle et infantile)
PMR	Person with Reduced Mobility (Personne à mobilité réduite)
PPSMJ	Offender (Personne placée sous main de justice)
QA	New arrivals wing (Quartier "arrivants")
QCD	Detention centre wing (Quartier "centre de détention")
QD	Punishment wing (Quartier disciplinaire)
QER	Radicalisation assessment wing (Quartier d'évaluation de la radicalisation)
QPS	Preparation for Release Wing (Quartier de préparation à la sortie)
QSL	Open wing (Quartier de semi-liberté)
QVD	Violent Prisoners' Wing (Quartier pour détenus violents)
REP	Child-parent assistants (Relais enfants-parents)
EPR	European Prison Rules
SAAD	Home-based assistance service (Service d'aide et d'accompagnement à domicile)
SIAE	Facility for integration through work (Structure d'insertion par l'activité économique)
SMPR	Regional Mental Health Department for Prisons (Service médico-psychologique régional)
SPIP	Prison rehabilitation and probation service (Service pénitentiaire d'insertion et de probation)
SPT	United Nations Subcommittee on Prevention of Torture
SSIAD	Service for home-based nursing care (Service de soins infirmiers à domicile)
TA	Administrative court (Tribunal administratif)
TGI	Court of first instance in civil and criminal matters (Tribunal de grande instance)

UHSA	Specially-equipped hospitalisation unit (Unité d'hospitalisation spécialement aménagée)
UHSI	Interregional Secure Hospital Unit (Unité hospitalière sécurisée interrégionale)
ULE	Local deportation block (Unité locale d'éloignement)
UMCRA	Medical Unit in a detention centre for illegal immigrants (Unité médicale en centre de rétention administrative)
UMD	Unit for difficult psychiatric patients (Unité pour malades difficiles)
UMJ	Medical Jurisprudence Unit (Unité médico-judiciaire)
UPR	Radicalisation Prevention Unit (Unité de prévention de la radicalisation)
	US Health Unit (Unité sanitaire)
USIP	Psychiatric intensive treatment unit (Unité pour soins intensifs en psychiatrie)
USMP	Prison Health Unit (Unité Sanitaire en Milieu Pénitentiaire)
UVF	Family living unit (Unité de vie familiale)
ZA	Waiting area (Zone d'attente)

Foreword

Established by the Act of 30 October 2007, the Contrôle général des lieux de privation de liberté (Controller General of Places of Deprivation of Liberty) is marking its tenth anniversary this year.

Ever since that date, its mission has been to ensure that the fundamental rights of people deprived of their liberty are respected.

Today, the CGLPL is the only institution that is able, through full insight into 150 facilities a year, to cast an outside eye - completely independently of the public authorities - over all of the situations in which individuals can be detained: prisons, mental health institutions, detention centres for illegal immigrants and waiting areas, juvenile detention centres and custody facilities.

Over this past decade, the CGLPL has managed to carve a prominent position out for itself in the institutional landscape. It has helped to raise the profile of places of detention, and it has identified all of the situations that violate fundamental rights by putting itself in the shoes of the person deprived of liberty as well as by observing the staff's working conditions. It has outlined sets of recommendations on each facility inspected, and on the policies being implemented.

But the backdrop against which the CGLPL works has changed since 2007. Back then, the idea that detention could not be synonymous with violations of fundamental rights seemed to have gained ground. And yet, by 2008, with the introduction of preventive detention, a new notion had already emerged - that of *dangerousness*, gradually replacing that of *guilt*. Few realised it at the time, but this text ushered in many other backward steps.

And for the past few years now, this notion of dangerousness has been inspiring various pieces of legislation that have been voted on amid new pressing concerns - of terror attacks, of the state of emergency, of the migration crisis: the Act of 13 November 2014 on the prevention of terrorism, the Intelligence Act of 24 June 2015, those of 3 June and 21 July 2016 on the prevention of crime and terrorism and that of 30 October 2017 all bear witness to a ramping up of surveillance and shifting of power from judges to the executive branch.

In light of this shift, after ten years in service, the role of fundamental rights *watchdog* assumed by the Contrôleur général is crucial and has become even more necessary.

We saw this throughout 2017.

Regarding **prisons**, the key priority remains overcrowding. The CGLPL has constantly denounced this issue as a breach of people's dignity and a form of inhuman and degrading treatment in the meaning of Article 3 of the ECHR. In France, on 1 December 2017, there were 69,714 people detained for 59,165 operational places, plus 1,547 mattresses on the ground. The prison occupancy rate reached 118%, while the rate in remand prisons hit 141%, with peaks of 200% in Ile de France (the Parisian region) among other places.

Everything has been written about the prison situation; there is a plethora of proposals on the table, made by the CGLPL and by many others. Re-appointing committees, re-commissioning reports, re-convening experts will not work. **What we now need is genuine political will**, first and foremost by moving away from the belief that creating new prison places will constitute a satisfactory response; by having the courage to set up a prison regulation system, by challenging the point of very short sentences; by properly developing alternative measures to imprisonment; by allowing for the decriminalisation or diversion of certain offences, such as road traffic offences.

To succeed, there needs to be a radical overhaul in the definition of criminal policy guidance by the Ministry of Justice and therefore by the Government; **in short, the fight against prison overcrowding must become a fully-fledged public policy in its own right**.

In the **psychiatry** sector, we are only seeing the first inklings of awareness: the risks of abuse in terms of solitary confinement and restraint have been identified - if not yet stamped out - but what needs to change is the way patients are viewed: no longer solely as the objects of treatment but as people with rights and whose freedoms must be respected without other restrictions than those associated with their condition - and that includes when they are committed involuntarily (sectioned).

Recently, the **deprivation of foreign nationals' freedom** has gained fresh significance in the CGLPL's work. Over and above the regular checks carried out in detention centres for illegal immigrants, we cannot help but be alarmed by the angle from which the migrant question is currently being addressed. First of all, places where people are deprived of liberty have become less clearly defined: the evacuations from the camps set up in Paris or the Calais region have given rise to brief or informal types of restriction at odds with both the individuals' rights and the deportation target - which is nevertheless the condition of the legality of detention. The re-establishment of internal borders has spawned new practices, depriving detained migrants of basic rights: summary proceedings are initiated in precarious places. It was the CGLPL's duty to take up such violations of rights.

Furthermore, the number of children detained is rising, the possibility of extending the maximum detention from 45 to 90 days is under consideration, and the President of the Republic has broached the subject before the European Court of Human Rights solely in terms of efficiency, deportation rates and expedited asylum processing times, pointing out that, with failed asylum seekers, it is now necessary "to be uncompromising".

On 17 and 18 November 2017, the CGLPL organised a symposium to mark the tenth anniversary of the Act that founded it; these two days were an opportunity to hear from those who had decided on and laid the groundwork for its creation, those who have upheld the institution and those whose work make it possible to identify new challenges.

The symposium was also an occasion to go back over the progress and the expectations of the CGLPL in terms of the fundamental rights of people deprived of their liberty.

In ten years, the Contrôleur général des lieux de privation de liberté will at the very least have changed the way French society views those it locks away. First and foremost - and this is fundamental - it will have put the theme of deprivation of liberty on the public agenda: you can see this in the number of requests it receives from the media, associations and groups of professionals. You can also see this in the number of exchanges the Chief Inspector holds with people deprived of their liberty who ask it to take action so as to guarantee that their fundamental rights are respected. The authority gained by the institution goes far beyond its own message: it also lends weight to the messages of a large number of stakeholders, which their charitable status previously kept out of the limelight or cloaked in suspected bias.

The impact of the efforts of the CGLPL can first and foremost be felt in the facilities it inspects. Naturally, in exceptional cases it can obtain far-reaching measures to address exceptionally serious situations: examples in this context are Les Baumettes prison complex, Ain psychotherapy centre or a number of juvenile detention centres.

Fortunately, such serious situations are rare, however. More day-to-day, across most facilities, the Chief Inspector works to change the actual lives of people deprived of their liberty with immediate effect, and when one is detained the simplest things can become hugely important. So a recommendation that facilitates access to care, that promotes contact with family members, that limits the use of humiliating security measures or which enhances the confidentiality of exchanges can make a big difference for the people for whom it has been made.

Lastly, the CGLPL can weigh in on policy making. It has done this by calling for such legislative measures as the inclusion, in legislation or regulations, of an objective to reduce the use of solitary confinement and restraint in mental health institutions, of the possibility of awarding grants to detained students or of the requirement to seek out alternatives to imprisonment for pregnant women or young mothers. It has also done this by helping to evaluate certain public policies, not least those underpinning juvenile detention centres, about which a consensus was finally reached around the findings and guidelines it recommended.

And yet, despite these grounds for satisfaction, situations persist that are still a source of disappointment – across the whole of the CGLPL's remit. In custody facilities, this is the systematic nature of unnecessary, humiliating security measures such as wearing handcuffs or confiscating bras and spectacles. In juvenile detention centres, it is the reliance, still common, on insufficiently trained staff and disciplinary protocols that are poorly defined. In detention centres for illegal immigrants, it is the gaps in information, or stereotyping, as well as the near complete non-existence of activities. In psychiatric institutions, it is the persistence of numerous locked sectors – including for accommodating voluntary patients - as well as a still patchy grasp of the new rules concerning solitary confinement and restraint. In prisons, finally, it is all of the problems that result from overcrowding, the systematic or excessive use of unnecessary and humiliating security measures or the inability to apply the principle of equal access to care – even though this has been enshrined in law for almost ten years now.

The question as to whether the overall sense is one of satisfaction or disappointment is a hard one to answer. But seeing progress in terms of certain subjects spurs us on to continue our efforts.

The fact that, in 2017, members of the French National Assembly's Committee of Laws simultaneously exercised their right of visit to prisons then held an extensive and immensely constructive exchange of views with us is positive – both regarding the presence of prisons on the political agenda and the importance attached to the institution's opinions.

We can only hope that the other categories of facility subject to inspections by the CGLPL benefit from similar attention.

And above all that the policy makers have the courage to do what is necessary to ensure that the Rule of Law does not stop at the entrance to places where people are deprived of their liberty.

Adeline Hazan

Chapter 1

Places of deprivation of liberty in 2017

In 2017, the CGLPL conducted 148 inspections, with an average duration of slightly more than three days. Taking into account the average duration of inspections, this represents 461 days spent in places of deprivation of liberty, including 179 days in hospitals, 123 days in prisons, 31 days in detention centres and 16 in juvenile detention centres. With the exception of mental health institutions and custody facilities, these inspections were all second or third inspections. They were therefore an opportunity to assess how practices had progressed as well as what action had been taken following the CGLPL's previous recommendations.

Over and above its inspections, the CGLPL was obliged to react to events that affected the day-to-day running of some places of deprivation of liberty: the publication of a white paper on the prison estate, a public debate on the presence of mentally ill people in prison, the simultaneous visits carried out by members of the French National Assembly's Committee of Laws in prisons or the persisting pressure in terms of migrant numbers at a time when internal borders are being closed.

In light of these visits, the current circumstances and the CGLPL's in-depth knowledge acquired over previous years, it would like to highlight here the major themes that currently characterise each category of institution subject to its oversight as regards the respect of the fundamental rights of the people being detained.

1. MENTAL HEALTH INSTITUTIONS IN 2017

This year, the CGLPL's inspections of mental health institutions took place in a context where the benefits are becoming increasingly apparent: the institutions often see the CGLPL's inspection as the opportunity to shed external light on its practices and benefit from advice on the good practices that the CGLPL has been able to observe in other institutions.

In 2017, the CGLPL visited 30 health facilities which are authorised to accommodate patients who are committed involuntarily: 15 specialist hospitals, one clinic geared exclusively towards mental health care and 14 psychiatry departments in general or teaching hospitals[1]. These were all first inspections. Two of them followed on from reports of problems by nursing staff who wished to remain anonymous. This circumstance had the effect of expediting the CGLPL's inspection, without influencing the way the inspection was conducted or the type of checks carried out.

1.1 The view taken of patients committed involuntarily is changing, but practices that run counter to their fundamental rights persist

The thematic report on the use of solitary confinement and restraint in mental health institutions, published in 2016, the public outcry over the poor treatment suffered the same year in one institution and the Chief Inspector's active contribution to a number of symposia or documents bearing on psychiatry have clearly enabled all of the sector's stakeholders to gauge the legitimacy of the CGLPL's work in an area where it seems to have become apparent that abuses are possible and where

[1] *The full list of institutions inspected in 2017 is given in Appendix 2 hereto.*

references on "proper provision for patients as regards their fundamental rights" are rare, if not non-existent.

> With a few rare exceptions, the professionals the CGLPL works with are willing to listen to its observations. As such, it is particularly regrettable that these stakeholders - who are mindful of treating their patients properly - find it hard to access the guidance or training they so clearly feel they need or come up against institutional hurdles when trying to set up more considerate provision arrangements. Two points illustrate these hurdles: information for patients about their rights, and organisation of the day-to-day routine.

Information for patients about their rights has drawn criticism from the CGLPL on several occasions, each time more or less on the same issues:

- rights are presented in a cursory manner, either because the person presenting them is unfamiliar with them or is not convinced they need spelling out;
- the welcome booklet and regulations are incomplete or obsolete; in some extreme cases they either do not exist or predate the 2011 and 2013 legislation;
- in teaching or general hospitals, there is no specific welcome booklet for psychiatry;
- the internal rules are not displayed in units;
- patients are not given any prior information regarding hearings with the liberty and custody judge.

None of these shortcomings are unfixable or too costly to put in place even. It should be possible to resolve them by drafting standard documentation and running an ambitious training and information campaign. Fortunately the CGLPL's reports also highlight good practices in this respect which can be transposed: this should be arranged by the Ministry for Health.

Day-to-day life in psychiatry wards is organised on the basis of a series of prohibitions and authorisations which vary for no convincing reason - usually on precautionary or organisational grounds. Restrictions can thus bear on any number of aspects of daily life: being able to smoke, sexual relations, access outdoors, the possibility of returning to one's room during the day, access to a phone booth or mobile phone, availability of occupational activities or access for chaplains to departments. All of these points can be subject to limitations ranging from an outright ban to authorisation within certain time slots, or permission granted on a case-by-case basis by a member of nursing staff - often based on his or her own availability.

And yet, in other institutions, there are no real restrictions regarding any of that: risks associated with mobile phones or their chargers are managed differently than by an outright, blanket ban, visits are authorised unless there are medical grounds to the contrary, patients are free to spend time alone in their room, go out to a patio for a smoke, manage their own cigarettes or go to the cafeteria when they want - including when they have been committed involuntarily. Only medically justified restrictions that have been discussed with the patient in question are applied. This results in less stressed environments within departments where the nursing staff are more available as they are not constantly being called on to make exceptions to general prohibitions.

The most restrictive practices are nevertheless nearly always subject to internal debate - often to do with the discussions in place on the right to come and go. The diversity of practices within the same institution can, in this respect, be beneficial: indeed, the finding that those wards practising the most flexible types of provision do not have more problems than the others cannot but challenge views. On this point, as with information for patients, what is missing the most is references. It would therefore be highly advisable for the Ministry for Solidarity and Health to issue guidance, organise training and distribute good practices. The CGLPL can help it in these efforts.

Implement an educational measure combining instructions, technical guides and distribution of good practices on the rights of patients committed involuntarily and the organisation of their day-to-day routine.

1.2 Even when grounded in clear rules, the actual conditions in which patients are deprived of their rights remain vague

The legislative provisions on the status of people receiving psychiatric care are clear: first and foremost they lay down the principle of respect for patients' freedom and stipulate exceptions associated with their condition.

Article L 3211-1 of the Public Health Code provides as follows: "A person may not, involuntarily or, where applicable, without the consent of his or her legal representative, receive psychiatric care, except in the cases stipulated in Chapters II to IV of this Title and those stipulated in Article 706-135 of the Code of criminal procedure". This statement of principle is followed by that of the free choice of physician and rounded off by Article L 3211-2 of the same code, which sets forth: "A person subject to psychiatric care for mental disorders who consents to said treatment is considered to be in voluntary psychiatric care. S/he shall have the same rights regarding the exercise of individual liberties as those recognised to patients treated for another reason." The law finally indicates that "this care model is favoured when the person's condition allows it."

The exceptions to this principle of respect for the patient's freedom and consent are stipulated in the following provisions of the Public Health Code:

- Articles L 3212–1 et seq. bear on committal for psychiatric treatment at the request of a third party or in cases of imminent danger;
- Articles L 3213–1 et seq. bear on committal for psychiatric treatment at the request of a representative of the State;
- Articles L 3214–1 et seq. bear on committal for psychiatric treatment of detained persons suffering from mental disorders.

These texts define the cases where each of these procedures can be used, provide the list of necessary administrative and medical guarantees and, in each scenario, clarify the provision plans for the patients concerned.

These three procedures are also subject to scrutiny by a liberty and custody judge whose intervention conditions are defined in Articles L 3211-12 et seq. of the Public Health Code.

And yet, the CGLPL comes across a number of situations during its inspections on the ground where things are not so clear-cut.

1.2.1 Although the law states that precedence should be given to voluntary hospital care where a person's condition permits, the proportion of care administered without the patient's consent is rising

A study published in February 2017[2] has shown that, from 2012 to 2015, the number of hospital admissions without consent rose from 21 to 24% of the total number of hospital psychiatric admissions. This rise concerns hospital admissions at the request of a representative of the State, those at the request of a third party and those pronounced in the event of imminent danger. It is above all the latter category that has seen a sharp increase, since this form of admission, which

[2] *Les soins sans consentement en psychiatrie : bilan après quatre années de mise en œuvre de la loi du 5 juillet 2011, Magali Coldefy (IRDES), Sarah Fernandes (ORU-Paca, Université Aix-Marseille), with assistance from David Lapalus (ARS Paca) - Questions d'économie de la santé no. 222 - February 2017.*

concerned 8,542 people in 2012, had climbed to 19,518 people by 2015. The creation of involuntary care at home in 2013 has also contributed to the rise in their number.

The CGLPL's inspections corroborate this trend. It is not uncommon for involuntary committals to reach 40% of total hospital committals. In one extreme case - admittedly for a very small ward (with fewer than forty beds) - involuntary committals hovered around the 65-80% mark of total number of hospital committals depending on the year. In another facility, hospital committals on the grounds of imminent danger accounted for 48% of all sectioned patients.

The CGLPL's observations therefore confirm the findings of the aforementioned study - especially the attribution of the rise in number of involuntary committals to the committal procedure on imminent danger grounds, and more particularly decisions of this type taken by hospital accident & emergency (A&E) departments. Professionals on the ground also claim this phenomenon to be driven partly by problematic access to the community psychiatric services provided by psychological medical centres. Through close monitoring of patients, these can apparently play a preventive role - one that is sometimes not provided. This means that patients in the grips of mental health crises are turning up at A&E and sectioned - without the emergency services being able to identify a third party to request committal.

1.2.2 The use of "care programmes" can conceal situations that are as restrictive as a hospital committal

Stipulated in Article L 3211-2-1 of the Public Health Code, care programmes are a model for involuntary psychiatric care delivery which does not involve full-time hospitalisation, but can come in "any other form, potentially involving outpatient care, home-based care […] and, where applicable, hospital care at home, part-time committal or short-term to full-time committals within a facility." In this case, "a care programme is drawn up by a psychiatrist in the home facility which may only be amended - to factor in changes in the patient's condition - under the same conditions. The care programme defines the types of care, how often and where it is to be administered." Patients are informed about the drafting or amendment of a care programme, and their comments gathered. Restraint must not be used during care programmes. They do not come under the scrutiny of the liberty and custody judge.

During its inspections, the CGLPL has often observed care programmes whose contents are so restrictive that they can hardly be differentiated from involuntary hospital committal associated with a few permissions to leave. As such, in one institution inspected in 2017, almost all of the care programmes were defined as follows:

"Full-time hospitalisation c) associated with:

- Permission to leave on a weekday (less than 12h),
- Permission to leave at weekends (48h max.),

The patient shall be accompanied by a member of her family during these outings".

In this institution, whilst, according to some claims, there are times when these care programmes are set up just before the hearing with the liberty and custody judge solely to avoid having to travel to hearings being held in another hospital, it seems that, in most cases, it was a question of unfamiliarity with the legislation and the role of care programmes. In another institution, hospitalisation is the rule rather than the exception in the care programme, the practical advantage of which is not to avoid scrutiny by the liberty and custody judge but simply to limit the burden of red tape that repeated requests for 48-hour releases would generate.

> The Court of Cassation[3] held that it was for the ordinary courts to take disciplinary action regarding "false care programmes", i.e. to requalify as full-time involuntary hospitalisation any care provision arrangements which, going by another name, nevertheless bear the same characteristics. And yet, in the very hospital where the measure censured by the Court of Cassation had been taken, and which the CGLPL inspected in 2017, the medical staff considered it justified to continue this practice despite the case law.

1.2.3 Voluntary patients can be deprived of their liberty

In almost all of the facilities visited, some patients are accommodated in locked wards when they are not subject to the legal sectioning regime. These patients thus find their freedom to come and go severely restricted, where their access to activities, the fresh air or such hospital facilities as sports amenities, a cafeteria, a chaplaincy or social service - and sometimes even locked courtyards - is inevitably limited. If, except on a rare few occasions, open wards only accommodate voluntary patients[4], the reverse is almost never the case.

This situation can come about because of organisational considerations: in some facilities - only one of the psychiatric hospitals inspected in 2017 but a significant proportion of psychiatry sectors within general hospitals - there are only locked psychiatric wards. There are also hospitals where so-called "open" wards are, actually, locked. In one of the facilities visited, where a voluntary patient is accommodated on a locked ward, s/he must sign a consent form.

In several other hospitals, voluntary patients admitted to open wards can, if in crisis, be moved to a locked unit, and sometimes even be placed in solitary confinement for two or three days without their hospitalisation status being updated.

1.2.4 In practically all cases, the provision model for detained patients involves systematic restrictions with no bearing on an assessment of the risks associated with their condition or behaviour

Since its founding, the CGLPL has drawn the attention of successive ministers to the provision model for sectioned psychiatric patients in mental health facilities (excluding specially-equipped hospitalisation units/UHSAs). For it is nearly always standard practice for them to be placed in a seclusion room, and sometimes in restraints throughout their hospitalisation, completely regardless of any evaluation of their clinical condition. Such a practice is in clear violation of the fundamental rights of detained patients and of the provisions of the Act of 26 January 2016, on grounds that are entirely security related.

> In 2017, the CGLPL even inspected two institutions which went even further than the systematic placement of detained patients in solitary confinement by installing devices for accommodating them that are designed solely with a security purpose in mind - the very principle of which is at odds with the purpose of the hospital.

The CGLPL thus visited one psychiatric institution, next to a long-stay prison, where the hospital seems to go along with the orders of the prison authorities, no questions asked, without the latter even having to put these officially down in writing. The result is rooms reserved for detained patients which, in all respects, resemble emergency protection cells found in places of detention, and which the patients only leave on the rare occasions the showers do not work. If the long-stay prison is

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[3] *Court of Cassation, 4 March 2015, application no. 14-17824.*

[4] *This principle is itself debatable, incidentally, since there is nothing stopping an involuntary patient from being placed in an open ward.*

unable to provide an escort team, then these patients are not brought before the liberty and custody judge. The nursing staff find nothing shocking about this situation, their main demands being to obtain a systematic police escort team when they have to go and pick up a patient in crisis from the prison.

In another institution, which is not attached to a long-stay prison, an area referred to as a "prison wing" has been set up. This is closed by a barred entrance and contains two so-called "intensive care" rooms with a directly accessible shower room, a corridor with a window, but no outside area. The patient, always escorted in handcuffs and sometimes restraints, is confined for the whole of his/her stay; s/he cannot use a telephone, does not receive visitors, has no personal belongings and cannot go out for a walk or even to get some fresh air, other than through the window. A radio is placed on the "landing" by the nursing staff, who always work in pairs. Stays can last up to twelve days. Paradoxically, this situation has been observed in a context where, outside of a "prison" setting, the nursing staff are clearly close to patients and concerned about their well-being.

In both these cases, as in all those where detained patients are systematically placed in solitary confinement, these patients find themselves deprived of any freedom of movement, normal access to the hospital's activities and treatments and their rights as prisoners. The CGLPL can only reiterate the principles set out in its aforementioned opinion.

1.2.5 Short releases provided for in the Public Health Code seem to be subject to increasingly restrictive policies

Article L 3211-11-1 of the Public Health Code provides that "to assist with their healing, rehabilitation or social reintegration or where external procedures are required, patients receiving psychiatric treatment pursuant to Chapters II[5] and III[6] in this Title or Article 706-135 of the Code of criminal procedure in the form of full-time hospitalisation can benefit from authorisations for short-term leave:

1° In the form of accompanied leave not exceeding 12 hours. […]

2° In the form of unaccompanied leave lasting no more than 48 hours."

> For committals pronounced at the request of a third party or in cases of imminent danger, the authorisation for short-term leave is granted by the host institution director, while for committals pronounced upon decision of a State representative, the latter is competent in this regard.

During inspections of mental health facilities and processing of referrals from sectioned psychiatric patients, the CGLPL's attention has been drawn on a number of occasions to the tendency of certain prefectures to refuse to grant patients permission for short-term leave - which is nevertheless necessary for gradually preparing for their discharge.

> The CGLPL believes that cross-government discussions between the Ministers of the Interior and Health should be held with a view to defining a common doctrine on this point.

1.3 The policy for reducing solitary confinement and restraint practices in mental health facilities

Article 72 of the Act of 26 January 2016 on modernising the French health service introduces, within the Public Health Code, Article L.3 222-5-1, which provides that solitary confinement and restraint

[5] *Committal for psychiatric treatment at the request of a third party or in cases of imminent danger.*
[6] *Committal for psychiatric treatment at the request of a representative of the State.*

are practices to be used as a last resort and clearly sets out an objective of regulating and reducing such practices.

In accordance with this text, on 29 March 2017 the Ministry of Social Affairs and Health published an *Instruction on the policy for reducing solitary confinement and restraint practices within authorised psychiatric health institutions designated by the Director-General of the Regional Health Agency for providing involuntary psychiatric treatment.*

This text reiterates the objective of reducing the use of solitary confinement and restraint practices and particularly mentions the criteria adopted by the European Committee for the Prevention of Torture (CPT) and by the CGLPL. It makes clear that they may only be decided for the purposes of protecting the patient or the people in his/her environment, reiterates the necessary role of the physician in the decision to use them and stipulates the physical conditions of their implementation. It also defines the conditions bearing on the traceability and monitoring of these measures within the institution, regional health agency (ARS) and central administration.

> This text, the draft for which was submitted to the CGLPL to give its opinion, lays down a suitable framework for applying Article 72 of the Act of 26 January 2016 on modernising the French health service.

But it has still not been sufficiently taken on board by hospitals. During inspections, the following anomalies were observed:

- prescriptions written in advance, with solitary confinement recommended "when necessary", are used, which means that it is for the nursing staff to decide whether or not to use such practices, at strict odds with the terms of the law. However, the team does not have the same freedom when it came to ending the measure - which can only ever be decided on when a psychiatrist is in attendance;
- the decision to renew solitary confinement is made hastily without examining the patient;
- preliminary efforts to find suitable alternatives to solitary confinement are insufficient, such that the practice cannot seriously be considered "a last resort" as provided for by the law;
- seclusion rooms seldom comply with the recommendations of the CGLPL or CPT: call button accessible to the patient confined, clock visible from the bed, wash area accessible to the patient without needing assistance, direct human surveillance, double access to the room, no furniture that could pose a risk;
- a few institutions have no documented protocol on the use of solitary confinement and restraint, or the only protocols they do have are out-of-date and unknown to the nursing staff.
- several institutions also practise solitary confinement in an ordinary room, which usually deprives the patient of the guarantee of an official protocol and organised surveillance;
- the somatic physician does not attend to a patient placed in solitary confinement, nor sometimes even to a patient in restraints;
- although there is an official record and traceability of solitary confinement and restraint measures, it is not possible to use these in a satisfactory manner for an inspection or to develop a reduction policy;
- the hospital's medical information department provides data but this is not processed;

- voluntary patients are placed in solitary confinement for periods exceeding 12 hours, without their hospitalisation status being updated.

Several anomalies combined were found in one of the institutions visited: a high number of solitary confinement and restraint measures, with no regard for the recommendations of the Regional Health Agency, which may be maintained for several months, common restraint measures lasting for several days at a time or renewed, the systematic placement in solitary confinement and restraints of patients having made an attempt on their life, solitary confinement sectors with no visibility, call buttons and hardly any traceability. This particularly serious situation was referred to the Ministry for Solidarity and Health, whose response was expected on the date this report was being drafted.

Article L 3222-5-1 of the Public Health Code, as it is set out by the Act of 26 January 2016 on modernising our health service, does not describe placement in solitary confinement and restraint as a "recommendation" but a "decision". This text also lays down the conditions for approving and renewing this decision: these must be "practices to be used as a last resort", which implies that measures aimed at avoiding them have been taken and recorded; their purpose must be to "prevent immediate or imminent harm to the patient or another person", which must therefore be spelled out; they must be taken "for a limited period", which must be specified; they must be subject to "strict surveillance", the arrangements for which must be organised and the implementation recorded; such surveillance must be "entrusted by the institution to health professionals designated for this purpose", the designation procedure and criteria for which must be defined and able to be checked.

Where the measure is described as a "decision", it must be able to give rise to a use, the nature of which the law has not clarified. In connection with this use, it must naturally be possible for a judicial administrative authority to ensure that all of the conditions governing the use of solitary confinement and restraint, as stipulated by the law, are met. According to the information in the CGLPL's possession on the date this report was being written, no use of this nature has ever been performed.

The CGLPL invites the public authorities and professionals concerned to give thought to this issue.

1.4 Institutions conduct policies driven by the desire to protect patients' freedoms and to set up more open care delivery models

The desire to protect patients' freedoms first and foremost results from the balance that institutions choose between intra and extra-hospital services. Of course, it is not the CGLPL's place to inspect extra-hospital services which, by definition, do not deprive patients of their liberty, but it would be appropriate here to highlight the merit of such facilities both for a less traumatising care model than full-time hospitalisation and for the prevention of crises which lead to involuntary treatments - often in an emergency.

In this regard, the CGLPL has met with several institutions whose strategic plans aim at reducing the proportion of full-time hospitalisations in their care provision by scaling up resources allocated to outpatient care and extending the opening times of medico-psychological centres. Often, this commitment logically comes hand in hand with a commitment to reducing the duration of involuntary care administered during full-time hospitalisation, so as to substitute care programmes for them.

One of the institutions inspected was undergoing a reorganisation apparently in a bid to no longer accommodate voluntary patients on locked wards, which reduced their capacity. Along the same lines, this institution was also setting up a series of measures intended to personalise care provision and improve respect for patients' rights and freedoms. This initiative has taken the form of a "plan for users' rights", which aims at maximising freedoms whilst safeguarding security -

particularly by handling everyday incidents (thefts, indiscretion with telephones, etc.) realistically. This plan includes a principle of open rooms with access rights during the day, handing out of keys for cupboards and carefully considered access to telephones and cigarettes. Another key principle is individual observation periods.

> Many institutions have begun thinking about the freedom to come and go and, more broadly, everyday freedoms sometimes, albeit rarely, including the issue of patients' sexuality. The dedication of nursing staff, their concern for patients' well-being and their caring attitudes are not in doubt - as highlighted during all of the CGLPL's visits.

The problem is the lack of guidelines: if patients' rights are not respected it is because over-stretched teams are unable to question their practices enough, because they have not had the requisite training – especially regarding the legal aspects – or because they are not aware of the best practices, even though these exist - sometimes in the same institution.

> It is therefore paramount that the Ministry of Health take the necessary measures to promote the rights and freedoms of psychiatric inpatients and ensure they are respected.

2. Penal institutions in 2017

2.1 The CGLPL's visits lay bare a situation that is still critical

In 2017, the CGLPL inspected 21 penal institutions: eight remand prisons, two long-term detention centres, one long-stay prison, seven prisons with sections incorporating different kinds of prison regime, one women's remand prison, one prison for minors and one open prison[7].

The main findings made in these institutions are no different from the ones made in previous years. With the exception of four new institutions (the Beauvais, Riom, Valence and Vendin-le-Vieil prison complexes), all of the visits were second visits and, in the case of the Porcheville prison for minors and Strasbourg remand prison, third visits.

> The progress made between the first and second visits, highlighted by the findings, is mixed.

The situation in two institutions has visibly improved thanks to extension and renovation work which, in one case, has increased the occupancy capacities and, in the other, improved the accommodation conditions. Another three institutions have made progress too, thanks, it would seem, to the arrival of new management teams. In one case, the progress observed was clearly the result of wanting to act upon the comments made by the CGLPL during its previous visit.

On the other hand, the situation in three institutions has deteriorated since the previous visit, in one case due to overcrowding compounded by understaffing, in another owing to the fall in public-private partnership provision which made certain services to prisoners impossible - not least prisoner movements for medical reasons - and the third because of an increasingly strained atmosphere caused by serious incidents in the prison, with disciplinary action being taken against several staff members and all projects being put on hold due to persisting uncertainty over the institution's future.

> Between these extremes, the progress across most institutions has been mixed: renovation work which only marginally improves accommodation conditions without dealing with the structural disrepair of facilities; efforts to implement the CGLPL's recommendations that need to be taken further, the development of

[7] *The full list of institutions inspected in 2017 is provided in Appendix 2 hereto.*

> activities that are still not properly integrated, often in connection with a new recruit (sports coach or prison rehabilitation and probation counsellor) or initiatives which, under the guise of increasing responsibility on the part of prisoners, actually toughen restrictions.

Unfortunately, it is not uncommon for the CGLPL's recommendations to largely repeat what had already been recommended during the last visit. Recurring problems concern the systematic nature of restraint measures, the slow progress of disciplinary proceedings, the dilapidated and cramped state of accommodation, the dearth of any occupational activity - particularly work - the difficulty of accessing a telephone, and its cost, the limitations on access to medical care and breaches of prisoners' confidentiality. "Security" concerns are increasingly overriding other detention objectives - to the extent that these can be overlooked: for example, if an escort team is unavailable, medical treatment is forgone, and reticence at requesting permission to leave makes reintegration measures impossible.

2.2 Circulation of a report by the CGLPL on the Château-Thierry prison complex sparked a debate about the delivery of care for mental health patients in prison

This institution accommodates detainees who are deemed unfit for ordinary detention, with a view to "enabling a detainee to feel ready for social interaction once again and readjust to ordinary detention after a temporary stay here". These are people who are not hospitalised "by court order or in a regional medico-psychological service or in a specially-equipped hospitalisation unit".

> And yet, the policy for assigning detainees to the long-stay prison does not comply with these provisions, the result being that there is a large number of genuine sufferers of psychiatric disorders requiring long-term care provision accommodated in the institution.

The professionalism of prison staff and measures tailored to the specific needs of the prison population partially make up for the structural ambiguity of the institution, but are not enough for the specific provision requirements of its resident population.

The numbers of health professionals do not appear adequate for the psychiatric and somatic condition of the patients detained. The recommendations that the CGLPL has previously made on this point have not been acted upon.

> On the subject of psychiatric care, the situation is concerning. The result is confusion in the physicians' role, that of the prison authorities, breaches of medical confidentiality, near-disciplinary use of medicinal treatments and even medical prescriptions drawn up without a prior examination of patients. With the prisoner assignment policy at such stark odds with the targets officially set for the institution - on which the resources it receives are based - the prisoners end up being denied their rights in practice, and suitable medical provision is simply impossible: the prisoners have to live in substandard conditions and can be forced to undergo treatment without the judicial protection that comes with involuntary care.

According to the Government's answers to this report, the assignment of prisoners to Château-Thierry has reportedly been required by the brevity of committals of prisoners in specially-equipped hospitalisation units or of their sectioning in mental health facilities. Moreover, a joint medical plan between the two health facilities to which the prison complex is attached provides, within a timeline running until 2018, effective medical staffing on a daily basis, a guarantee of better coordination between the health teams, a more secure, official treatment administration and circuit, a

guarantee of professional practices that respect patients' rights and harmonised health and medical protocols between the two health facilities.

> These measures are certainly commendable, but they will resolve neither the difficulty in principle where patients suffering from chronic disorders are grouped together in a penal institution, nor the tangible difficulties caused by these patients' inability to complete their basic everyday tasks on their own.

The publication of this report and the answers from the Ministries of Justice and Health sparked a debate over the summer, picked up by the social networks and the press. Beyond the differences in opinion, it seems necessary to give a reminder that prison is an institution organised for the purposes of serving sentences - it is not designed for delivering medical care or providing for people whose disorders make them dependent.

Illness and dependency throw into sharp focus the question of the purpose of sentences, and must therefore lead to the arrangements, and even the principle, being revised in this regard. On this point, the persisting lack of knowledge about the mental health of the prison population - which has not been addressed by any epidemiological study since 2004 - is regrettable. Finally, the need to maintain a clear separation between the care-based approach, which must guide hospitals, and the punishment-based approach which underpins prisons, must be stressed.

2.3 Overcrowding has got worse

According to the statistics published by the Prison Administration Department, between 1 January 2016 and 1 November 2017, prison occupancy rates have increased faster than new places have been created: the number of operational places in penal institutions has risen from 58,561 to 59,151, whereas the number of prisoners has climbed from 66,678 to 69,307.

Under these conditions, overall incarceration density has increased from 114 to 117%, the density in remand prisons from 136 to 141%. The number of prisoners with only a mattress on the ground has gone up from 1,200 to 1,473 (+ 22.7%). The number of institutions with a density exceeding 200% has dropped, meanwhile, from 4 to 3, and the number of institutions with a density of between 150 and 200% has remained stable at 37, which corresponds to nearly half (46.5%) of the 86 remand prisons in France. The phenomenon is therefore far from marginal.

> The repercussions of prison overcrowding are manifold, both in terms of detention conditions (lack of space and privacy, violence, etc.) and the provision of services for prisoners. Indeed, during its visits to institutions, the CGLPL finds that services are stretched to capacity, access to work is restricted, visiting room times are curtailed to enable access for everyone, there is a lack of activities on offer, access to education is limited and waiting times for medical care are longer, etc.

In the remand prisons, it found four people being detained in a 9 sq.m. cell, and even five people in an 11 sq.m. cell. Individual cell allocation has obviously become impossible, and this will also, evidently, be the case in 2019, the end of the last moratorium voted on in 2014[8]. On this point it is significant that the year "2019" has all but disappeared from documents on the draft budget for 2018, where it has been replaced with the term "eventually".

> Current prison overcrowding is hampering the success of genuine efforts on reintegration and preventing reoffending.

[8] *Amending finance act of 29 December 2014 for 2014, Art. 106.*

As shown by the report's trends between the number of prison places and size of the prison population over the last thirty years - or even the trends we have just outlined for the past two years - the construction of new penal institutions is not sufficient in itself to curb this phenomenon, which is driven by changes in prison policy: new criminal offences have been created and increasingly oppressive prison policies have been rolled out, such that the places created have quickly been filled.

In this regard, the 15,000 new prison places headlined is somewhat of an empty pledge. Yes, this volume would make it possible to cover the current apparent need, which is around 10,000 places, but in reality, only some 4,000 places will be created over the five-year term. This will in no way resolve the current crisis - especially since nothing is being done in parallel to reverse the upward trend concerning the number of prison sentences handed down and their length. What is more, this construction policy is being carried out at the expense of upgrading the existing building stock and alternatives to imprisonment since, as a group of 27 associations and unions [9] has quite rightly pointed out, the draft justice budget for 2018 is unlocking €26m "to launch an initial round of 5 remand prisons and 6 preparation for release wings as well as the acquisition of land" but is doing so "to the detriment of upgrading the existing building stock", funds for which are down by 33% compared with 2017, and neglects alternatives to imprisonment since "the appropriations for electronic bracelet rentals are down by 27% compared with 2017".

On the basis of these findings, in 2017 the CGLPL devoted a considerable amount of time to drafting a thematic report on prison overcrowding, which was published in early 2018. The aim of this report is to demonstrate the consequences of prison overcrowding on all prisoner rights and to put forward a series of measures bearing on prison policy and prison management with the potential of reversing the steady rise in France's prison population.

2.4 The time for action has come

During the symposium organised to mark ten years since the Act of 30 October 2007 establishing a Contrôleur général des lieux de privation de liberté (Chief Inspector of places of deprivation of liberty), the Chief Inspector acknowledged the many parliamentary or administrative studies that have tackled the subject of French prisons and which allow us to conclude that, today, there is a consensus on the assessment.

The President of the Republic mentioned the broad outlines in his keynote address given on 31 October 2017 to the European Court of Human Rights.

A number of parliamentary studies have followed since the ones conducted by MPs Mermaz & Floch: *"La France face à ses prisons"* (France and its prisons), and Senators Hyest & Cabanel: *"Prisons, une humiliation pour la République"* (Prisons, a humiliation for the Republic), both published in 2000, through to the ones which the then-President of the French National Assembly's Committee of Laws, Mr Urvoas, dedicated to individual cell allocation.

The Government also has a plethora of literature at its disposal, which it has either commissioned or authored. These particularly include the report from the consensus conference *Pour*

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[9] *Letter undated, to the Honourable Members of Parliament, "Prison budget for 2018 - For an informed vote" from: Association des avocats pour la défense des droits des détenus, Action des chrétiens pour l'abolition de la torture, Association des avocats pénalistes, Aides, Association nationale des assesseurs extérieurs en commission de discipline des établissements pénitentiaires, Association nationale des juges de l'application des peines, Association nationale des visiteurs de prisons, Ban public, Centre d'action sociale protestant-Association réflexion action prison justice, CGT Insertion-Probation, Chantiers-Passerelles/Forum du TIG, La Cimade, Citoyens et justice, Courrier de Bovet, Emmaüs France, Fédération des associations réflexion action prison justice, Fédération des acteurs de la solidarité, Génépi, Ligue des droits de l'homme, Lire pour en sortir, Section française de l'Observatoire international des prisons, Prison Insider, Syndicat des avocats de France, Secours catholique, Syndicat national de l'ensemble des personnels de l'administration pénitentiaire-FSU, Syndicat national des personnels de l'éducation et du social-Protection judiciaire de la jeunesse-FSU, Syndicat de la magistrature.*

une nouvelle politique de prévention de la récidive (For a new reoffending prevention policy), which was submitted to the Prime Minister on 20 February 2013 and probes the utility of prison and the application of sentences, the report *En finir avec la surpopulation carcérale* (Calling time on prison overcrowding), submitted to Parliament by Mr Urvoas, Minister of Justice, on 20 September 2016 and the *White Paper on the Prison Estate* submitted to the aforementioned Minister of Justice by Jean-René Lecerf on 4 April 2017.

> These studies, which all envisage prison through a political lens and assess it in light of general objectives, are corroborated by the analyses on the ground that the CGLPL has been carrying out these past ten years. With the exception of those that have only opened very recently, all institutions have been subject to visits that led to a detailed report.

There are no grounds, therefore, for putting off decisions until tomorrow on the pretext that an assessment is necessary. Few French institutions are as well known as prison, and none give rise to such a consensus on its state and its failings. There is nothing consequently preventing the necessary decisions from being taken today, and these cannot, the evidence is clear, amount simply to a blind pursuit of prison estate policy. As the Chief Inspector underscored at the aforementioned symposium: "there is no excuse for procrastination".

3. Immigration detention and waiting areas in 2017

Foreign nationals may be deprived of their liberty under three circumstances:

Immigration detention is an option for holding in an enclosed area a foreign national with respect to whom a deportation decision has been made, pending his or her forced return. Detention is decided by the administration, and can be extended by the magistrate, where the foreign national's immediate departure from France is impossible. Detention is implemented either in a detention centre for illegal immigrants (CRA), under police custody, or, for up to 48 hours, in a detention centre normally located inside a police station. Migrants placed in administrative detention must be notified of their situation and their rights; they may be assisted by a lawyer, see a doctor, communicate with the outside, receive assistance from the French Office for Immigration and Integration (OFII) and be advised by an association. Such detention may not last for more than 45 days, and comes under the scrutiny of the liberty and custody judge after 48 hours has passed. Some detention centres may accommodate families with children, but no unaccompanied minors may be placed within them.

Placement in a waiting area concerns so-called "non-admitted" foreign nationals who have been denied entry into France, are passing through and regarding whom boarding to the country of final destination has been denied, or who the authorities of that country have deported to France, as well as asylum seekers at the border. Waiting areas are designated areas located inside airports, ports or train stations open to international traffic. People placed within such areas are notified at the earliest possible opportunity of their situation and rights; they may request the assistance of an interpreter or doctor, talk with a lawyer or any other person of their choice. They may leave the waiting area at any time for any destination located outside France. Holding within a waiting area is limited to 26 days maximum. Waiting areas may accommodate unaccompanied foreign minors who benefit from the assistance of an ad hoc administrator appointed by the Public Prosecutor.

Forced removals involve implementing a deportation decision by coercion, and they include the following categories, with a view to deporting nationals of third countries outside the European Union, triggering the readmission of third-country nationals towards the European Union or of sending European Union nationals back to their country. This measure is implemented by the national police using public transport (airline or shipping company) or dedicated transport options (aircraft or road transport) chartered or belonging to the State. These are implementing measures

following on from a detention measure or house arrest, and end with a person being handed over to the authorities of the State of destination.

In 2017, the CGLPL set about inspecting all of these situations across the board.

It visited:

- six detention centres for illegal immigrants;
- four border police units or detention facilities for illegal immigrants;
- four waiting areas[10].

It exercised scrutiny over four forced removals by air[11] and one by sea[12].

3.1 The findings made during the CGLPL's inspections

The findings made by the CGLPL lay bare the problems generated by a toughening of migration policy.

3.1.1 Detention centres for illegal immigrants

The situation in detention centres for illegal immigrants varies from one place to the next: it is largely dependent on the physical state of facilities - and the number of detention centres in a woeful state of disrepair are unfortunately in the majority. Only one of the six centres visited since the start of the year does not warrant this description.

The weak points of the provision in place are often the same:

- filthy conditions;
- cramped living spaces, even when these are located within sprawling police complexes;
- prison-type security conditions;
- no respect for privacy (respect of spaces reserved for women by the police, separate toilet areas);
- no outdoor access, or such access is subject to the availability of the police crews;
- haphazard medical care for somatic conditions and non-existent psychiatric support;
- overly restrictive practices regarding communications;
- hardly any occupational activities.

> These inspections, which were second or third inspections in all cases, do not show any significant improvement in the situation - even if, for local reasons (not least where there has been a change in management) a situation can improve or deteriorate very swiftly.

The Contrôleur général also has reservations over compliance with the right to information and assistance for detained migrants in exercising their rights. Although the CGLPL's findings are variable, some recurring weaknesses can be identified for all that:

- police officers are not always sufficiently familiar with the rights it is their job to ensure are complied with;

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[10] The full list of facilities inspected in 2017 is given in Appendix 2 hereto.
[11] From Roissy (in Paris) towards Tunis, from Lille towards Tirana, from Roissy towards Helsinki and from Basel-Mulhouse towards Erevan.
[12] From Marseilles towards Algiers.

- notification of rights and information are often done formally;
- the question of language is often inadequately considered (interpreters unavailable, translations over the phone, use of other detained migrants to help translate, print-outs in foreign languages unavailable locally, etc.);
- associations' freedom of movement within centres and migrants' access to them could be improved in some cases.

The General Directorate of the French national police force does not tend to give much consideration to the CGLPL's observations - mainly owing to the same problem as has been observed in local police stations: the gross shortfall in the police's operating budget. This would seem to be the cause for the deterioration in facilities, cramped spaces, lack of upkeep and lack of occupational activities.

The conditions in which these centres operate are usually in line with the requirements – which are very minimalist as they are no more than equipment standards - of Art. R 553-3 of the Code for Entry and Residence of Foreigners and Right of Asylum (CESEDA), but it is regrettable that neither are there any more specific instructions on centres' operating procedures nor are the police assigned within such centres given any proper training. Both of these tools would enable an approach to be fostered that takes greater account of prisoners' fundamental rights, at a time when the police - based on their general training - tend to adopt an exclusively security-centred perspective of their role.

> The number of placements in detention centres for illegal immigrants of families with children is of major concern to the CGLPL. Everything possible must be done to avoid all imprisonment of children in detention centres for illegal immigrants and, especially, administrative detention facilities (possibility again authorised following the Act of 7 March 2016).

According to a recent report by La Cimade[13] the number of placements of families with children has risen from 41 in 2013 to 182 in 2016, despite a series of convictions against France by the European Court of Human Rights[14] and in violation of the Act of 7 March 2016 which underscored that placement in detention must remain exceptional, with precedence being given to house arrest for families with children. This traumatising measure for children above all seems to be used to simplify border police operations - even when there is no risk of the family fleeing. It is paradoxical to observe a similar trend at a time when the Council of Europe is launching a campaign in a bid to end immigration detention of children.

3.1.2 Waiting areas

The situation in waiting areas is primarily characterised by unacceptable accommodation conditions: in the three airports visited[15], the rooms in the waiting areas - even those recently designed - do not have any windows and one has a glazed façade overlooking a corridor as if it were a custody cell. Nothing (TV, radio, magazines, various games, etc.) is provided to help pass the time or keep boredom at bay. With nowhere to get some fresh air, the people depend on the availability of the police officers and their willingness to be able to go out. Such facilities are therefore unfit for any extended stays, especially where children are concerned.

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[13] entitled Detention centres and facilities for illegal immigrants, 2016 report.
[14] Decision of 12 July 2016 in five cases concerning France.
[15] The waiting area in Dunkirk is, in reality, in a state of limbo.

> Moreover, documentary management is very inadequate: information documents are incomplete or out-of-date, and placement records are not kept with any strictness. On a final note, the judicial authority never visits these premises.

At Basel-Mulhouse Airport, the unfortunately far from occasional haziness surrounding the management of holding areas is compounded by the binational management of the airport, located on French soil: the existence of a Swiss holding area in the airport is contested by the French authorities, such that the foreign nationals placed in this area face an uncertain fate.

> For practical reasons, the Bobigny Court of first instance in civil and criminal matters (TGI) has gained an external hearing room near the Roissy waiting area (ZAPI), located right within the Roissy freight area, in a poorly indicated, isolated place that is difficult to get to.

The aim of this new organisation is to improve the conditions in which the people being held are received and their defence is exercised during their hearing, as they no longer have to travel in poor transport conditions and endure the long waiting times in undignified conditions at the Bobigny Court itself.

But significant problems persist, in terms of accessing the building and reception of the public, which are key principles for a place of justice so as to ensure the principle of public hearings is honoured, and underpin effective exercise of rights of defence. The security surrounding this place of justice, ensured by the border police, is somewhat problematic for the principle of public hearings and the right to a fair trial: access to the hearing room is regulated and supervised by officials who are defendants in the proceedings and tasked with implementing the deportation measure.

Above all, the location of the hearing room itself (the outbuilding of the TGI is located in the same building as the waiting area) also raises questions over the necessary apparent impartiality of justice. Furthermore, the day-to-day cooperation between the liberty and custody judges, waiting area staff and border police officers – who end up working closely together while performing their respective duties – could, quite justifiably, give the people held there the impression of partial justice.

3.1.3 Forced removals

By air

Escorts talk and work with the people being removed in an effort to create a stress-free atmosphere, without masking the firmness which would involve "applying the right amount of force necessary" when required. Such behaviour is evidently to do with the desire to succeed the deportation policy, but respect for the people being removed does appear to be genuine. More careful judgment should nevertheless be demonstrated in the use of restraint methods, since the "properly boarded" principle should not eclipse the need for restraint methods that are proportionate to the behaviour of the people being removed, and which should not be used systematically.

Local deportation blocks (ULE) are not fit for accommodating people for long periods of time. Although the Roissy local deportation block has moved and its new premises appear to be in good condition and more suitable than previously, there is no material provision for people being removed within the premises visited. The foreign nationals are not offered a snack or the opportunity to have a shower - even when such facilities exist. No toiletries kit or spare clothes are handed out. In one case where a family was being deported, it appeared that the breakfast served in the detention facility for illegal immigrants was not enough, and no food had been provided after lunch, when the plane landed at 9pm local time (midnight in Paris) and supper had nevertheless been provided upon arrival for the crew and staff of the escort team.

Contacts with the outside (lawyer, family) are not allowed at this stage of the removal process, from the moment the foreign nationals have left the detention centre or facility.

By sea

The CGLPL has examined a forced removal by sea for the first time. The escorts present during this mission had recognised, solid experience, belonging as they did to a specialist unit of the local directorate of the South border police.

Improvements may be or have been made between the mission and the dispatch of the CGLPL's inspection report. That said, the conditions in which the person being removed is accommodated in the ship must be improved. The latter is not afforded any privacy, since the toilets are watched by CCTV cameras, is not given anything to do, cannot turn the lights off in his/her cabin, and has no means of knowing what time it is. S/he is not given any information about how the removal process is going either.

The documents handed to the authorities of the State of destination

The procedural documents to be handed to the foreign authorities are formally defined when the deported person is being escorted. Unlike what the CGLPL observed in 2014-2015, the list of documents to be handed to the foreign authorities is now formally defined. Police officers thus hand over the original identity documents along with a copy of the obligation to leave French soil (OQTF).

It is nevertheless necessary that, for people removed without an escort team, the documents handed to the captain are subject to the same level of sorting; for it is unacceptable that pilots find themselves with the whole of the file compiled by a detention centre for illegal immigrants.

Subsistence of removed people in the State of destination

The resources of people facing removal are known, for the inventory of their possessions and values is updated at the time they leave French soil. The inspectors have found that certain removed people simply do not have sufficient resources (a penniless lone person, a mother and her three children aged 6 to 8 years old with 30 euros to her name), even when it is known that their relatives live a long way from the airport. The general rule is that France does not pay any allowance in the context of forced returns, but that the authorities of the country of destination are systematically informed several days beforehand of the arrival, so that they are able to organise a suitable reception for the expected removed people. This manner of proceeding is unsatisfactory.

> According to the information collected by the CGLPL, European States who are members of the FRONTEX agency would seem to give removed persons a subsistence allowance to pay for one day's worth of meals and transport to an identified place. France should at the very least adopt this practice.

3.1.4 The specific situation of the Franco-Italian border

This border is under unusually strong migratory pressures: nearly 20,000 people were denied entry over the first eight months of 2017 and 101 non-admissions were pronounced in Menton in a single day during the inspectors' visit in September. Most of the people not admitted are men. Mobile security forces and military officials are available to the border police for carrying out systematic checks at seven authorised crossing points (rail and road routes), in addition to the border police teams.

People who are picked up during the day are taken to the Menton border police premises and handed over to the Italian authorities or taken to the train station to be returned to Italy by train. People who are picked up after 7pm, when the Italian base closes, spend the night in the border police premises under conditions which do not come under any legal framework and are physically inadequate (lack of space and privacy, no facilities including beds, chairs, lighting or air conditioning). Cleaning is only scheduled for the washrooms, but is not carried out owing to the premises being occupied, and litter is left on-site).

The non-admission procedure is expeditious and simplified; refusal of entry forms are often pre-completed, particularly the renunciation of entitlement to a period of one clear day before removal. The procedure is limited to submitting a copy of the refusal of entry and recording the identity of people concerned in the electronic entry-exit system. The documents are never read out to the people concerned, they are not notified of their rights, no interpreters are present and asylum is never an option. The notion of family is misused, extended to encompass the situation of any child travelling in a group. Moreover, children are not subject to protection or a special procedure in light of their vulnerability.

3.2 The prospects for improving immigration detention

3.2.1 Updating French law

> There is nothing trivial about detaining people - especially when these people have not committed any offence. There is a concern that the Government is not sufficiently convinced of the new direction outlined for a reform on the day this report was being written: extension of the detention time-limit to 90 days, increase to 24 hours of the maximum time people can be detained to check their right of residence, placement in detention of a person likely to come under a Dublin procedure once the request to take charge has been sent to the corresponding State, etc.

It should particularly be pointed out that the 45-day detention time-limit is already unnecessarily long since, in reality, where a forced removal has not proved possible during the first two or three weeks, it is highly unlikely that it will be possible at all, if the country of origin does not recognise their national citizen. Doubling this time-limit, therefore, as has recently been proposed, would not only represent a backward step in terms of fundamental rights, but also be devoid of purpose.

In the vast majority of cases, the 32-day detention time-limit, however, which applied prior to the 2011 law, is amply sufficient.

3.2.2 A draft instrument codifying existing minimum standards relating to conditions of administrative detention of migrants, under the auspices of the Council of Europe

A draft instrument codifying existing standards relating to conditions of administrative detention of migrants is currently being prepared, under the auspices of the European Committee on Legal Co-operation, a Council of Europe intergovernmental body. International experts and associations have expressed very clear reservations about this draft instrument, on which the CGLPL was consulted in June 2017, as have the other national torture preventive mechanisms.

> Unlike prison law, the law governing detention is incomplete; codifying it therefore reveals a number of gaps that the principle of "established law as it stands" prevents from being filled. In order to overcome this substantial difficulty, the writers have decided to transpose the European prison rules each time there is no corresponding standard. What this means is that the instrument applies rules set out for prisoners to detained foreigners, adopting an approach to detention that is fundamentally geared towards criminal law. Such a position is unacceptable.

An approach grounded more in human rights is necessary. As the draft codifying instrument currently stands, it falls short of the existing standards: the rules proposed concerning particularly vulnerable people do not go far enough in terms of protection, with it being possible to admit children into detention, provisions bearing on avenues of appeal, rights of communication and visits

and the rules concerning disciplinary measures, use of force and admissible methods of restraint. What is more, sources have not been used - especially the OPCAT.

4. Juvenile detention centres in 2017

Juvenile detention centres (CEF) are public or private institutions offering an alternative to imprisonment for child repeat offenders or defendants brought before a magistrate, following offences or crimes. Placement can last up to six months and be renewed once in the context of legal supervision, a suspended sentence or parole. A minor placed in a CEF is obliged to stay there under the ongoing surveillance of adults and to abide by the conditions of placement. Each CEF can accommodate twelve minors and has a workforce of 27 professionals in principle.

In 2017, the CGLPL visited five juvenile detention centres (CEF)[16] three of which were struggling to put recent and severe crises behind them; it even had to cancel two scheduled inspections owing to the administrative closure of the institutions concerned[17] on grounds which, in both cases, had given rise to a criminal investigation.

> These inspections, and especially the cancelled inspections, show that CEFs are extremely fragile structures which has nothing to do with their public or private status. The CGLPL has encountered commendable and shocking situations alike. Such situations can very quickly swing one way or the other, not least in the wake of an incident or a change in management. Extremes are entirely possible: in one place discipline may be at staff's discretion and of considerable firmness, while in another peace can be bought through lax treatment - opening up the risk of violence against youth workers.

The weaknesses of CEFs are well known: inadequacy of educational plans, no control over discipline - which can degenerate towards excessive tolerance, excessive restriction or violence, insufficient involvement of families or youth workers trained in working with young offenders in home environments. The causes of these problems are often the instability of teams, insufficiently strong management and the young age and inexperience of staff. Two interministerial reports[18] have reached a fully shared assessment and listed the measures to be taken. Monitoring of the CGLPL's recommendations implemented in 2016 shows that the Judicial Youth Protection Service Directorate has made significant regulatory efforts. Juvenile detention centres and their applicable rules are therefore now clear to all.

> And yet, the visits carried out by the CGLPL in 2017 do not demonstrate any marked improvement in the situation of CEFs, management of which remains woefully inadequate. Situations of violence, abusive disciplinary practices, fractured teams and inadequate educational provision have been observed. The Judicial Youth Protection Service Directorate was even sent urgent notification of the CGLPL's findings in one instance.

Efforts to rectify the situation in CEFs must be taken urgently. The necessary regulatory work has been accomplished, and no inspections reveal any budgetary shortfalls. Efforts must therefore bear exclusively on staff skills and practices. Four series of measures are necessary:

- introduction of staff regulations enabling a stable workforce to be recruited: it is unreasonable to entrust struggling juveniles to youth workers who are barely older

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[16] *The full list of facilities inspected in 2017 is given in Appendix 2 hereto.*
[17] *Sainte-Eulalie (Gironde) and Brignoles (Var).*
[18] *IGSJ/IGAS/IPJJ, "Mission d'évaluation des centres éducatifs fermés dans le dispositif de prise en charge des mineurs délinquants", January 2013 and IGSJ/IGAS, "Rapport sur le dispositif des centres éducatifs fermés (CEF)", July 2015.*

than they are and whose career thus far involves a string of six-monthly contracts. If a legislative amendment is required to stabilise the situation, this must be done;

- training which must lead to certification, without which the position of youth worker may not be performed: such training must guarantee the professionalism of the staff as youth workers and provide them with the inter-personal skills they need to be able to work in a place of detention (handling violence, exercising discipline, awareness of the legal situation of the juveniles under their care);
- a stable management, of whom there must be enough staff, qualified in the two areas mentioned above and in performing management duties;
- supervision, which needs to go beyond a distant vision or one that is limited to the CEF management's relations with the courts: the Judicial Youth Protection Service Directorate must ensure, whether through its own rules of procedure or through the agreements it signs with associations, that regular inspections are carried out entailing the sustainable presence of third parties within the centre itself.

5. Police custody facilities in 2017

Police custody facilities, the size and activity of which vary extensively, form the largest category of places inspected by the CGLPL. The vast majority of them come under the Minister of the Interior on account of his authority over the national police and gendarmerie and, to a lesser extent, the Minister for the Budget, on account of his authority over customs[19].

Established by Article 62-2 of the Code of criminal procedure, police custody is a detention measure *decided upon by a law enforcement officer, under the control of the judicial authority, whereby a person reasonably suspected on one or more grounds of committing or attempting to commit an offence punishable by imprisonment is held at the disposal of investigators.*

Such a measure must constitute the sole means of achieving at least one of the following objectives:

1° Enable the execution of investigations requiring the person's presence or participation;

2° Guarantee that the person is brought before the Public Prosecutor so that the latter can determine what action should be taken on the investigation;

3° Prevent the person from tampering material evidence or proof;

4° Prevent the person from pressuring witnesses or victims as well as their family or relatives;

5° Prevent the person from consulting with other people who are likely to be fellow perpetrators or accomplices;

6° Guarantee the implementation of measures aimed at ending the crime or offence.

Police custody is pronounced for 24 hours and may be extended up to 48 hours by the prosecutor's office and, for certain crimes and offences, it may be extended up to 96 hours - and even six days for terrorism cases.

The person in police custody is entitled to a right to information on the offence for which s/he is being held and on his/her rights during the measure, the right to notify next of kin (relatives, employer or consulate), the right to a medical examination and the right to remain silent and to legal counsel. S/he is placed under the protection of the gendarmerie or police under the conditions set out

[19] *Customs are authorised to implement two deprivation of liberty regimes: customs holding and, within judicial customs departments, police custody.*

in Art. R. 434-17 of the Homeland Security Code: "Protection and respect of people deprived of liberty"[20].

> In 2017, the CGLPL inspected 22 police custody facilities belonging to the national gendarmerie, 21 to the national police and 2 the customs authorities[21]. Overall, these visits confirmed the general observations made over previous years.

Regarding national police facilities, the main rights violations observed bear on:

- serious failings where hygiene is concerned: premises in a dire state of disrepair, blankets that are not washed at regular intervals and no facilities for the people detained to wash;
- systematic application of security measures that run counter to the provisions of the code of ethics of the national police and gendarmerie (see aforementioned provisions);
- notification of rights is done expeditiously to the point of being dissuasive, such that it cannot be guaranteed that they have been understood properly, as evidenced in particular by the low number of requests for assistance from a lawyer.

Among the anomalies recorded during the year is a room for hearings with the lawyer, equipped with a talk-through window.

5.1 Night-time surveillance of people in gendarmerie custody facilities

When it comes to gendarmerie facilities, the difficulties often stem from the small size of the units which, every year, conduct a limited number of procedures and do not therefore always handle them carefully enough. These are short-term measures in principle. Although there is generally sufficient provision for hygiene, the facilities are very spartan in design, often without heating, such that in two of the units inspected, they are unusable for part of the year.

> Progress has been made on the question of night-time surveillance of people in custody, highlighted on a number of occasions by the CGLPL, but not enough to make up for the absence of on-duty officers in the unit. As had been announced, call buttons have indeed been installed in nearly a third of units, but this measure is neither systematic nor sufficient as it involves calling an on-call officer who is often at home, located in a different building which is sometimes outside the perimeter in which the unit's facilities are located. In one of the units visited, the call button had been delivered but not yet installed for reasons that are not clear - but which could have something to do with the staff's reluctance.

In addition to these on-call shifts, whose definition and means are not very clear-cut, rounds are carried out which are systematically inspected by the CGLPL. The findings are at odds with the pledges: instead of an officer passing through every two hours, as announced, at best this happens at the beginning and end of the night and, at worst, the absence of any check-up is put down to the poor

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[20] *Homeland Security Code, Art. R. 434-17 Protection and respect of people deprived of liberty:*
"Any person arrested is placed under the protection of gendarmes or police officers and protected from any form of violence and any inhuman or degrading treatment.
No one may be fully undressed, except in the cases and under the conditions stipulated in Article 63-7 of the Code of criminal procedure aimed at searching for evidence of a crime or offence.
The police officer or the gendarme in charge of the person arrested is attentive to his/her physical and psychological state and takes every possible measure to preserve his/her life, health and dignity.
The use of handcuffs or shackles is only justified where the person arrested is deemed dangerous to him/herself or others, or if he/she is likely try to run away."

[21] *The full list of facilities inspected in 2017 is given in Appendix 2 hereto.*

record-keeping by the units responsible for the round. The system is not always satisfactory as a result.

And yet, some units, those where the cells cannot be used or in the Paris inner suburbs, have, much like the customs departments, adopted a practice more in line with the obligation to protect people deprived of their liberty, which the gendarmes follow in light of their code of ethics: placement in a neighbouring police or gendarmerie unit where round-the-clock presence is ensured. It may, at times justifiably, be argued that this implies travel that is not always easy to accomplish. But such an argument should not prevail, for the gendarmerie units the furthest away from the main town in a *département* or district are also those that practise the lowest number of custody measures and which, moreover, typically take short-term measures which do not require a person to stay in a cell overnight. As complicated as such journeys are, they would certainly be rare, and less taxing than night-time inspections, waking people in custody up in the middle of the night and acceptance of a risk bearing on gendarmes' personal accountability.

It therefore strikes as necessary that the gendarmerie stop detaining people overnight without direct surveillance in each of its units and identify which units would be able to assume this responsibility or, failing that, rely on the national police in this regard.

5.2 Custody procedures in the *départements* in the Paris inner suburbs

In 2017 the CGLPL had the opportunity to carry out more inspections than in previous years in the three *départements* making up the Paris inner suburbs. These visits revealed that the way the law enforcement service is organised leads to serious infringements on freedom.

The people arrested in these *départements* once the law enforcement services of the police stations have closed can end up spending a whole night in custody without any investigative measure being undertaken, on such lame pretexts that they are usually released the following morning after a simple hearing.

In practice, what this means is that, after 7pm, so for people arrested after about 6pm, cases are handled by one on-duty law enforcement officer per district, so covering four or five police stations, tasked with the initial investigations for the 95% that "minor cases" make up. The officer's role cannot, therefore, extend further than placing the people arrested in custody, for s/he is not authorised to carry out any other procedural formality. The police stations' law enforcement officers coming on-duty around 9 o'clock the next morning therefore take over at this point, and hold hearings during the morning. In many cases, the people brought in for questioning are then released after a single hearing on the instruction of the prosecutor's office.

Accordingly, a significant number of people are detained, often for fifteen hours at a time, even for the most minor offences, solely because of the services' inadequate organisation. As puzzling as that may seem, neither lawyers nor the prosecutor's office seem to find fault with this situation, which appears to be dismissed as inevitable.

The CGLPL therefore invites the Ministers of the Interior and Justice to reconsider the way the law enforcement services are organised in the *départements* of the Paris inner suburbs, so that people are not deprived of their liberty for several hours in minor cases, without any investigative formalities being initiated.

Chapter 2

The reports, opinions and recommendations published in 2017

1. Opinion of 22 December 2016 on work and vocational training in penal institutions, published in the *Journal officiel* (Official Gazette) dated 9 February 2017

The attention of the Contrôleur général des lieux de privation de liberté is drawn at regular intervals to the question of work in detention. In its 2011 annual report, the CGLPL had already criticised its main failings[22]: low-skilled jobs, insufficient jobs on offer, low pay, payslips that are difficult to make sense of. It had made several recommendations following on from these findings. In light of the lack of progress more than five years later, the Chief Inspector wished to take stock of the practices and problems observed with regard to accessing work in detention, the conditions under which it is carried out, pay, social protection and the demotion procedure, with a view to clarifying the rights and obligations of working prisoners.

> This opinion sets out the CGLPL's findings from inspection missions carried out in institutions and from referrals, bearing on the few job opportunities available in detention, lack of uniformity concerning the means for accessing work, working conditions that do not comply with the applicable legislation, the low pay of working prisoners, exclusion from ordinary social protection law and misuse of demotion procedures.

The CGLPL argues that the objectives set for work in prisons - particularly the reintegration and re-engagement in society of prisoners - cannot be achieved as things currently stand given the many existing legal loopholes and failure to comply with the minimum standards that have been set. Approximation with ordinary labour law is called for, the only exceptions being associated with the specific nature of penal institutions. It appears necessary for work in detention to be governed by a fully-fledged social security law for the prison environment, entitling prisoners to protection through the professional activity they practise.

Furthermore, given that diversification of the work opportunities available should be encouraged and form part of individual sentence plans, the CGLPL wished to observe various specific forms and frameworks of work in prison, being trialled within diverse institutions. In preparation for this opinion, it therefore performed several on-site inspections, on which specific reports have been produced and published on the CGLPL website. Their findings have been analysed with this opinion in mind: the trial of a medical-social facility aimed at helping disabled adults to better integrate socially through work (ESAT) in a long-term detention centre, the setup of a facility for integration through work (SIAE) in another long-term detention centre, and independent working in prison in the form of self-employment.

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[22] *2011 Annual Report, Chapter 3 "Access to social rights for prisoners" and Chapter 4 "Work in detention: reconsideration of working prisoners' pay", Dalloz, p. 149.*

The Chief Inspector also took stock of the provision and delivery of vocational training in detention and initiated discussions on the transfer of competence concerning its management to the regional councils, following the Act of 5 March 2014 on vocational training, employment and social democracy. Persistent barriers to accessing vocational training in detention have been observed. It now appears necessary for efforts to continue in developing the vocational training provision and encouraging the inclusion of more external opportunities.

> The CGLPL's findings lay bare the fact that the legal framework and physical conditions associated with work do not respect the fundamental rights of prisoners who take up a professional activity during their time in detention.
>
> Moreover, in view of the crucial challenges they represent, not least in terms of reintegration, the quality of the provision and diversity of work and training in prisons fall far short of requirements.

This is why it is necessary both to legally regulate and enhance the value of work in detention. The development and opening up of vocational training towards the outside world must continue. Lastly, innovative schemes allowing for a diversified range of professional activities to be made available to prisoners must be encouraged.

The Minister of Justice submitted his comments on this opinion on 8 February 2017.

After giving a reminder of the case law of the Constitutional Council, which confirms the legal existence of the contractual document for work in prisons[23], the Minister of Justice explained that, in view of the existence of Code of criminal procedure provisions and practices of each institution, it seemed more appropriate to bolster the existing legal framework rather than to establish a new one. He stressed that the need to approximate the organisation and working methods of external professional activities is an objective that the prison authorities are working towards, particularly by building or renovating penal institutions and production workshops that meet the health and safety standards.

With respect to working conditions in detention, he indicated that the circular on the operating procedure of the single multidisciplinary committee (CPU) would be updated in the second half of 2017, so as to improve the traceability and formalism of selection requests and registrations on a waiting list. He clarified that the contractual document was currently being harmonised with a view to providing a job description and setting out the rights and duties of the prisoner and the institution director and the conditions for termination. The Minister specified that a draft single contractual document had been written and that its distribution and implementation could happen towards the middle of 2017. Clarification of the duration and conditions of termination of the trial period would be envisaged in this context. He indicated that discussions were, furthermore, in progress with a view to setting out the professional or disciplinary grounds for suspending or terminating the contractual document, so as to ensure the proper application of the penalties stipulated during a job demotion procedure. The Minister stated that definitions of the aforesaid grounds would be put forward to formally document a demotion procedure on professional grounds, by the end of 2017.

Regarding incapacity for work, the Minister explained that discussions would be held with the Ministry of Labour, Employment, Vocational Training and Social Dialogue so as to determine the means by which prisoners can access preventive medicine, and particularly the delivery of a certificate of fitness for work. Moreover, it was mentioned that a review of the occupational health and safety inspectors would be undertaken with the aim of engaging in dialogue with the Prison administration

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[23] *Priority preliminary ruling on the issue of constitutionality (QPC) no. 2013-320 and 321 of 14 June 2013 and QPC no. 2015-485 of 25 September 2015.*

department and General Directorate for Labour, for the purposes of signing a joint protocol in 2018. He said that an assessment of the ESAT trial would be carried out in view of renewing its authorisation and its potential roll-out to other institutions, as part of a partnership with the Ministry of Social Affairs and Health.

In response to the Chief Inspector's recommendation to set up a national operator for labour, the Minister explained that the prison authorities had launched a study to revise the strategic guidelines on work in prisons, develop the issue and revise the current organisation and governance in an effort to swiftly come up with practical proposals for developing and promoting work in prisons. Setting up an operator appeared to be an idea worth pursuing in his view to develop the work role, insofar as it would enable overall alignment of this role, optimised regulation and enhanced performance through the definition of a strategy to develop and organise the role and set up an efficient structure. Its scope would include: production work (concessions, takeover of false concessions, wholly owned and operated workshops), general service, vocational training and activities aimed at inclusion through work in detention. The operator would have a fourfold remit: delegated project contracting across the whole scope, project contracting over the wholly owned and operated workshops, contribution to guidance and selection of prisoners, and lastly support duties.

With regard to the other forms of work, the Minister pointed out that a study was in progress on assessing the conditions in which prisoners could gain or exercise their status as a self-employed micro-entrepreneur.

Finally, in the Minister's response the CGLPL noted with interest the plan in 2018 to set up an online portal accessible in prisons to enable prisoners to find out all of the training programmes available nationwide.

> Although the Chief Inspector commends the many planned initiatives and steps forward set out in this response, she notes that, at the end of 2017 (so nearly a year later), these pledges have not been acted upon to her knowledge. She would therefore like to be kept apprised of the action taken in light of this opinion.

2. Thematic report: Staff in places of deprivation of liberty

Ever since it was set up, the CGLPL has repeatedly maintained that respect for fundamental rights in prisons, custody facilities, detention centres or in the context of involuntary hospitalisation depends directly upon the staff and their working conditions. It brings up this issue in all of its institutional inspection reports systematically, and has set out general recommendations on multiple occasions for the attention of staff.

> The idea that the rights of people deprived of their liberty are in competition with those of the staff tasked with their welfare is deeply flawed: on the contrary, in reality there is a genuine community of interests between them - despite an apparent conflict at times. The CGLPL finds that respecting and meeting the rights of detained persons is instrumental in ensuring a smooth provision process and, therefore, ultimately, the security of institutions.

All places of detention rely upon a common organisation that combines architecture, time management and a set of rules covering a scope that ranges from the simple need to organise community living (hygiene, sharing the same space) to the willingness to apply a disciplinary regime. Within this space, professionals are sometimes subject to the same constraints as the people being detained, but, under other circumstances, are allowed some flexibility in the way they interpret rules, which gives each of them, depending on their personality, availability or energy levels, a decisive role in how effective such or such a fundamental right really is in practice.

> The CGLPL's experience shows that, in spite of their diversity, the institutions inspected all struggle with largely similar problems: that of the balance between the security requirements and respect for the fundamental rights of people deprived of their liberty, that of having to address both the needs for round-the-clock provision and the need for training, that of the relations of power and dependence which inevitably form between warders and their wards, or that of violence.

The CGLPL wanted to carry out a realistic and cross-cutting analysis of staff working conditions in view of the impact they have on respect for the fundamental rights of people deprived of freedom. It therefore asked itself two key questions:

- are staff, in terms of their numbers, skills and organisation, capable of taking all of the measures ensuring fundamental rights are respected (guaranteeing security, taking responsibility for their wards and preparing for release, providing the necessary services, etc.)?
- do staff members themselves always respect fundamental rights in the way they behave (use of force only when strictly necessary, no violence, integrity, respectful conduct, compliance with obligations, etc.)?

After identifying the specific risks of working in places of detention, the report examines the significance of staff issues, since provision for people deprived of their liberty must be viewed in terms of a service to people, for which the existence of sufficient staff numbers is a prerequisite.

It then moves on to the question of staff's individual skills, and their stability, which must be managed by making sure there is neither excessive turnover nor a sense of tedium setting in among staff. Training should not be limited to merely learning the technical ropes, but also include training in the rights of people deprived of freedom. Lastly, staff must be able to prevent and handle critical situations.

The report then addresses the matter of managing professional conduct. For that, it asks that measures aimed at promoting adoption of ethical rules be taken, and recommends that punishment of professional misconduct, though still necessary, be used in moderation so as to avoid any unintended effects. It also advises developing organisational arrangements that are respectful of fundamental rights and, for that, strengthening the role of supervisors, as well as factoring fundamental rights into the organisation - not least by identifying contact persons for respect of rights and creating mediation roles. Finally, it highlights the need to develop collective skills through respect for identities and professional ethics specific to each staff category, the setup of collective training and the development of analysis of practices within teams.

On a final note, the report advocates an improvement in staff working conditions, by paying attention first and foremost to the physical living and working conditions, then to appropriate work schedules which allow for sufficient rest periods, and finally to bonding initiatives. It gives ideas of how staff's duties can be made to feel more worthwhile, and it recommends measures bearing on protecting staff against physical and psychosocial risks.

By deliberately adopting a common approach to all of the places that come under its scrutiny, the CGLPL took advantage of this report to pinpoint the good practices specific to some of these places and to urge their application by other institutional categories.

3. Thematic report: the fundamental rights of children in mental health institutions

During the CGLPL's inspections of mental health institutions, it became clear that the notion of voluntary care is particularly delicate when it comes to children committed for psychiatry treatment, since this may be fully imposed by a third party without them being afforded the safeguards recognised in the context of involuntary care.

> Every year, nearly 400 children are hospitalised by decision of a public authority, State representative or judicial authority. In reality, however, in the institutions they visited, the inspectors above all came across children who had been sectioned at their parents' request, but were considered to be voluntary patients. The figures differ from report to report and should be interpreted carefully. Those that the Technical Agency for Information on Hospital Care (ATIH) communicated to inspectors report, for 2015, 18,257 children committed for full-time hospital care, including 197 committed on decision of the State representative, 239 following a provisional placement order given by the juvenile court judge as well as 42 under Article D388 of the Code of criminal procedure (children detained and admitted on decision of the prefect) and 5 under Article 706-135 of the Code of criminal procedure (following a decision of criminal irresponsibility).

The situation concerning children has particularly caught the CGLPL's attention not only owing to their ambiguous status, but also because the role of legal guardians appears to be very uncertain - across all types of admission. This uncertainty is even more pronounced for children entrusted to the child welfare services, of whom there are many within units. The hospital authorities themselves do not always seem to be versed in the rules governing parental responsibility and do not sufficiently grasp the impact of placement on admission procedures, on the role of parents in provision plans and on the rights of children.

Sectioning procedures, in the strict sense of the term, which are more tightly regulated by law, are typically subject to protocols, but the question of child patients is barely addressed; there is hardly any reference to assistance for child patients in exercising their rights, and things are scarcely better in practice. The inspectors have found that the authorities themselves – the State representative and liberty and custody judge in particular – struggle to guarantee the rights of children and their legal guardians properly.

> Because hospitalised children are particularly vulnerable, the CGLPL wished to examine the way in which their and their parents' rights are coordinated in relations with the hospital and the authorities, at the time they are committed and throughout their care delivery.

The recommendations made by the CGLPL in this thematic report are based upon the inspections conducted in some thirty hospitals receiving children and careful scrutiny of the texts - scattered and sometimes contradictory - which govern the matter.

This report delves into the broad principles governing parental responsibility in detail. It lays down the general framework for mental health care through the organisation of the health service and the role of young patients in this system. It also probes the question of the forms in which children can be committed, whether as a so-called voluntary or involuntary patient, as well as the diverse aspects to do with respect for the rights of children and their legal guardians - particularly through case studies observed during missions, which were above all opportunities for further thought.

It sets out a certain number of recommendations, general in nature and in connection with the various points raised in the report: the legal framework and admission conditions, the rights of children and their legal guardians, the role played by the custody and liberty judge and the care provision for children.

General recommendations:

The public authorities must make sure that any child in need of care can be accommodated in a suitable institution, which is close enough to his or her home to be able to maintain family ties.

The public authorities and responsible authorities must endeavour to improve coordination between the diverse social, medical-social, educational, health and judicial services working with children.

The public authorities and responsible authorities must ensure that all children effectively benefit from the rights to which they are entitled by law.

Chapter 3

Actions taken in 2017 in response to general inspection reports, recommendations and opinions

1. Methodological introduction

1.1 The procedure

Act no. 2007-1545 of 30 October 2007 establishing a Contrôleur général des lieux de privation de liberté (Chief Inspector of places of deprivation of liberty) authorises the latter to submit to the Government diverse types of comments, opinions and recommendations. Accordingly:

- s/he shall make "recommendations in relation to the facts or situations in question to the person responsible for the place of deprivation of liberty" and may make these public when s/he conducts inspections in response to case referrals (Art. 6-1);
- s/he shall "inform the ministers concerned of his/her observations regarding, in particular, the state, organisation and operation of the site visited, and also the condition of the persons in custody", following each institutional inspection (Art. 9 para. 1);
- s/he shall "promptly notify the competent authorities of his/her observations" if s/he observes a serious infringement of the fundamental rights of a person in custody (Art. 9 para. 2);
- s/he shall "issue opinions, make recommendations to the public authorities and propose to the Government any amendment to applicable legislative and regulatory provisions" within his/her field of competence and publish these opinions, recommendations or proposals (Art. 10);
- s/he "may send to authorities having responsibility, opinions on construction, restructuring or rehabilitation proposals relating to any place of deprivation of liberty" (Art. 10-1).

Moreover, pursuant to Art. 21 of the Act of 20 January 2017 conferring general status on independent government agencies and independent public authorities, s/he "shall, before 1 June every year, submit an activity report to the Government and to Parliament, providing an account of the performance of its mission and its resources. […] This report shall be published".

Pursuant to these provisions, since 2008 the CGLPL has submitted to the Government recommendations specifically concerning each institution visited, emergency recommendations published in the *Journal officiel* (Official Gazette) also concerning the institutions identified, as well as thematic opinions and general recommendations set out in the CGLPL's annual reports. In order to assess the impact these recommendations have had on the fundamental rights of people deprived of their liberty, they need to be monitored at periodic intervals.

The CGLPL's 2016 annual report gave an account of the monitoring of all the general recommendations submitted to the Government from 2008 to June 2014, during the term in office of the first Chief Inspector. From then on, annual monitoring of the CGLPL's recommendations was organised systematically, three years after these were issued.

From 2017, this monitoring will now be carried out annually.

Of course, full monitoring of its specific observations by the CGLPL is carried out during follow-up visits. For detention centres for illegal immigrants and juvenile detention centres, a second round of inspections began in 2012 because of the low number of these institutions in which the CGLPL often currently conducts third inspections. For penal institutions, this second round did not begin until 2014, when the CGLPL had completed a first round of inspections. However, for police custody facilities and mental health institutions, this first round of inspections is still in progress.

> It therefore appeared worthwhile, at shorter intervals than is currently the case with follow-up visits, conducting declarative monitoring of the CGLPL's recommendations through an exchange with the Ministries, three years after the inspection, for all inspections conducted after the current Chief Inspector of places of deprivation of liberty took office, so since July 2014, with the exception of inspections in police custody facilities. As such, below you will find an account of the exchanges held between the CGLPL and the Government through the second half of 2017 on the recommendations that the latter had received during the second half of 2014.

These observations can take the form of "recommendations" when it is a matter of calling on the authorities - with more or less insistence according to the severity of the violations to fundamental rights - to put an end to such violations. They can also take the form of "good practices"; in this case it is a matter of bringing to the attention of a minister or institution director an identified original and reproducible practice aimed at improving or guaranteeing the respect of such-and-such a right of people deprived of their liberty. Indication of this good practice should be understood by the authorities as an invitation to roll it out more widely, in the form they see fit (circular, training tool, internal memo, methodological guide, industrial standard, etc.).

General recommendations are those that bear on a right or a series of rights of a category of people deprived of their liberty, but not, in principle, on an identified institution - save where they are of such significance that they have given rise to an official publication (which happens no more than two or three times a year). These are therefore recommendations issued in thematic reports or opinions, in published observations - possibly in an emergency - as well as in the CGLPL's annual reports, which are also submitted to the Government.

1.2 Findings from the first exercise

The monitoring carried out in 2017 therefore constitutes a prototype, which has been simplified since it only bears on one semester. The procedure selected, to which it will of course be possible to make minor adjustments in the future, was as follows:

A statement of the recommendations and observations sent to the Government over the period in question was submitted to each of the ministers concerned on 12 July 2017; this statement also included the responses that the Government had initially given to the CGLPL. These ministers were asked to inform the CGLPL, by 15 October, of:

- their position as regards the recommendations about which their predecessor had not replied;
- any changes in position they might wish to clarify in relation to the responses that were initially given;
- the practical measures taken since the last response.

In addition, a handful of specific questions were asked.

Although the CGLPL had announced it was going to carry out this new exercise back in March 2017, when the annual report for 2016 was published, it seems to have caught the authorities by surprise, for only the Ministry of Health was in a position to send back a response within the

allotted time. This is all the more surprising since this Ministry has responded on behalf of independent public institutions over which, by definition, it does not exercise any supervisory power - whereas the Ministries of the Interior and Justice have only to respond as regards their own departments. The CGLPL nevertheless received all of the information it had requested after the deadline given for submissions, with the exception of the information bearing on the specific recommendations concerning penal institutions.

> This shortcoming is regrettably the sign of a deeper failing. For there was a fairly broad consensus that the answers requested required "an enormous amount of work" when, if the central administrations had assumed their responsibility regarding the implementation of the CGLPL's recommendations, such responses should have amounted simply to extracting datasets from their dashboard. The first thing that this initial monitoring exercise has thus laid bare is the rhetorical nature of the answers supplied by the ministers to the CGLPL's reports, since these answers do not give rise for their part to monitoring which would certainly exist if the CGLPL's recommendations had genuinely led to action plans. The CGLPL can only urge the ministers to set up sustainable monitoring of its recommendations.

Of course, the ministers' discretion must not be overlooked: each minister is entitled to consider that a CGLPL recommendation - with the exception of those bearing on compliance with applicable law - is not relevant. In this respect, s/he may therefore state his/her disagreement and choose not to put it into practice. This is why, since September 2017, the ministers have been expressly asked to indicate the action they intend to take regarding each of the recommendations they receive.

If the minister agrees with the recommendations, s/he shall put them into practice - which, logically, means that s/he shall unlock the necessary means to that end and that the CGLPL can refer to this agreement in all similar situations.

If the minister does not agree, the CGLPL would appreciate it if s/he could explain his/her reasons. In this case, the CGLPL might come round to the minister's opinion or, where it considers it necessary, leverage, in complete independence, other means of influence, such as by calling on its international contacts, Parliament, civil society or through direct communication.

> The difficulty the Ministries had in responding to the CGLPL within the three-month time-limit is nevertheless a sign of a genuine problem adopting the recommendations. This is why a technical meeting will be organised in the first quarter of 2018 to learn and move on from this first exercise.

Finally, the comment was made in several instances that the recommendation made did not come under the minister being questioned, but another member of the Government; one minister (a ministre d'État) even left one question blank, on the grounds that this apparently did not come under the directorate of his/her ministry, whom s/he had tasked with responding to the question, but another department, also placed under his/her authority. It is important to make it clear here, then, that the CGLPL only reaches out to ministers with authority over the institutions inspected, who must carry out the necessary coordination work with the other ministerial departments[24]. Here again, the response given, reflecting a certain administrative naivety, must be seen as the sign that nothing was done to act upon the CGLPL's recommendation - which is not contested, it should be pointed out.

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[24] The fact that the reports on penal institutions lead to a submission to the Minister of Justice and Minister of Health should not be construed as the consequence of the direct supervision of the latter over the health units in detention which, let us remember, do not come under the penal system, but the hospital system.

Each Minister is asked to inform the CGLPL of his/her agreement or disagreement concerning each of the recommendations or observations received and, in the former case, to implement the necessary internal monitoring and follow-up procedures for guaranteeing that the agreement expressed is acted upon as well as, where applicable, initiate the necessary interministerial work.

1.3 The updated recommendations

In the analysis of the responses that the Ministers gave to the general recommendations, the CGLPL found there to be a series of typical scenarios that are fairly simple to characterise and which lead to an update in the recommendations:

- the recommendation was acted upon under conditions which, overall, the findings in the institutions in 2017 corroborate; in other words, a rule was updated and the new measure applied:
  - the CGLPL does not outline any updated recommendation;
- the recommendation led to an amendment in the regulations generally in line with the guidance given, but in practice the CGLPL finds that, in the institutions, the resources are not available or the new rule is not known:
  - the CGLPL updates its recommendation by focusing on the points relating to its implementation;
- the recommendation has only partially been acted upon:
  - the CGLPL updates its recommendation by focusing on the part that has not been implemented;
- the authorities do not agree with the recommendation, on grounds that the CGLPL concedes are justified:
  - the previous recommendation is scrapped and no update is outlined;
- the authorities do not agree with the recommendation, on grounds that the CGLPL does not consider justified:
  - the recommendation is repeated exactly as before;
- the authorities do not agree with the recommendation, on grounds that the CGLPL does not consider justified and, moreover, the CGLPL believes that a key fundamental right is under threat:
  - the recommendation is repeated exactly as before and at the same time the CGLPL alerts Parliament or the international organisations tasked with supervising respect for fundamental rights in France.

Regarding the recommendations specific to institutions, only a general assessment of the institution's situation is given below, together with an opinion expressed by the CGLPL on its progress as presented by the Minister concerned. Updated recommendations are rare, since it is only in the wake of on-site inspections that recommendations can be made on situations which need to be appraised by observing them in practice. As such, the recommendations set out below concern:

- situations which warrant a general recommendation, particularly when it is a question of solving a structural difficulty encountered across a number of identical institutions;
- measures to be taken so as to disseminate good practices;
- ad hoc measures of such significance that ministerial intervention seems justified.

In light of the above, the 2014 recommendations are now obsolete and replaced by those set out below. These new recommendations will be subject to monitoring in the CGLPL's annual report for 2020.

2. Recommendations concerning mental health institutions

2.1 General recommendations

The CGLPL's recommendations followed by a response from the Minister of Health are published in full in Appendix 4.

2.1.1 Solitary confinement and restraint

In 2014 the CGLPL recommended improving the traceability of measures and bringing them under the scrutiny of the *Département*-level Commission for Psychiatric Treatment. This recommendation was put fully into effect in the texts: Article L.3 222-5-1 of the Public Health Code introduced by the Act of 26 January 2016, followed by the Instruction of 29 March 2017 on the policy for reducing solitary confinement and restraint practices within authorised psychiatric health institutions designated by the Director-General of the Regional Health Agency for providing involuntary psychiatric treatment, stipulates the conditions for keeping the record and organises the procedure for monitoring practices within the institution, at regional and national level.

Moreover, in keeping with another of the CGLPL's recommendations, the *Recommendations for clinical practice*, circulated on 20 March 2017 by the National Authority for Health (HAS), specify the monitoring procedure and systematic interviews that must be held when placing someone in solitary confinement.

This progress is in keeping with the CGLPL's guidelines. However, from the inspections carried out in the institutions, it is clear that this progress is struggling to have a tangible impact in practice. The CGLPL therefore recommends that communication around these measures as well as training initiatives and oversight measures by the ARSs be stepped up.

> Step up the measures bearing on communication, training and oversight of solitary confinement and restraint in mental health institutions (see Art. L.3 222-5-1 of the Public Health Code introduced by the Act of 26 January 2016 and instruction of 29 March 2017 on the policy for reducing solitary confinement and restraint practices within authorised psychiatric health institutions designated by the Director-General of the Regional Health Agency for providing involuntary psychiatric treatment).

2.1.2 Patients' rights

The CGLPL recommended drawing up standard information leaflets on sectioning, displaying the internal rules and organising citizen's advice centres in mental health institutions.

Efforts along these lines are in progress, on the one hand by working groups formed by the Ministry of Health, and on the other by the national conference of public health institution medical committee and psychiatric hospital chairs. The CGLPL is at these authorities' disposal to share its expertise with them.

> Consult the CGLPL on draft information documents intended to be given to patients committed involuntarily.

Regarding access to rights, this information and assistance role is partly fulfilled by healthcare access centres for disadvantaged people (PASSs) in psychiatry, which have been set up in forty institutions. This forms part of the objectives defined in the local mental health plans established by the Decree of 27 July 2017. Lastly, the Ministry of Health points out that citizen's advice centres (PADs) organised by the Ministry of Justice provide free and anonymous assistance to people struggling with a legal or administrative problem, without giving any numbers. All of these schemes would be worth developing; to that end, the Ministry of Health could gain from setting a target figure.

Develop healthcare access centres for disadvantaged people (PASSs) in psychiatry and citizen's advice centres (PADs) so as to help people with mental health problems and their families to access information about their rights. Monitor this development by setting a target figure.

2.1.3 Privacy and family life - relations with the outside world

The CGLPL had issued several series of recommendations, which particularly included lifting the absolute blanket ban on sexual relations, enabling patients to access their financial resources and only restricting visiting, telephone and computer access rights on medical grounds.

In all cases, the Minister of Health indicates that there is no absolute blanket ban but that, pursuant to Article L. 3211-3 of the Public Health Code, only appropriate, necessary restrictions in proportion to the patient's mental state. The CGLPL is not unaware of this provision, whose contents it does not contest. It does, however, note that, in 2017 as in 2014, the bans it observes in hospitals go well beyond that and are only seldom subject to discussions - in the form of work on "the freedom to come and go".

It therefore recommends that educational measures, more detailed instructions or discussions covering all aspects of patient's daily lives and social relationships be set up and that these points come under stricter scrutiny on the part of the health authorities.

Develop an action plan on the rights and freedoms of involuntary patients going beyond merely the freedom to come and go, to encompass all aspects of their social relationships and daily life.

Finally, the CGLPL suggested organising focus groups or training for families by medical teams so as to facilitate communication and collaboration between practitioners, patients and their loved ones, and to explain the care pathways to them.

This recommendation was taken on board in the Decree of 27 July 2017 on the local mental health plan. This plan should aim at promoting the involvement of patients, their families and loved ones in drawing up and carrying out the care and social or medical-social plans, especially as regards patient education, support for caregivers and peer mutual assistance procedures. The CGLPL duly notes these measures and recommends that they be assessed in the next two or three years at three levels of responsibility of the health service (national, regional and local).

Assess the measures taken with respect to information for people with mental health problems and their family and to involving families in their treatment.

2.1.4 Right to health

The CGLPL recommended giving patients the freedom to choose their own psychiatrist, given that several work within the same unit. The Minister of Health draws attention to the fact that the law as it currently stands complies with this recommendation. She nevertheless concedes that difficulties in enabling this in practice may exist at local level and says that this subject may be discussed during the sessions of the psychiatry steering committee. The CGLPL duly notes this intention.

2.1.5 Hygiene

On a final note, the CGLPL outlined recommendations on patients' access to washing facilities, which primarily depends on architectural conditions. It acknowledges that, as highlighted by the Minister, the new infrastructure and renovations now provide for washing facilities that meet its recommendations. Plans for the publication of a guide on the architecture of full-time hospitalisation units in psychiatry will surely only improve the situation in the future.

2.2 Special recommendations

During the latter half of 2014, the CGLPL inspected two mental health institutions: the public mental health institution (EPSM) of La Roche-sur-Foron (Haute-Savoie) in August and the specially-equipped hospitalisation unit (UHSA) in Rennes (Ille-et-Vilaine) in December. The recommendations made in the wake of these inspections, the responses given and their monitoring by the Ministry of Health in 2017 can all be found in Appendix 4.

2.2.1 The public mental health institution (EPSM) of La Roche-sur-Foron (Haute-Savoie)

During the CGLPL's inspection, the institution was grappling with considerable instability in terms of its nursing staff and a lack of procedural organisation, which resulted in an unreliable admissions procedure, insufficient information for patients, scant activities available to patients, inadequate somatic monitoring and a distribution of medicines that violated physician-patient confidentiality.

Since January 2016, a new management has been in place, and the certification audit by the National Authority of Health has taken place. New staff members have been recruited and staff turnover is improving. An institutional strategic plan is currently being drafted, such that the points concerning reception of patients and information for their attention - on which the HAS's observations were consistent with the CGLPL's - are gradually improving. Changes have been made regarding the distribution of medicines, but recruitment of somatic physicians remains difficult despite a new position having been created.

Furthermore, the institution used to make excessive use of solitary confinement and restraint, including systematically placing detained patients in solitary confinement throughout their stay. The solitary confinement and restraint practices were assessed in 2015, and the implementing provisions of the Act of 23 January 2016, which call for traceability of such measures and a policy to reduce their use, were put into practice.

The CGLPL notes these efforts to improve the situation, but finds it regrettable that the Minister did not respond to the recommendation about the systematic placement of detained patients in solitary confinement.

2.2.2 The specially-equipped hospitalisation unit (UHSA) in Rennes (Ille-et-Vilaine)

Good practices

The report highlighted the merits of such organisational rules as fitting out individual bedrooms rounded off with nicely laid out common areas, the joint reception of patients in the two treatment units, regular assessment of professional practices, secure running of the canteen and significant freedom of access afforded to chaplains.

It also underscored the merits of calling on an external professional to run monthly supervision sessions with the nursing staff, which the Minister of Health intends to highlight in the context of furthering the assessment of the first instalment of the UHSA programme.

Recommendations

The CGLPL had first and foremost recommended for team stability to be improved. The Minister of Health mentions measures taken to that end, but it is regrettable she does not provide information about how effective they have been.

A key difficulty for the institution concerned the management of incidents, especially in relations between the nursing staff, prison authorities, administrative authorities and the justice departments. This difficulty seems to have been resolved by multiprofessional working groups organised under the impetus of the prefect and regional health agency, monthly meetings between the care teams and prison authority teams and exercises simulating incidents involving patients-inmates.

Recommendations had been issued on improving transportation of patients and medical admission outside working hours, collecting and recording patients' comments and improving the procedure for notifying admission orders and decisions from the liberty and custody judge. The Minister replied that the rules of procedure have been updated and an admission procedure "in degraded mode" is in place for weekends, and that patients' comments are now collected and traceability of decisions concerning them is now ensured. The CGLPL duly notes this point.

The CGLPL is also interested to note that, to bring professional practices into line with the HAS recommendation on solitary confinement and restraint, an internal audit of all the seclusion rooms in the institution of the hospital to which the specially-equipped hospitalisation unit is attached has been performed. The CGLPL's recommendation on alarm devices in the seclusion rooms was apparently taken on board during this audit. In this regard, the CGLPL gives a reminder of the recommendations about seclusion rooms that it made in its May 2016 report entitled *Solitary confinement and restraint in mental health institutions*.

Lastly, several of the CGLPL's recommendations laid bare the coordination difficulties between the two departments, the hospital and the prison authorities, whose approaches can sometimes be conflicting or in competition. This first and foremost concerned the conditions and scope of the prison mission within the specially-equipped hospitalisation unit, with the risks in terms of an interruption in the treatment process and reduction in patient rights that a temporary discharge from the penal institution can entail. It also had to do with specific rights, such as visiting rights, the confidentiality of telephone interviews and personalising restraint measures taken during external movements and transfers. It is regrettable that there has been no response forthcoming from the Minister of Justice on these difficulties, to which the Minister of Health says no solutions have yet been found.

3. General recommendations concerning penal institutions

The CGLPL's recommendations followed by the responses from the Minister of Justice and the Minister of Health are published in full in Appendix 4.

3.1 Autonomy, dignity and integrity

3.1.1 Right to autonomy

The CGLPL had recommended building small penal institutions which fostered the autonomy of prisoners and fitting out communal living spaces in all penal institutions, not least to enable direct purchases to be made in "stores" where internal payment cards were accepted.

The Minister of Justice explained that, on the basis of the principles adopted by the White Paper on the Prison Estate[25] these recommendations will be partly taken on board in the new institutional construction programmes:

- small "preparation for release" wings incorporating communal living spaces;
- trustee wings, including in remand prisons, included in the planning framework for the "15,000 programme" recently launched.

The CGLPL duly notes these measures but recommends that communal living spaces and trustee wings also be set up in existing institutions. It also gives a reminder of its recommendation on building small-scale institutions.

> Build new institutions that are small in scale and extend "trustee wings", which include communal living spaces and an open-door detention regime, to existing institutions.

Regarding the possibility of making in-store purchases and making provision for electronic payment, the Minister of Justice mentions a number of practical hurdles (related to the infrastructure, detention regime, storage, professional practices) but does not object to the idea in principle. It therefore seems relevant to move forward in this direction on the basis of trials, perhaps, as suggested by the Minister, in connection with the broader question of "digital technology in detention".

> Test out a canteen regime in a few institutions based on "in-store" purchases and e-payment with an internal card.

The CGLPL recommended setting up rules bearing on the internal assignment of prisoners on the basis of an assessment of each one's ability to access autonomy and extending the "prisoner-facilitator" initiatives for helping new arrivals to settle in, "relational mediations" and joint staff-prisoner training programmes.

The Minister of Justice explained that so-called "respect" units, aimed at fostering prisoner autonomy, were currently being tested out. She highlighted the efforts on the part of the authorities to ensure prisoners benefit from the social assistance and personal care services to which they are entitled. She said that the question of autonomy is being addressed by the working group on health provision for offenders and that tools for encouraging local partnerships to be established will be distributed in 2018.

The CGLPL duly notes these plans.

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[25] *White Paper on the Prison Estate, submitted to Jean-Jacques Urvoas, Minister of Justice, by Jean-René Lecerf, Chair of the White Paper Committee - 4 April 2017*

Furthermore, the Minister of Justice states that the prisoner-facilitator scheme is currently being assessed.

3.1.2 Right to dignity

The CGLPL had recommended laying out areas for accommodating people with reduced mobility.

The Minister of Justice explained that, pursuant to the regulations, the accessibility of new institutions is factored in from their construction and that existing institutions are currently being brought into line, the timeline setting the operational phase for 2018 and completion scheduled by 2025.

The CGLPL also recommended providing for elderly or dependent people under similar conditions to those they would experience in open environments.

The Minister of Justice points out that, in a bid to help prison staff accomplish the necessary tasks, a kit on managing prisoners with diminishing abilities is due to be handed out at the start of 2018. She has also conducted work, in conjunction with the Correctional Service of Canada, on better identifying prisons with diminishing abilities and on providing appropriate support and detention conditions in light of their condition. Finally, a working group is looking into this point as part of the offenders' health strategy[26].

Whilst all of these points do show that the questions raised by the presence of elderly and dependent people in prison are being considered, they are not, as yet, having any impact on their situation. The CGLPL therefore feels compelled to renew its recommendation.

> Provide for elderly or dependent people under similar conditions to those they would experience in open environments.

The CGLPL also recommended handing out "free vouchers" at regular intervals enabling each prisoner to see to their hygiene needs and order what they genuinely need, and setting up means enabling prisoners to wash their own clothes.

The Minister of Justice maintains that every new offender arriving in a prison is handed a hygiene kit which contains the toiletry staples; further products are handed out free of charge to prisoners recognised as being indigent. She states that the planning framework for new penal institutions provides for one laundry per accommodation unit in each wing.

The CGLPL had recommended allowing greater freedom of movement towards the exercise yards and activities.

The Minister of Justice claims that this question is due to be examined in the discussions on detention regimes and further states that this recommendation is also implemented in the respect units, alongside which more restrictive detention regimes must continue in the institutions.

On this point, the CGLPL refers to its opinion of 12 December 2017 (published in 2018) on the respect units set up in penal institutions.

3.1.3 Right to free management of one's own belongings

The CGLPL had recommended giving prisoners the opportunity of selling on, donating or lending all of their belongings, including their computer equipment, once this equipment had been inspected and the reasons checked for such a gesture.

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[26] *Published in April 2017*

The Minister of Justice reiterates that transactions, with the exception of loans and donations of books, are only authorised in the event of transfer. Items left behind by released prisoners are handed to the State Property Authority. These provisions are regulatory. Although the Minister does not express any intention to update these regulations, she does not object to this in principle. Accordingly, the CGLPL upholds its recommendation.

> Enable prisoners to sell on, donate or lend all of their belongings, including their computer equipment, once this equipment has been inspected and the reasons checked for such a gesture.

The CGLPL had also recommended furnishing purchasers with estimates drawn up in their name or valid invoices, by the time they are delivered the product at the latest.

The Minister of Justice indicates that digital technology in detention should digitise the canteen order process, and as such the order contents and amounts will be available on the interface. Whilst this intention marks an undeniable step forward, it is not certain it will achieve the aim of the recommendation - namely the exercise by prisoners, including once they are released, of their civil law rights (proof of title, guarantee, right of assignment, etc.) over the items they purchase. The CGLPL therefore clarifies its recommendation.

> Take every appropriate measure to ensure prisoners who buy a product in the canteen can avail, with regard to this product and its supplier, of all the rights coming under civil law and consumer law (proof of title, guarantee, right of assignment, etc.).

The CGLPL had recommended adopting a new circular on fighting against poverty in prisons, particularly aimed at reassessing the provisions governing the provision of a cash aid to people considered to be indigent.

The Minister of Justice gives a reminder of the applicable regulations and contends that "If the prison administration, in its double role as head of the institution and prison rehabilitation and probation service, is fully committed to the fight against poverty, efforts on the part of partner associations and other public services must strengthen the means being harnessed."

The CGLPL nevertheless considers that the support in place is inadequate and insists that it be reassessed.

> Reassess the cash aid (amount and upper limit of resources taken into account) given to people considered to be indigent.

Lastly, the CGLPL drew up a series of recommendations on the autonomy of prisoners in managing their own financial resources: free choice of deposit account, systematic delivery of savings account statements, access to banking facilities, swift transfer of funds to savings accounts.

The Minister of Justice recalls the principles governing the autonomy of prisoners in managing their savings and says that discussions are underway with the Banque postale to improve the agreement, and even enable access to other banks. The CGLPL duly notes this point.

Finally, the CGLPL recommended regulating expenses incurred during permissions to leave in the context of talks between the Judge responsible for the enforcement of sentences, prison rehabilitation and probation service and the prisoner in question, to enable the latter to express his/her needs and associated reasons.

This recommendation has been upheld since it did not receive a response from the Minister of Justice.

> Regulate the expenses incurred during permissions to leave in the context of talks between the Judge responsible for the enforcement of sentences, prison rehabilitation and probation service and the prisoner in question, to enable the latter to express his/her needs and associated reasons.

3.2 Private and family life and relations with the outside world

3.2.1 Right to privacy

The CGLPL had recommended building and more widely rolling out family living units.

The Minister of Justice points out that, at the end of 2017, 80 institutions had family living units (UVF) and family visiting rooms (PF) and that, from 2018 to 2022, these units and rooms were set to open in 6 existing sentencing institutions and 3 remand prisons as well as 14 new institutions.

The CGLPL acknowledges this investment and asks that it be continued.

> Push on with building family living units and family visiting rooms to ensure they are rolled out on a broad-scale.

The CGLPL had also recommended guaranteeing free access to condoms within health units as well as within family living units and family visiting rooms.

The Minister of Justice describes measures taken along these lines. The CGLPL duly notes this point.

Lastly, the CGLPL had recommended increasing dress tolerance to bring it into line with the standard criteria on the outside.

The Minister of Justice does not wish to honour this recommendation on security grounds (risk of confusion with staff uniforms, risk of dissimulation, etc.).

> The CGLPL duly notes this response and recommends that restrictions be strictly proportionate to the grounds on which they are taken.

3.2.2 Right to maintain family ties

The CGLPL had recommended a range of measures aimed at encouraging the exercise of parental responsibility:

- inform detained parents from the start of their prison sentence of their rights and duties as regards their children, and assist them in the steps they need to take to uphold their rights and duties;
- enable access to digital booklets via secure Internet access;
- enable easier access for imprisoned parents to catalogues for buying gifts for their children;
- adapt the frequency, locations and duration of sessions between the imprisoned parent and his/her child, together with the assisting party.

The Minister of Labour claims that measures are being taken to promote family visiting rooms for imprisoned parents with their children, improve the quality of meeting areas or organise "complimentary canteens". She also clarifies that the prison rehabilitation and probation services provide information and guidance for prisoners supervised in their parenting-related procedures. On a final note, she mentions that "PCs can already provide access to websites in a controlled and limited fashion", without providing any figures.

These measures are no different from those that already existed when the CGLPL had considered it pertinent to issue its recommendations, which are therefore upheld.

Encourage the exercise of parental responsibility by imprisoned parents by organising specific guidance and providing access to the digital tools required to monitor the social and schooling situation of their children and to stay in touch with them.

The CGLPL had also recommended taking into account the parenting criterion when assigning jobs.

The Minister of Justice explains that this criterion is one of a set of criteria that are considered when selecting prisoners for specific jobs, but does not consider it possible to establish a general, preferential selection system for imprisoned parents when it comes to work in prisons, since this measure would be discriminatory in the eyes of other prisoners.

The CGLPL takes the same view.

Regarding imprisoned children, the CGLPL had recommended handing out a specific information leaflet to holders of parental responsibility, extending family visits inside institutions and creating facilities designed for confidential and sociable encounters.

The Minister of Justice reports on measures taken jointly by the prison authorities and Judicial Youth Protection Service to ensure the provisions of the civil code on parental responsibility are effective. She particularly underlines the technical factsheets describing the situations in which the opinion or consent or permission of holders of parental responsibility must be obtained. She also describes measures taken to encourage encounters (family living units and family visiting rooms) and maintains that new institutions systematically include fitted-out areas of this type.

The CGLPL duly notes these measures.

The CGLPL had also recommended facilitating access to correspondence means, by adapting the credits assigned to new arrivals so that they are able to let their families know, by extending the time slots for accessing the telephone - especially to account for a possible time difference.

The Minister of Justice explains that the new programmes contain provision for telephone facilities in accommodation units, which are more accessible than in the exercise yards. She reports on a mobile phone trial in the Montmédy prison complex. Following her response, the broad-scale roll-out of this measure was announced, although no set timeline had yet been clarified by the time this report was written.

The CGLPL duly notes these plans but will continue to keep a close eye on the cost of telephone use to be borne by prisoners as well as respect for confidentiality during telephone conversations, at a time of prison overcrowding.

In line with the CGLPL's recommendation, the technical possibility of accessing servers with a voice menu in the telephone system is due to be looked into when the telephone public service delegation is being renewed.

The CGLPL had recommended that families living abroad benefit from special facilities to arrange a visit to the family visiting room (booking online, flexibility in the event of delays, time allotted in these rooms, information about the applicable rules and the situation of their detained relative, etc.).

The Minister of Justice contends that, in the context of universally applicable regulations, some flexibility is permitted locally for families having to travel a long way (doubling the visiting times, access to family visiting rooms and living units, flexibility in the event of delays, etc.). She also says that online booking for visiting rooms is due to be trialled via the general public portal for "digital technology in prisons". The CGLPL concedes that it has indeed observed such flexibility during its inspections, but asks that it be subject to incentives via "flexible rules" (administrative instruction, technical factsheets, training modules, etc.).

Finally, the CGLPL had recommended that, on an accreditation basis, the French Red Cross be permitted to meet with all prisoners who are unable to contact their families or are, in reality, completely on their own.

The Minister of Justice explains that a partnership is already in place with the Red Cross for installing confidential telephone lines, for providing assistance to and for listening to any prisoners who would like to benefit therefrom. This measure should not replace face-to-face encounters, however. The CGLPL therefore upholds its recommendation.

> On an accreditation basis, permit the French Red Cross to meet with all prisoners who are unable to contact their families or are, in reality, completely on their own.

3.2.3 Right to a social life and activities

The CGLPL had recommended developing an organisation conducive to community living within accommodation wings, making official the living areas laid out in the accommodation units or exercise yards of remand prisons and more widely rolling out gardening and green exercise yards so as to promote their use by everyone.

The Minister of Justice points out that prisoners' social lives and access to activities bear on a wide range of measures and initiatives, in order to provide at least five hours of activities per day, per prisoner. In future institutions, "trustee" wings will incorporate common living areas, accommodation unit walkways will be designed to resemble living areas and areas between buildings, recreational areas and outdoor passageways will be paid qualitative attention.

The CGLPL duly notes these intentions and recommends that attention also be paid to existing institutions.

3.2.4 Relations with the outside world

The CGLPL had recommended enabling prisoners to send and receive emails, using the computers placed at their disposal under the same terms as telephones, with a similar surveillance system to the one carried out for letters.

The Minister of Justice states that this measure is not envisaged as it stands. Such a refusal is paradoxical when the Minister is announcing an action plan on digital technology in prisons.

The CGLPL upholds its recommendation and will draw Parliament's attention to this point.

> Provide prisoners with controlled Internet access and email use under the plan on digital technology in prisons.

The CGLPL had recommended delivering letters to recipients even when the administration is unable to understand a letter written in a foreign language, and improving letter-writing assistance for foreign prisoners.

The Minister of Justice stresses that foreign prisoners get support from associations, citizen's advice centres, documents written in their native language and a specific film shown to new prisoners. She also pointed out that it was for the institution director to decide whether a letter written in a foreign language should be translated.

3.3 Freedom of expression and religion

The CGLPL had recommended encouraging interaction between prisoners, developing "councils" for fostering dialogue between the authorities and prisoners and, in institutions for minors, setting up social life councils where youngsters can express their opinion in respect of the common interest.

The Minister of Justice maintains that such measures are provided for by the Prison Act of 24 November 2009 and organised by a Decree dated 29 April 2014.

Quite apart from any reservations it may subsequently make on the delays in adopting the implementing decree of the legal provision, the CGLPL finds during its inspections that the provisions of the Prison Act are very little applied when it comes to prisoner participation. It is therefore preferable that incentives be set up and progress in terms of participation be assessed at regular intervals.

> Take every appropriate measure to further application of Art. 29 of the Prison Act which provides for consultation of prisoners about the activities available to them and, beyond that, to encourage all forms of collective expression and interaction about life in prisons, especially in institutions receiving children.

3.4 Access to information and legal advice

3.4.1 Access to services promoting information and knowledge of rights

The CGLPL had recommended including practical information for prisoners in the documents handed out to new arrivals, putting this on display in several languages in the prison and communicating it orally during "new arrival" interviews. It also recommended that the names of the institution's main contact persons and the contact details of certain national and local stakeholders be displayed in prisons, along with the documents bearing on the running of the institution and day-to-day practicalities. Lastly, it recommended a "prisoner-facilitator" scheme to assist new arrivals.

The Minister of Justice gave a reminder that all "new arrivals" wings have been accredited in accordance with the European Prison Rules. She provides the list of documents handed out to new arrivals and says that, to the extent possible, they are translated into several languages.

The CGLPL finds, during its inspections, that the "new arrivals" wings and procedures do indeed allow for a proper assessment of the new arrival and correct information, in principle. It recommends that vigilance continue on this key point for the due course of prison operations.

The CGLPL had recommended introducing means for accessing information and rights (accompanied access to prisoners' records) and enhancing the legal training of teams.

The Minister of Justice says that there are 157 citizen's advice centres in prisons.

The CGLPL recommends that the possibility for legal aid be provided for systematically, including in small institutions, and stresses the need to enhance legal training of staff.

> Organise a form of legal aid in institutions that are not equipped with citizen's advice centres and enhance legal training of prison staff.

The CGLPL had recommended guaranteeing open access to the library.

The Minister of Justice maintains that access to libraries is guaranteed according to the terms laid down by the rules of procedure and states that the "digital technology in prisons" plan will include an e-book library.

> The CGLPL duly notes this plan and asks that care be taken to ensure that rules of procedure provisions enable access to the library for everyone - not least prisoners who work and those who are placed in solitary confinement or the punishment wing.

For institutions receiving children, the CGLPL had recommended extending the initiatives enabling access to the Internet and press and involving them in educational initiatives likely to develop critical thinking when reading the media and promote access to rights and citizenship.

The Minister of Justice indicates that children can access the press through the provision of a range of magazines in the library and educational sessions on this theme can be organised by National Education. Internet access is banned in young offenders' and adult prisons alike on security grounds.

The CGLPL believes that, given the importance of having Internet in modern life, banning Internet access in young offenders' prisons deprives them of a necessary tool for exercising their fundamental right to education. It therefore recommends that this ban be lifted and that Internet access be permitted in a controlled manner, with an adult in attendance. The CGLPL will draw Parliament's attention to this point.

> Authorise young prisoners to access the Internet, within an educational framework, in a controlled manner and with an adult in attendance.

3.4.2 Foreigners' rights

The CGLPL had recommended extending access to the cash aids and aids in kind stipulated by the law to the benefit of indigent prisoners as required by the foreign prisoner's situation, and allowing, in the decree provided in Article 31 of the Prison Act, for an adaptation of the amount of this aid in line with needs.

The Minister of Justice reiterates that, for foreign nationals, legality of residence is a prerequisite in the context of accessing social rights.

The CGLPL's recommendation did not refer to social rights, but the rights provided for in Article 31 of the Prison Act: "Prisoners with fewer resources than a statutory amount receive from the State an aid in kind intended to improve their material conditions of reception. Said aid may also be paid in cash under the terms stipulated in the decree." The CGLPL therefore upholds its recommendation.

> Extend access to the cash aids and aids in kind stipulated by the law to the benefit of indigent prisoners as required by the foreign prisoner's situation, and allowing, in the decree provided in Article 31 of the Prison Act, for an adaptation of the amount of this aid in line with needs.

The CGLPL had made several recommendations aimed at protecting the legality of the residence of foreign prisoners who are in this situation or may benefit therefrom:

- adapt prefectures' access times and the circuit of procedures to the prisoner's situation;
- maintain "legally resident" status for all foreign nationals with a residence permit, except where there is a court-issued prohibition to enter French territory or administrative deportation measure;
- do not systematically deny foreign prisoners provisional permission to stay.

The Minister of Justice states that these points come under the purview of the Minister of the Interior.

The CGLPL nevertheless considers that it is for the Minister of Justice to initiate the necessary coordination measures for the proper management of the situation of foreign prisoners. It also finds, during its inspections, that such measures are not working out very efficiently in practice - despite the interministerial circular dated 25 March 2013 on procedures for renewing or issuing the first residence permits to foreign nationals deprived of their liberty. It therefore upholds its recommendations.

> Protect the legality of residence of foreign prisoners who are in this situation or may benefit therefrom by enforcing and monitoring, at local level, the actual application of the interministerial circular dated 25 March 2013 on procedures for renewing or issuing the first residence permits to foreign nationals deprived of their liberty (adapt prefectures' access times

and the circuit of procedures to the prisoner's situation; maintain "legally resident" status for all foreign nationals with a residence permit, except where there is a court-issued prohibition to enter French territory or administrative deportation measure; do not systematically deny foreign prisoners provisional permission to stay).

The CGLPL also recommended removing the barriers to legal residents being granted permissions to leave.

The Minister of Justice maintains that permissions to leave come under the purview of the judge responsible for the enforcement of sentences.

The CGLPL considers that it would be advisable ensuring that courts do not adopt practices systematically requiring compliance with criteria that are not legally binding; it particularly finds, as it had already reported in its 2014 opinion, that "for the formalities bearing on acquiring or renewing residence permits, certain judges responsible for the enforcement of sentences freely grant permissions to leave so that foreign nationals can submit their files to the relevant departments in the prefectures. But others do not, alleging some form of illegality with regard to the individual's residence situation. However, it is accepted (circular of 25 March 2013) that someone who is incarcerated cannot be regarded as being in an illegal situation vis-à-vis the laws on residence. Above all, a decision not to proceed on such grounds simply means maintaining precisely the situation for which the individual is being penalised". As such, the CGLPL had recommended that the prison rehabilitation and probation counsellors, with the help of the appropriate associations and the citizen's advice centres, be sufficiently versed in the legislation concerning foreign nationals to be able to advise the magistrates on the likelihood of a particular detained foreigner being granted a residence permit.

The Minister of Justice explains that, as part of a partnership with the prison administration department, La Cimade is finalising a guide for these counsellors and prison staff on foreigners' rights. She goes on to mention partnerships with the *département*-level access to law councils and associations who endeavour to provide their services across all institutions.

The CGLPL has not observed any improvement since the situation observed back in 2014, however, and therefore upholds its recommendation.

Ensure that prison rehabilitation and probation counsellors, with the help of the appropriate associations and the citizen's advice centres, be sufficiently versed in the legislation concerning foreign nationals to be able to advise the magistrates on the likelihood of a particular detained foreigner being granted a residence permit.

The CGLPL had recommended encouraging the practice of "voluntary return" conditional release and giving thought to probation schemes that could be completed in the country of origin for prisoners who do not have a right of residence. It also recommended working on the preparation, by the United Nations, of an international agreement on the transfer of convicted persons abroad to serve their sentence, possibly to replace the absence of bilateral agreements (as has been done at European level on the subject of extradition).

The Minister of Justice points out that the possibility of pronouncing conditional release subject to voluntary return to the country of origin is provided for in the Code of criminal procedure and describes the measures taken by the prison rehabilitation and probation counsellors, to assist those granted such a release. She stresses, however, that probation schemes in the country of origin are governed by partnerships with each country concerned.

The CGLPL recognises these difficulties, which is why it is upholding its recommendations aimed, on the one hand, at developing the measures intended to promote conditional release subject to voluntary return in practice and, on the other hand, to overcome, via a general measure, the

difficulty associated with the number of bilateral agreements required to ensure the enforcement of sentences abroad.

> Take every appropriate measure to promote conditional release subject to voluntary return in practice and allow for sentences to be served abroad on the basis of a multilateral agreement, as has been done at European level on the subject of extradition.

The CGLPL had recommended increasing the practical possibilities for prisoners to speak their own language (assignment based on the language spoken, access to material in prisoners' native language, etc.) and allowing foreign nationals to uphold the customary practices of their countries of origin, provided they are compatible with maintaining order and security within institutions (supply of hot plates and food respecting local customs).

The Minister of Justice has not responded to this recommendation, which is thus upheld.

> Increase the practical possibilities for prisoners to speak their own language (assignment based on the language spoken, access to material in prisoners' native language, etc.) and allowing foreign nationals to uphold the customary practices of their countries of origin, provided they are compatible with maintaining order and security within institutions.

The CGLPL had recommended ensuring that conversations between a foreign prisoner and his/her lawyers remain confidential, even when the latter is a foreigner and lives in another country.

The Minister of Justice gives a reminder that only foreign lawyers registered at a French bar and those that are nationals of the EU, a State that is party to the Agreement on the European Economic Area or the Swiss Confederation may freely communicate with the prisoners they are defending. That said, pursuant to a circular dated 27 March 2012 on prisoners' relations with their defence lawyer, the other lawyers do not avail of the principle of free communication, and conversations with these lawyers may be listened to by the authorities.

The CGLPL cannot accept a refusal on the part of the Minister of Justice on the grounds of a circular which she herself drafted, and therefore upholds its recommendation.

> Amend the circular of 27 March 2012 on prisoners' relations with their defence lawyer since it excludes foreign lawyers who are not nationals of the EU, a State that is party to the Agreement on the European Economic Area or the Swiss Confederation from the principle of free communication with their clients.

The CGLPL had recommended opening up the possibility of working or training to all foreigners, without discrimination.

The Minister of Justice draws attention to the fact that the work selection criteria are listed in the Code of criminal procedure: physical and intellectual abilities, family situation, existence of civil parties to be compensated. She maintains that personal criteria are also taken into account, to do with detained person's record in prison and how well his or her skills match the job vacancy. This means that a prisoner is selected indiscriminately of his or her nationality. Where difficulties are encountered understanding the instructions given in French, the prison authorities ensure access to French lessons before or during the work selection. Lastly, she finds that prisoners working both in general service and production encompass as many nationalities as those recorded among the whole of the prison population.

The CGLPL duly notes these explanations.

Finally, the CGLPL had recommended promoting the use of interpreters.

The Minister of Justice describes the measures in place to help and assist foreign prisoners in their formalities and to help them understand the documents handed out by associations, citizen's advice centres and the translation of general documents or institutions' internal video channels. She

also mentioned trials (interpreting contract, translation tablets, document containing useful pictograms, interpreting agreement with ISM Interprétariat of the Paris and Bordeaux Interregional Directorate for Prison Services, etc.). A contract which will enable all institutions to access a telephone interpreting service in as a broad a range of languages as possible is currently being drafted. On a final note, the Minister of Justice clarifies that the Code of criminal procedure provides that use of an interpreter only serves a purpose when absolutely necessary, if the prisoner does not speak or understand French and there is no one on-site able to provide a translation.

The CGLPL duly notes these steps forward but maintains that the provision of the Code of criminal procedure concerning interpreters is too restrictive in its view, insofar as it implicitly authorises reliance on fellow prisoners for translations. This is a practice that should be avoided in all circumstances, especially during interviews bearing on medical or criminal matters.

> Avoid reliance on fellow prisoners as interpreters in all circumstances and prohibit this outright for interviews bearing on medical or criminal matters and any administrative measure subject to an adversarial procedure beforehand, with the sole exception of emergency medical care.

3.4.3 Processing of appeals

The CGLPL had recommended systematically renewing correspondence stationery free of charge, providing touch terminals for entering appeals featuring pictograms, training new arrivals in how to use them, monitoring the processing of appeals through automatic alerts, issuing acknowledgements of receipt, accepting spoken appeals and appointing correspondents who are able to respond directly or forward appeals to the competent department and above all to explain how the procedure works. These recommendations predate the broad-scale roll-out of the GENESIS software.

The Minister of Justice explains that traceability of appeals is ensured in the GENESIS program, which has now been rolled out across all penal institutions, either by the prison staff (from appeals submitted orally or on a piece of paper), or directly by the prisoners themselves on the touch terminals. Appeals are not confidential. An acknowledgement of receipt intended for the prisoner, particularly indicating an average processing time, is "possible", as is the publication of a document indicating the initial appeal and the response given by the service concerned. Lastly, she contends that the prison administration departments and prison rehabilitation and probation services are being vigilant in this regard and that instructions have been given to ensure the situation of people experiencing language difficulties is taken into account, and that digital technology in prisons should test out the possibility of electronic referrals.

Regarding correspondence stationery, a kit containing a pen, paper, envelopes and stamps is systematically handed out to each new arrival. The necessary supplies can then be accessed via the canteens or renewed whenever necessary for indigent prisoners.

The CGLPL had, moreover, recommended systematically identifying vulnerable prisoners who do not make any requests known.

The Minister of Justice indicates that the prison authorities are vigilant regarding instances where prisoners withdraw into themselves or shut others out, particularly by systematising single multidisciplinary committees (management, prison rehabilitation and probation services, medical departments, psychiatric departments).

The CGLPL nevertheless finds, during its inspections, that GENESIS is still not sufficiently used to record appeals. Likewise, it finds that tools enabling people experiencing language difficulties to express their requests are few and far between.

> More widely roll out the use of GENESIS for managing appeals and take advantage of the "digital technology in prisons" programme to set up appeal tools for use by prisoners experiencing language difficulties.

3.4.4 Right of access and confidentiality of personal documents

The CGLPL had recommended developing the possibility of purchasing a magnetic debit card for obtaining a predetermined number of photocopies at a freely accessible photocopier in the library.

The Minister of Justice says that the interregional departments and institutions approached do not speak of any particular difficulties concerning prisoners' possibility of doing photocopies. She describes various procedures underway in institutions: photocopying is possible but fairly complicated (preliminary requests, supervision by prison staff, etc.) and not in an independent manner. She acknowledges that the option recommended by the CGLPL is feasible but points to the "quite significant" costs that would "probably" be incurred by its deployment. The CGLPL therefore upholds its recommendation.

> Look into the possibility of a prepaid account enabling prisoners to photocopy documents independently.

3.4.5 Requests for assistance

The CGLPL had recommended setting up interphone devices or call buttons which could also be used at night to indicate a need for assistance.

The Minister of Justice indicates that the planning framework provides for a cell interphone system connected to the protected station concerned and for night calls, to the main security station. A light is also installed above the cell in question, on the corridor side. Investments are also being made to equip some of the older institutions when this is feasible in technical and budget terms.

The CGLPL duly notes these explanations, but finds that a number of existing call devices do not work. It therefore asks that careful attention be paid to their maintenance.

> Continue with the systematic installation of interphone devices or call buttons which can also be used at night and guarantee the maintenance of existing systems.

3.5 Access to medical treatment and social benefits

3.5.1 Access to medical treatment

The CGLPL had recommended allowing access to the health block according to the two following conditions: open access one half of the day then appointments the other half; and automatically granting emergency requests made orally for a consultation in the health block.

The Minister of Justice points out that the organisation of medical treatment within the health block comes under the purview of the relevant hospital. The Minister of Health fears that, for large health blocks, opening up the possibility of open consultations may adversely affect appointment waiting times. Regarding the fluidity of consultation circuits, she suggests raising teams' awareness instead. She explains that the subject of healthcare access and out-of-hours services in health blocks is due to be discussed in-depth with the representatives of health workers in prisons during the working groups of the new offenders' health strategy. Recommendations may be outlined when updating the methodological guide to healthcare provision for prisoners.

The CGLPL duly notes these intentions and will keep a close eye on the application of the offenders' health strategy.

The CGLPL had also recommended putting prisoners directly in touch with the emergency services operator (15) when the institution's medical staff were absent and they have asked for an emergency consultation.

The Minister of Justice says that it will be technically difficult to put this recommendation into practice. And yet the methodological guide to healthcare provision for prisoners stipulates that: "Putting the prisoner directly in touch over the telephone with the coordinating doctor is likely to enable the latter to assess the prisoner's state of health. Direct communication over the telephone between the prisoner and the coordinating doctor should be promoted, whilst ensuring the confidentiality of medical exchanges and the security of the prisoner and the institution". As such, whenever the physical constraints allow, prison staff shall apply this recommendation, with precedence continuing to be given to the possibility of emergency crews having access to prisons so as to reach the detained patient. The Minister of Health, meanwhile, considers that "the question of emergency night-time calls are the responsibility of the prison authorities, which must be prepared to cope with medical emergencies", and clarifies that the subject of organising out-of-hours healthcare when the prison health unit is closed, so as to avoid any delay in emergency provision of care, will be addressed as part of the offenders' health strategy.

The CGLPL upholds its recommendation and insists that the technical constraints be removed through the new plans bearing on telephone systems or digital technology in prison.

> Take advantage of the plans bearing on telephone systems or digital technology in prison to enable systematic direct communication between prisoners and the emergency medical dispatchers when the institution's medical staff were absent and they have asked for an emergency consultation.

3.5.2 Reproductive justice

The CGLPL had recommended taking all appropriate measures to ensure that fertility treatments are accessible to any prisoner under the same conditions as the rest of the population.

The Minister of Health gives a reminder that the development of family living units and family visiting rooms, enabling prisoners to have children naturally, should be encouraged and that fertility treatments may only be offered lawfully to couples who have been medically diagnosed as suffering from infertility problems.

Further, she maintains that prisoners are already permitted access to fertility treatment under the same conditions as the rest of the population, but that in practice, especially when it is the woman who is in prison, there are major organisational hurdles involved in the prison authorities' management of external movements for medical reasons.

> Adapt the management of assignments in prison and external movements to the situation of female prisoners wishing to have a baby and who require assistance meeting the ordinary law conditions.

3.6 Activities

The CGLPL had recommended developing schooling, training, cultural, sports and recreational activities that are likely to help children to thrive and play a part in citizenship, as well as allowing teachers to benefit from specific training and guidance.

The Minister of Justice highlights the effective partnership between the prison authorities and National Education in terms of teaching conditions and the procedures governing consultation and the sharing of information, the definition of leaders' missions at local, regional and national level and the consistency of institutions' strategic plans and educational plans. She sheds light on the significant funding allocated and marked, sustainable increase in activities and initiatives available to prisoners to equip them with the skills they need to return to living in society. There are other partnerships in place with the Ministry of Culture and Communication and the Ministry of Sport. The activity provision for prisoners should have reached 3.5 hours a day in 2016 and 5 hours in 2017, versus

about 1 hour back in 2014. The Minister of Justice also provides the list of new activities available (see Appendix) and explains that the prison administration department has developed a tool for assessing the provision of non-remunerated activities enabling time in prison to be usefully spent.

The CGLPL duly notes these efforts and will assess how effective they are on the ground.

The CGLPL had recommended systematically holding literacy tests for new prisoners, assessing proficiency in the French language, adapting the French language learning conditions for foreign prisoners and promoting access to radio, television and any useful teaching aid.

The Minister of Justice gives a reminder that pre-detection of illiteracy is carried out for all new arrivals. She points out that French lessons or refresher courses are a major component of education provided by the National Education system and that various initiatives and activities are carried out by the prison rehabilitation and probation services to facilitate access to reading in detention.

The CGLPL duly notes this point.

4. Recommendations concerning detention centres for illegal immigrants and waiting areas

The CGLPL's recommendations followed by a response from the Minister of the Interior are published in full in Appendix 4.

4.1 General recommendations

4.1.1 Information and rights of defence

The CGLPL has issued various recommendations aimed at improving the information given to detained migrants, their access to legal counsel or the freedom of movement of the French Office for Immigration and Integration (OFII) and legal aid associations within detention centres for illegal immigrants - including confinement facilities.

The Ministry of the Interior maintains that the CGLPL's main recommendations are subject to statutory provisions and that good practices have been developed between detention centres for illegal immigrants so as to harmonise procedures that ensure both respect for personal dignity and continuing order and security. Only the CGLPL's recommendation on the need to use interpreters so as to avoid calling on "fellow prisoners" for this task has been left unanswered.

The CGLPL duly notes these points but finds that in reality they are applied with difficulty and unevenly depending on the quality of relations between the authorities and the associations. Accordingly, the list of lawyers is not always on display or up-to-date, the quality and clarity of information handed out are variable and assistance by interpreters is not possible in all cases. Such measures - even in the detention centres for illegal immigrants where they are carried out "under normal circumstances" - can very quickly go out the window when there is a sudden uptick in activity, i.e. when there is an influx of new arrivals. As a result, it seems necessary for the authorities to set up the necessary resources and tools to ensure that the law and its specific instructions are applied under all circumstances.

> Set up the necessary resources (extra staff, agreements, inspections, training, educational tools, good practice guides, standard documents, etc.) to guarantee complete, accessible information, given in writing and orally, in a language the recipient can understand, and the free exercise of

duties by lawyers, the OFII and legal aid associations in detention centres for illegal immigrants - including during peaks in activity.

4.1.2 Right to privacy and family life, relations with the outside world

The CGLPL's recommendations concerned detained migrants being able to freely access their belongings and procedural documents concerning them as well as opening up visits with no time-limits, particularly on Sundays and public holidays. It also recommended allowing access to the telephone at any time, particularly for calling abroad, and setting up access, supervised where necessary, to the Internet and email.

In the Ministry of the Interior's view, storing detained migrants' personal belongings in a luggage room as provided for by the regulations and allowing prisoners to freely access their belongings via a police officer is working out fine. The CGLPL's inspections do not corroborate this positive response. For the staffing situation at detention centres for illegal immigrants does not always enable a police officer to be present for satisfying prisoners' requests. It is still necessary, therefore, to install cupboards that can be locked with a key. That said, the Ministry has pledged to "look into the possibility of amending internal regulations with an article regulating the conditions for detainees accessing their personal documents as well as procedural documents filed with the registry". It nevertheless appears problematic that revision of these internal regulations "does not come solely under the purview of the General Directorate of the French national police force". The CGLPL can only urge the Ministry of the Interior to overcome the divisions in its own administration so as to accomplish the necessary changes.

Take the necessary legal and physical measures for guaranteeing that detained migrants can freely access their personal belongings and procedural documents concerning them at all times.

With regard to relations with the outside world, the Ministry draws attention to a circular that sets a minimum time-limit of 30 minutes for visits with detained migrants and explains that these can be extended whenever circumstances allow, but can also be cut short (to 20 minutes) at busy times. Such restrictions, which are not grounded in consideration of detained migrants' rights but solely on the authorities' capacities to handle the situation, should not persist. The prospect of an increase in detention time should, on the contrary, push the Ministry to set up the means for more respectful management of prisoners' rights. Consequently, the CGLPL asks that the necessary physical measures be taken to remove the restrictions to detained migrants' visiting rights.

Take the necessary measures in terms of police numbers and facilities to ensure that there are no restrictions on detained migrants' visiting rights.

The Ministry of the Interior points out that detained migrants may freely access the telephone and use the chip of their own mobile phone in a device that is not equipped with a camera (which may, where necessary, be supplied to them). However, Internet access remains impossible and should remain so for security reasons that the Ministry does not specify. The CGLPL's inspections show that mobile phone use can be fraught with difficulties: replacement devices are not always available, chips do not always correspond, some detained migrants end up deliberately destroying the camera on their smartphone just so they can keep it, etc.), when there is nothing to suggest that the risk associated with cameras cannot be handled through simple information measures, in principle involving confiscation only where a security rule is breached. Several mental health facilities, which had adopted the same rule as the one applied in detention centres for illegal immigrants, changed their practice along the lines of the CGLPL's recommendation and found that such a change removed a complication and source of tension with no significant adverse effects. As for Internet access, the generally alleged "security problems" should not suffice to justify an outright, systematic ban and even less so the lack of any effort to find solutions to such problems.

Enable detained migrants to freely access their own mobile telephone by informing them of the restrictions concerning the camera feature and of the penalties should such rules fail to be followed. Define the "security problems" potentially associated with Internet use in detention centres for illegal immigrants and authorise this use with restrictions that are strictly in proportion to the risks that will have been identified.

4.1.3 Activities

The CGLPL had recommended that activities be organised to stave off the sense of boredom that prevails in detention centres for illegal immigrants

The Minister of the Interior does not believe that it is always possible to provide for such means owing to the layout of premises or a budget shortfall. He does, however, explain that associations or staff at the centres can donate board games. "Goodwill" gestures are of course always a help in that they strengthen the relationship between people deprived of their liberty and society as a whole. They should not be relied on solely to ensure the basic minimum that is the State's responsibility, however: minimal activity guaranteed to each migrant is necessary, and this is even more so if the immigration detention time-limit is going to be extended. This question must therefore be addressed by a fully-fledged policy and should not be left to local or private initiatives which, whilst often beneficial, are always optional.

See to the systematic and controlled setup of the necessary amenities for providing migrants held in detention centres with activities.

4.1.4 Right to health

The CGLPL had recommended installing specific letterboxes for detained migrants to be able to communicate confidentially with the medical unit of the detention centre for illegal immigrants and setting up systematic consultations upon migrants' arrival so as to screen for contagious diseases and provide everyone with the appropriate medical surveillance.

There has been no progress on these subjects since the recommendation. Moreover, the Minister of the Interior concedes that the interministerial working group formed to develop the health system in detention centres for illegal immigrants has not convened since 2015. The CGLPL can only urge the Government to resume efforts in this regard.

Revive the interministerial working group formed to develop the health system in detention centres for illegal immigrants, particularly the need for direct and confidential contact between detained migrants and medical teams, the screening for contagious diseases and the need for personalised medical surveillance.

4.1.5 Rights associated with measures coming to an end

The CGLPL had recommended that the procedure whereby foreigners denied entry at the French borders are swiftly returned, and particularly the time-limit within which it can take place, be stipulated in the Code for Entry and Residence of Foreigners and Right of Asylum (CESEDA).

The Minister of the Interior claims that this measure does not come under the purview of the General Directorate of the French national police force, which cannot be considered a valid answer to the substance of the CGLPL's recommendation. This recommendation is therefore upheld.

Stipulate in the CESEDA the procedure whereby foreigners denied entry at the French borders are swiftly returned (without being placed in a waiting area), with indication of the time-limit within which this can take place.

The CGLPL had recommended that people being removed may, at their expense, be entitled to a baggage allowance of more than 20kg included in their price of transportation. The Minister of the Interior says that this possibility is already offered to detained migrants or their families, particularly thanks to the intermediation of the OFII.

4.1.6 Service organisation and staff

The CGLPL's recommendations bore on the level of detail in job descriptions and the training provision for the benefit of officials assigned to detention centres for illegal immigrants. The recommended measures have been taken.

4.2 Special recommendations

4.2.1 Le Canet detention centre for illegal immigrants in Marseilles (Bouches-du-Rhône)

The CGLPL had identified a good practice: the setup of a deportation assistance and support unit had significantly brought down the number of incidents within the centre. This initiative has been rolled out within other centres in the South defence and security zone. Its success seems to merit extending it more widely.

Set up a deportation assistance and support unit in all detention centres for illegal immigrants.

The CGLPL had, furthermore, issued a certain number of recommendations on the information given to detained migrants (documents and translations), on the compliance of the rules of procedure with the standard regulations, on the inventory of personal belongings and the management of asylum applications. According to the information provided by the Minister of the Interior, these recommendations have been acted upon. The same applies for the recommendation on periodically inspecting records.

Another set of recommendations concerned the facilities and fixtures in detention centres for illegal immigrants (individual lamps, fitting out of television rooms, access to washing facilities and drinking water, organisation of meals, layout of exercise yards). The information provided by the Minister of the Interior reports that most of these recommendations have been taken on board. Only the question of the layout of exercise yards seems to have not been acted upon, which deprives detained migrants of many opportunities for taking exercise.

Regarding healthcare, the CGLPL had recommended systematic screening for tuberculosis and services by psychiatric teams. Although the first point does not seem to have given rise to a need expressed by the medical teams, the second, which is still being looked into, is hampered by physical hurdles that need to be resolved. That said, calming rooms seem to have been adjusted to the stay of a migrant suffering from mental health problems, in liaison with the medical unit's teams, as requested by the CGLPL.

In terms of security, the CGLPL had, as it often does, recommended that handcuffs and restraints be used in proportion to the risks, rather than systematically. The Minister of the Interior reports that means are in place to "remind that handcuffing is subject to the discretion of the head of the escort team" and to deliver "training on escort teams". He does not, however, present any concrete results of these measures in terms of reducing restrictions.

4.2.2 Plaisir detention centre for illegal immigrants (Yvelines)

During the CGLPL's inspection, a cloud of uncertainty hung over the centre's future, which was undermining both the staff's working conditions and the migrant's detention conditions. This uncertainty has since lifted: renovations have been carried out in the centre and new staff have been recruited.

The centre's temporary closure during the works provided an opportunity to put some of the CGLPL's recommendations into practice: staff training, completely rewriting and translating the rules of procedure and making the necessary developments whilst keeping visits confidential.

The CGLPL had also recommended taking systematic action following incidents and keeping CCTV images. According to the Minister of the Interior, the first of these recommendations has been acted upon, while the second seems to be based upon an incorrect finding.

Finally, the CGLPL had recommended two measures aimed at guaranteeing rights of defence.

First of all this entailed notifying imprisoned people of obligations to leave French territory (OQTFs) within a timeframe that enabled them to properly exercise their rights of appeal. Because this notification is made in prison, with no interpreters or a legal aid association present, by the time the detained migrant gets to the detention centre for illegal immigrants and is finally in a position to be able to appeal, the time-limit for doing so has passed. With no response forthcoming on this point from the Minister of the Interior, this recommendation is upheld.

> Orders to leave French territory issued to prisoners must be notified under conditions that enable them to properly exercise their rights of appeal, i.e. when they can immediately benefit from the services of an interpreter and a legal aid association.

Second, it bore on displaying the list of lawyers and creating a cubicle where confidential interviews could be held between detained migrants and their lawyer at the Versailles court of first instance in civil and criminal matters (TGI). It is a shame that the Minister of the Interior has not specified what action has been taken following these proposals, which are therefore upheld. Even if one of these measures comes under the purview of the Minister of Justice, the Minister of the Interior needs to instigate it as he has overall responsibility for the Government's immigration policy, which includes detained persons' rights of defence.

> The list of lawyers of the territorially competent bar must systematically be displayed in the living spaces of detention centres for illegal immigrants. In courts of first instance in civil and criminal matters, before the hearing with the liberty and custody judge, spaces must be provided to enable a confidential interview between the detained migrant and his/her lawyer.

5. Recommendations concerning juvenile detention centres

The recommendations submitted to the Minister of Justice along with her responses can be found in Appendix 4.

5.1 General recommendations

5.1.1 Dignity and physical integrity

The CGLPL had recommended that general rules bearing on discipline be established.

The Minister of Justice claims that this measure was subject in 2015 to a memo on educational action and guidelines on developing institutions' rules of procedure. This point was also discussed between juvenile detention centre directors in 2017, when it appeared necessary to put an end to subjective assessments and to establish objective indicators for disobedience so as to deliver punishments on a personal, case-by-case basis. The CGLPL can only encourage that the efforts being taken on this subject continue along these lines.

> Set up national objective indicators for assessing disobedience in juvenile detention centres and tools for applying personal punishments on a case-by-case basis.

5.1.2 Rights of defence

The CGLPL had recommended setting up arrangements for accessing legal rights, allowing children to contact the lawyer of their choice as well as the judge in charge of their file and offering children support when accessing their file.

These measures are requirements pursuant to the Social Action and Family Code; they are transposed in the guidelines of 4 May 2015 on drafting the operating regulations concerning collective court-ordered placement institutions in the public sector and authorised associations sector, but have not been addressed by specific instructions. Provision is made to guarantee complete confidentiality during exchanges between young people and their lawyer, meetings with lawyers are subject to specific permissions for the young person to leave the juvenile detention centre, the young person and legal guardians are entitled to access any information or document concerning the young person's detention arrangements, their communication is supervised depending on the legal, psychological or medical nature of the information.

The CGLPL duly notes this provision but finds, during its inspections, that it is unevenly applied, and it therefore recommends that a reminder be given of these rules, on which training and supervision should be ensured.

5.1.3 Right to privacy and family life - relations with the outside world

The CGLPL had recommended developing family visits inside institutions and creating facilities that are conducive to confidential, sociable encounters.

The Minister of Justice underscores the need to involve families and youth workers trained in working with young offenders in home environments in care provision at juvenile detention centres; she points out that the recommendation merely repeats the provisions of the functional programme of such centres, which unfortunately is correct. But for all that, the measure has not systematically been put into practice. As such, the CGLPL recommends that reminders and supervision be carried out as regards this measure.

The CGLPL had also recommended that any infringement on the freedom to correspondence be justified by precise reasons and be notified to the judge.

The Minister of Justice explains that where, for security reasons, young offenders are asked to open certain packages in the presence of a youth worker, no formal instruction to notify the judge has been enacted. The authorities appear to be considering introducing a mail register, keeping a record of all times mail is opened and the findings. This measure seems to be very appropriate, provided that express provision be made for such a register to be inspected at periodic intervals by the judicial authority.

> Go ahead with the plans for a mail register, keeping a record of all times mail is opened in juvenile detention centres and the findings. Submit this register for periodic inspection by the judicial authority.

The CGLPL had recommended improving young offenders' access to information by allowing them supervised access to the Internet, email and online press articles.

Instructions from 2015 allow Internet access with filtering systems as regards certain content, and provide for access to email services to be organised whilst respecting the confidentiality of correspondence. Preventive actions on Internet use and misuse are carried out with young offenders. Internet access is guaranteed in juvenile detention centres, but Internet literacy training for the youth workers will enhance its use and supervision among young offenders.

The CGLPL duly notes this progress.

The CGLPL had recommended a series of measures aimed at involving holders of parental responsibility in care provision: an information booklet for families, information at regular intervals on the youth work accomplished and the progress of the young offender and projects being implemented, organisation of meetings between the holders of parental responsibility and the youth workers and educational teams.

These obligations stem from a 2002 Act and were most recently restated in 2015 and 2016 provisions, but the Ministry is encountering legal difficulties in imposing upon centres managed by the authorised associations' sector similar obligations to those to which the public sector is bound. That said, strong incentive-raising measures are being taken. There are plans to overcome these difficulties by laying down statutory minimum technical conditions bearing on the organisation and running of juvenile detention centres in the Social Action and Family Code. Such plans can only be encouraged.

> Plan for statutory minimum conditions regulating the involvement of holders of parental responsibility in young offenders' care provision.

5.1.4 Care arrangements

The CGLPL's recommendations bore, firstly, on the need to organise schooling, training, cultural, sports and recreational activities that are likely to help young people to thrive and play a part in citizenship and, secondly, on the need to train teaching staff assigned to juvenile detention centres.

The Minister of Justice indicates that a 2015 ruling defines the need to permanently organise daytime activities to support educational actions and organises the schooling of young people in care on the basis of an individual assessment of acquired skills, so that each youngster is given a personalised timetable aimed at encouraging their return to ordinary law schemes.

She also explains that, in 2016, the Judicial Youth Protection Service Directorate and General Directorate for School Education initiated work aimed at placing the question of schooling back within the broader context of the school and workplace integration programmes of young offenders, with all judicial youth protection workers to be brought on board.

Regarding guidance for teaching staff, the Minister of Justice mentions a series of training measures, including two annual groupings of teachers, but given its findings in juvenile detention centres, the CGLPL considers it necessary to strengthen such measures - not least by providing each teacher assigned to a juvenile detention centre with initial training.

5.1.5 Right to health

The CGLPL had recommended organising educational information actions on sexuality.

This topic was included in the training priorities set out in 2015; it is therefore leading to partnerships between the youth protection service and regional health agencies.

5.1.6 Freedom of conscience and expression

The CGLPL had recommended setting up life councils where youngsters can express their opinion in respect of the common interest.

The Minister of Justice points out that the 2015 provisions offer institutions several ways of involving users: social life councils, focus groups, initiative or project groups and systems for gathering opinions. She specifies that consideration of the right of expression of young offenders in juvenile detention centres is one of the vigilance points for technical advisers and auditors in charge of operating inspections to watch, and forms part of the internal assessment by department directors, under the management of users' rights. The good practices identified and assessed will be disseminated and promoted.

5.1.7 Service organisation and staff

The CGLPL had recommended setting up a sound theoretical framework and advanced legal training for educational teams.

The Minister of Justice says that an initiative aimed at shoring up "efforts to increase the professionalism of stakeholders, common to both the public and authorised associations' sector" has been launched: needs are currently being assessed, and training has already been set up; this particularly bears on the legal situation of young people in detention and assistance with initial employment. Training for the benefit of staff working in accommodation wings was introduced in 2015 to "improve the skills of staff working in juvenile detention centres and enable professionals to work together on the institution's strategic plan and become accustomed to organising work in a collective manner." That said, deployment of this training across the country is unequal, and participation is not as high as hoped.

Furthermore, the CGLPL had recommended drawing up internal documents (strategic plan, rules of procedure, welcome booklet) focusing on the young people's best interests, which teams will have read and use on a daily basis.

The Minister of Justice gives a reminder that these recommendations correspond to the application of legislative provisions dating from 2002. However, she points out that a circular dated 10 March 2016 specifies the collection of documents that must be formally prepared when a juvenile detention centre opens: the rules of procedure, the welcome booklet, the form of the individual care provision document and the charter on the rights and freedoms of the young person being received.

Finally, the CGLPL had recommended specifically notifying the judge of the contents of the educational action being taken in juvenile detention centres so that the latter is able to ascertain the risks and support the team where s/he believes the proposal is in keeping with the young offender's best interests.

The Minister of Justice claims that instructions along these lines have been issued and that in principle the steering committees are held within the juvenile detention centres themselves. She adds that the competent judges are convened during the institution's annual steering committee meeting. Moreover, the local directorate is tasked with upholding ties with the courts. Likewise, the director of the institution is in charge of relations with all judges in charge of relevant cases whether or not they are in the same jurisdiction.

The CGLPL duly notes all of these measures.

5.2 Special recommendations

5.2.1 Saint-Denis Le Thiboult Juvenile Detention Centre (Seine-Maritime)

The inspection of the juvenile detention centre brought to light three series of good practices:

- staff training and a particularly effective individual promotion policy associated with active involvement on the part of staff in organising activities;
- organising a stint in a neutral setting prior to young people's arrival at the centre to ease fears and stress;
- setting up training in conflict management, which the CGLPL had recommended during a previous inspection, to reduce the number of instances where restraints are used.

The Minister of Justice states that these good practices are being referred to during meetings held within the interregional judicial youth protection service directorate. It is a shame, however, that professionals' participation in the conflict management training is not systematic.

The inspection also provided the opportunity for a number of recommendations to be made which, according to the information provided by the Minister of Justice, have been followed up: barbed wire giving an unnecessarily hostile impression at the entrance gate has been removed; the rules of procedure now set out in more detail the types of behaviour that are liable to punishment and a schooling youth worker has been recruited to ensure educational continuity during the teacher's holidays - except in the month of August.

5.2.2 Saint-Pierre du Mont Juvenile Detention Centre (Landes)

This inspection brought to light two good practices:

- the importance given to maintaining family ties;
- the training of youth workers in violence prevention, which has led to a reduction in the use of restraints in practice.

In her response (see Appendix 4), the Minister of Justice describes the procedures behind these two actions; it would be well worth referring thereto.

A number of recommendations have also been made.

First, the CGLPL had recommended shoring up the educational action to make it the guiding principle to the staff's work. The Minister of Justice explains that measures have been taken to that end, but the fact that nine youth workers are on fixed-term contracts results in frequent staff movements and, accordingly, instability.

The CGLPL points out that it is not advisable to entrust struggling young people to staff who are themselves in an insecure employment situation. It upholds the recommendation it had made in

its report on staff[27] in places of deprivation of liberty that best endeavours, including legislative measures, must be made to end this serious failing of public juvenile detention centres.

> The necessary amendments to the law must be made to guarantee the presence of stable, trained youth workers alongside young offenders placed in juvenile detention centres.

Several recommendations bore on the physical aspects of their care (hygiene, living environment, diet, etc.). According to the information provided by the Minister of Justice, recruitment of a housekeeper, an educational project associated with the living environment and audits on catering have improved the situation.

The CGLPL had recommended that rules governing daily routines in the institution (hygiene, smoking) and responses to incidents systematically comply with their stipulating rule and be applied in an identical fashion by all youth workers. The Minister of Justice indicates that although hygiene and smoking are now the subject of suitable measures, similar application of disciplinary rules by professionals "still appears difficult despite vigilance on the part of management". The CGLPL finds that this difficulty is not specific to the Saint-Pierre du Mont juvenile detention centre, and there seem to be two relevant solutions: stabilising staff (see the paragraph above) and specifically raising awareness of the need to apply disciplinary measures in an objective and predictable manner.

> Set up measures to raise the awareness of juvenile detention centre staff on the need for objective and predictable application of disciplinary rules.

The CGLPL had recommended that the quality of provision monitoring in writing (i.e. keeping individual provision files) be improved. An audit was carried out on this point in 2016 and monitoring is now in place.

It has also recommended providing schooling for young offenders through a secondary school, so that they are able to participate in normal schooling. Gradual reintegration in schooling is being set up.

Finally, it recommended that minors benefit from access to psychiatric treatment. A protocol has been signed along these lines but is not operational because of a shortage of health workers. This situation is a problem in other centres too, and must give rise to a protocol with monitoring at regional or even national level, since its resolution does not appear to be possible by juvenile detention centre directors alone.

> Organise psychiatric care for young offenders placed in juvenile detention centres at regional (local judicial youth protection service directorate-regional health agency) or national level.

5.2.3 La Chapelle-Saint-Mesmin Juvenile Detention Centre (Loiret)

The CGLPL had recommended several measures on recruitment, training and supervision of staff. The Minister of Justice maintains that staff recruitment has improved, that a new director and new head of the educational team have been appointed, that a training plan has been set up and analysis of practices has been integrated within the institution to secure provision for young professionals. The CGLPL duly notes these measures, which are certainly appropriate, but the real impact of which may only be assessed during a future inspection.

The CGLPL had also recommended a series of improvements in educational provision and its monitoring. Although, going by the information provided by the Minister of Justice, the necessary monitoring tools have been set up with support from the local judicial youth protection service directorate, provision is still undermined by the persisting absence of any teacher. It would appear

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[27] *CGLPL, Staff in places of deprivation of liberty, 2017, p. 27.*

that recruitment is in progress to end this persisting situation, which violates the fundamental right of children to access education. The Minister of Justice is asked to monitor the progress of this measure.

> Guarantee the presence of a teacher at the La Chapelle-Saint-Mesmin Juvenile Detention Centre by monitoring his or her assignment at ministerial level.

The CGLPL had recommended surveillance of young offenders by a child psychiatrist and more effectively guaranteeing the confidentiality of care. The setup of shifts by a child psychiatrist and assignment of a nurse address both of these recommendations.

Visits by adjudicating judges and law officers of the State Counsel's Office, recommended by the CGLPL pursuant to the law, were carried out in 2017.

Lastly, a number of other recommendations (condition of the premises, assignment of a housekeeper, smoking cessation, etc.) have been acted upon, according to the response given by the Minister of Justice.

5.2.4 Savigny-sur-Orge Juvenile Detention Centre (Essonne)

The inspection brought to light several good practices which, for the most part, corresponded to recommendations that the CGLPL had made during a previous inspection: keeping individual provision files, dispensing medicines or mental health care. The involvement of young offenders in drawing up the menus and the quality of the vocational training were also highlighted. The Minister of Justice's response confirms that these positive practices are continuing, but makes no mention of any measures aimed at rolling them out more widely.

Regarding the care provision for young offenders, the report recommended closer reference to the centre's strategic plan, closer involvement of families and improved supervision of sports activities. In response to these recommendations, the Minister of Justice explains that a new strategic plan is currently being finalised and associated with training measures for youth workers, that visits to parents' homes are planned at the beginning and end of the placement, that an area for welcoming families is currently being laid out and that supervised sports activities are in place - even if the sports youth worker hoped for has not been assigned.

A series of the CGLPL's recommendations bore on discipline: ending cash rewards, harmonising practices in the event of young people running away and defining a punishment scale in the rules of procedure. According to the information provided by the Minister of Justice, these measures have been taken. She also mentions a practice of "calming periods, [which] are put in place to prevent excessive behaviours on the part of young offenders and so limit punishment". Provided the judicial youth protection service rules in favour of these periods, it seems worthwhile rolling them out more widely.

> Assess and, where applicable, more widely apply the practice of calming periods put in place in Savigny-sur-Orge juvenile detention centre so as to prevent excessive behaviours on the part of young offenders and so limit punishment.

The CGLPL had also recommended improving urban signage of how to get to the juvenile detention centre. The centre's management has reservations about the application of this recommendation, given the profile of young people accommodated and the low security of the site. The CGLPL duly notes these reservations and withdraws its recommendation.

6. Action taken following the emergency recommendations dated 8 February 2016 on the Ain psychotherapy centre (CPA).

The hospitalisation units of the Ain psychotherapy centre (CPA) are situated in the outskirts of Bourg-en-Bresse, within spacious grounds, and has a full-time hospitalisation capacity of 412 beds. The good condition of most of its accommodation and working premises, the construction and renovation plans undertaken for the rest and the good level of hotel-style services are all evidence, at first glance, of a concern for quality, both where the staff and the hospitalised patients are concerned.

And yet, on observing the patients' care provision conditions in practice during this inspection, individual situations entailing serious violations of patients' fundamental rights came to light which had prompted the Chief Inspector of places of deprivation of liberty to set in motion the emergency procedure provided for in Article 9 of the Act of 30 October 2007; she referred her observations and recommendations to the competent authorities and asked them to respond. Following the response obtained, the observations, recommendations and responses supplied were published in the 16 March 2016 edition of the *Journal officiel* (Official Gazette).

The published observations refer to:

- a practice of control and monitoring of patients' actions and movements, all the more striking because it is applied excessively strictly;
- solitary confinement and restraint which are practised in proportions never before encountered - at stark odds with the rules that are commonly applied;
- an abnormally strict management of the patients detained (systematic solitary confinement and restraint upon arrival, security frisking including inspection of the genital parts, systematic confinement for the duration of the hospital stay, etc.);
- general restrictions imposed upon patients with no bearing on their clinical condition, even when the institution's means would allow for them to be managed in an entirely different way.

This persisting situation has met with apathy from most of the administrative managers, physicians and nursing staff, owing to the lack of any consideration of prevailing practices and operating conditions in the institution, a system which does not involve patients' families, low level of responsiveness to any reports families' make and extensive submission to medical authority.

> The findings reported by the CGLPL prompted the Minister of Health and the Regional Health Agency to issue instructions to the institution to implement the recommendations made; their implementation is checked by a monitoring committee which has met twice a month over the year following the inspection. The measures taken bear on free movement as appropriate for each unit, prohibition to confine within an ordinary bedroom and reduction in solitary confinement and restraint practices (which fell from 13,000 days in 2015 to 4,000 in 2016). They provide for a doubling in medical on-call services at the weekend.

At the same time, the National Authority for Health (HAS) had expressed reservations about patients' rights, casting doubt over the institution's certification, and these gave rise to an improvement strategy monitored by the HAS. The CGLPL has recently been informed that this procedure has now ended, as the objectives set by the HAS were achieved. The institution's strategic plan for 2018-2022 has incorporated the recommendations of the two independent government agencies, the healthcare block "dedicated to solitary confinement" has been closed, users' representatives have been involved in the strategic plan's definition, organisation has been set up to coordinate the transition, risks to patients' rights have been mapped out, documentary management has been reorganised, teams have been mobilised to ensure operational roll-out and the necessary

resources have been unlocked. The HAS therefore considers that the necessary structural conditions for certification have been met.

In 2017, the CGLPL asked the Minister for Solidarity and Health to inform it of all of the measures taken pursuant to the recommendations made in the emergency recommendations issued, as well as those set out in the finding report sent to the institution back in October 2016. It also informed the Minister of its intention to carry out a follow-up visit of the institution over the coming months with a view to assessing the impact of the structural reforms on the day-to-day respect for the detained patients' fundamental rights.

7. Action taken following the emergency recommendations dated 18 November 2016 on the men's remand prison of the Fresnes prison complex (Val-de-Marne)

Following an inspection carried out from 3 to 14 October 2016 of the men's remand prison of the Fresnes prison complex, the Chief Inspector of places of deprivation of liberty submitted emergency recommendations concerning this institution to the Minister of Justice, in which she had found that the overcrowding, together with the disgraceful state of the facilities and understaffing, did not enable the prisoners to be managed in a way that respected their fundamental rights, and resulted in substandard housing conditions.

> The Chief Inspector of places of deprivation of liberty recommended that the Minister of Justice take immediate measures to reduce the prison overcrowding and improve the hygiene conditions to acceptable standards in the institution.
>
> She recommended increasing staff numbers and supervision levels in the prison as well as measures likely to resolve the prevailing climate of violence and halt the violations identified.
>
> She asked that an extensive inspection be conducted of the institution and that the CGLPL be informed of the conclusions of this inspection and the monitoring of their implementation.

In her response, dated 13 December 2016, to the emergency recommendations, the Minister of Justice did not call the CGLPL's findings into question. She reported immediate corrective measures, particularly as regards the practice of body searches, and pledged, for the start of 2017, measures aimed at increasing the number of warders and restoring acceptable hygiene standards within the institution. Finally, she indicated that this institution would be placed under careful surveillance.

Several applications for interim measures have been issued concomitantly by the International prisons watchdog (French section) (OIP-SF), condemning the detention conditions within the Fresnes men's remand prison and calling on the court hearing the applications for interim measures to order the Ministry of Justice to substantially improve the physical detention conditions: ending cell overcrowding, cleaning communal areas, laying out exercise yards, organising services, supervising the use of force. These applications were particularly based upon the CGLPL's findings.

> In an emergency and where a public entity or a private organisation tasked with managing a public service violates a fundamental liberty in a clearly unlawful and

> serious manner, the interim liberty decision, provided for by Article L. 521-2 of the Administrative Justice Code, enables the court hearing applications for interim measures to order "all necessary measures for safeguarding" the fundamental liberty.

In an order dated 28 April 2017[28], the Melun Administrative Court called for the adoption of a series of measures aimed at improving the institution's health situation and protecting prisoners from certain violations of their fundamental rights, pursuant to Articles 2, 3 and 8 of the ECHR: right to life, prohibition of inhuman or degrading treatment and right to respect for private and family life. The court nevertheless rejected the most ambitious requests made to resolve the structural problems of overcrowding and dilapidated infrastructure - particularly the establishment of an overall emergency plan for the Fresnes remand prison. It ruled that such requests "are not among the emergency measures which the situation enables to be taken usefully and promptly" and that they could not therefore be recommended as part of an interim liberty decision.

Referred an appeal regarding this decision, the Conseil d'État (Council of State) maintained, in its order of 28 July 2017[29], that the detention conditions within the Fresnes remand prison, "marked by a lack of space and privacy, are likely both to intrude on the prisoners' privacy to an extent exceeding the restrictions inherent in detention, and to expose them to inhuman or degrading treatment, thereby resulting in a serious violation of two fundamental liberties". It ultimately confirmed the administrative court's decision, however, and rejected the appeal which the OIP had referred to it. In justification, it particularly maintained that "with regard to their purpose, the injunctions requested, which bear on structural measures on the basis of the public policy choices unlikely to be made, and hence to have any immediate effect, are not among the emergency measures which the situation enables to be taken usefully under the powers invested in the court hearing applications for interim measures by Article L. 521-2 of the Administrative Justice Code." Moreover, it indicated that the clearly unlawful nature of the violation is assessed "with account taken of the means of the competent administrative authority and the measures (…) already taken".

Following this decision, a campaign to appeal before the European Court of Human Rights has been initiated by the prisoners and their lawyers. This particularly raises the question of the effectiveness of the application for interim liberty measures at ending undignified detention conditions. France is at risk of being issued a new conviction by the Court of Strasbourg, since this procedure, given the case law of the Conseil d'État, is not likely to end detention conditions that are nevertheless considered at odds with Article 3 of the ECHR, which prohibits inhuman and degrading treatment.

> The CGLPL upholds all of the recommendations made in these emergency recommendations. The figures published by the Prison administration department show that, in 2017, overcrowding in the institution has not significantly decreased, since the occupancy rate in the remand prison wing on 1 December 2017 was 183.8% (188% on the day of the CGLPL's inspection of the institution).
>
> In light of the undignified detention conditions observed at Fresnes, the Government has a duty to give due consideration to past and future convictions and to take the appropriate measures to end the violations to fundamental rights observed in this institution.

To date, the Chief Inspector has not received any information about the measures taken following the CGLPL's recommendations. In 2017 the Chief Inspector was yet again obliged, more than once, to refer to the institution's management cases of reported violations to prisoners' rights

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[28] *Melun Administrative Court, 28 April 2017, OIP-SF, no. 1703085.*
[29] *Conseil d'État, Order of 28 July 2017, no. 410677.*

which it had received. No responses have yet been forthcoming on certain referrals, particularly concerning the presence of bed bugs and conditions under which body searches are conducted. Moreover, the institution's director has not wished to make any substantive comments following the submission of the finding report drawn up after the inspection of the institution. This report was sent to the Ministers of Justice and Health in December 2017. Their responses are expected at the start of 2018.

Chapter 4

Action taken in 2017 in response to the cases referred to the Contrôleur général

In accordance with the prevention mission delegated to the Contrôleur général des lieux de privation de liberté, processing case referrals helps to identify violations of the fundamental rights of people deprived of liberty, and to prevent their recurrence. With this in mind, the inspectors in charge of the referrals conduct verifications of documents and ask for observations from the authorities responsible for the facility in question – pursuant to the adversarial principle. They also conduct on-site verifications where applicable. The reports written following these inspections also go through the due adversarial procedure with the authorities responsible.

The high number of referrals received by the CGLPL through the year (more than 3,600) bring to light, over and above isolated cases, failings and violations of the rights of people deprived of liberty that go beyond an institution or region and call for nationwide responses. Although most of the investigations undertaken by the CGLPL concern institutions in particular, several inquiries are submitted every year to the Ministers of Justice, the Interior and Health, or some of their directorates, not least the prison administration department. These are an opportunity to note down the questions raised in the referrals made by various institutions and to cross-link the information contained in these referrals with the findings made during institutional inspections.

The recommendations issued following the discussions held in light of the referrals are aimed at safeguarding the right balance between respect for the fundamental rights of prisoners and the public order and security requirements that places of deprivation of liberty must naturally fulfil. The priority for the Chief Inspector in this instance, in the same way as during inspection missions, is to initiate a dialogue aimed at improving institutional practices and thinking on the way in which people deprived of liberty are treated – the aim being to improve respect of their fundamental rights.

1. The CGLPL's efforts promote respect for the rights of people deprived of liberty: examples of local referrals

Below you will find a selection of investigations conducted by post, aimed at showing how the CGLPL carries out its mission aimed at checking the extent to which fundamental rights are respected in practice in places of deprivation of liberty and at improving this in a very tangible way. Special attention has been paid to referrals concerning work and vocational training in prisons, following the opinion published on this subject in February 2017.

1.1 Involuntary patients and their access to the right to vote

One sectioned patient (committed for psychiatric care involuntarily) has brought to the Chief Inspector's attention the decision issued on his case on the part of the judge supervising guardianship, indicating that "since his condition does not exclude a certain lucidity when it comes to elections, his right to vote should be maintained". Mindful of the access detained people have to the right to vote, the Chief Inspector contacted the hospital director to find out whether the institution had taken

special measures ahead of the presidential and legislative elections so as to inform patients of the steps they need to take and organise the means for them to exercise their right to vote in practice.

In response, the hospital management referred to the possibility involuntary patients have of going to the polling station alone or, where necessary, accompanied upon medical permission for short-term leave. It clarified that the possibility to vote by proxy was organised for patients who were unable to make the journey to a polling station themselves.

The CGLPL considers that the procedure set up to enable patients to exercise their right to vote and the distribution of memos for the attention of staff on the voting by proxy procedure are good practices.

1.2 Restricted rights to access computers in prison

The Chief Inspector has received reports of the difficulties encountered by a prisoner in acquiring computer equipment in a long-term detention centre. His request had been denied on the grounds that he was not taking vocational training in connection with computing or participating in any schooling.

The Chief Inspector contacted the institution director for comments on this situation. The latter confirmed the refusal issued by the single multidisciplinary commission on these grounds.

In response, the CGLPL gave a reminder of the terms of the circular of 13 October 2009 on access to computers for offenders, according to which it is not possible to draw a strict line between the educational use of computers and their recreational use - which is commonplace in society. This circular also provides that only cases of serious and clear threats to the security of the institution and people can justify prohibiting the purchase or use of computer equipment. In accordance with the terms of its opinion dated 20 June 2011 on access to computers for prisoners, the CGLPL pointed out that the right to access computers cannot be subject to a specific justification - i.e. the establishment of a reintegration or training plan. The Chief Inspector has asked the institution's director to reassess the request of the prisoner and to keep her apprised of the action taken.

In his response, the institution's director said that he would duly note the recommendations made by the CGLPL and henceforth examine requests for purchases of computers along these lines.

1.3 Access to eye appointments in a long-term detention centre

During a team of inspectors' visit to this long-term detention centre, it was observed that an ophthalmologist was available for appointments with prisoners on one half-day every month. The discontinuation of such sessions in detention and regular cancellations of external movements for medical reasons, which thus became necessary, were reported to the CGLPL on a number of occasions, and the CGLPL thus contacted the senior physician of the health block about the matter. He confirmed that the ophthalmologist no longer provided this service since retiring and that eye appointments now relied upon external movements to hospitals on medical grounds. There was an average wait of eight months for an eye appointment.

The CGLPL has spoken out on several occasions about the need to increase the presence of consultants within health blocks, or to develop telemedicine, particularly in the opinion dated 16 June 2015 on the health provision for prisoners in health facilities.

The CGLPL has gathered the comments of the director of the relevant hospital on the difficulties highlighted and the long-term solutions being envisaged (recruitment of a new ophthalmologist, signature of an agreement with a private-practising ophthalmologist, development of telemedicine, etc.) so as to genuinely enable the prisoners in this institution to access ophthalmological care.

In response, the CGLPL has been informed of the setup within the long-term detention centre, since September 2017, of a procedure entailing a shift on the fourth Wednesday of every month, from 2pm to 6pm, enabling fifteen detained patients to benefit from ophthalmological care.

1.4 The barriers to compensation to civil parties

The CGLPL's attention has been drawn to the fact that prisoners in a remand prison have no way of compensating civil parties owing to a shortage of staff for carrying out such transactions, the consequence being that they are unable to provide any relevant supporting documents during sentence adjustment or remission proceedings. The Chief Inspector contacted the institution's director to find out what measures had been taken to resolve this shortcoming and enable prisoners to make these payments and obtain the relevant supporting documents.

In response, the institution's director confirmed that the personal accounts administration had encountered problems in handling debts in terms of compensating civil parties because there had been no official present since February 2016. He maintained that prisoners wishing to compensate civil parties were systematically received by the administrator and that a letter was sent out to the civil parties concerned.

During new talks held with the institution's director, the Chief Inspector asked whether the judicial authorities in charge of considering sentence enforcement or adjustment measures had been notified of the difficulties encountered and whether the processing of voluntary payments was now effective.

She was pleased to hear in response that a deputy administrator had been assigned to the personal accounts administration so as to relieve its workload and be able to effectively meet all of the requests made by prisoners for paying back civil parties. Furthermore, the sentence enforcement department and prison rehabilitation and probation service (SPIP) were informed during the various sentence enforcement committee meetings and adversarial debates of the difficulties encountered by the institution in carrying out payments to compensate civil parties, to ensure that the prisoners concerned are not penalised.

1.5 Irregular provision for indigent prisoners

One person assigned to a long-term detention centre, recognised as being indigent, has alerted the Chief Inspector's attention to the cash aid he received, namely ten euros, and the fact that he was not given any stationery (envelope, pen, etc.), which is nevertheless necessary for maintaining ties with the outside.

The Chief Inspector referred a request for information to the institution's director on the provision arrangements with regard to indigent prisoners, and on the amount of cash aid handed out and types of aid in kind available.

In response, the management confirmed that a ten-euro cash aid was indeed granted to indigent prisoners and that some of them received more in connection with efforts made while in detention, such as taking part in school lessons and education. Following a reminder of the regulations by the prison administration department and talks held with the institution's director, the procedure for granting cash aids to indigent prisoners now complies with the applicable texts.

Regarding aids in kind, the institution director's response states that stationery including a pen, pad of A4 paper, two stamps and two envelopes is handed to each new arrival and that indigent prisoners get a monthly provision of ten stamps. The director indicated that the new contract with the private service provider did not include renewing the pen or pad of paper.

Such provision does not comply with the circular of 17 May 2013 on fighting against poverty in prisons, which states that aids in kind "must enable the people in question to maintain ties with the outside, not least with their family (supply of at least 2 stamps, envelopes and sheets of paper at the prisoner's request); under delegated management contracts and procurement, such aid must be ensured by the holder of the hospitality service contract".

As she had already indicated in her 2015 annual report[30], the Chief Inspector bemoans the fact that the provisions of the 17 May 2013 circular on granting aid in kind, particularly the necessary stationery items to be included, are not applied evenly across institutions. The Chief Inspector has therefore drawn the attention of the institution's management to the necessary stationery items to be handed out to indigent prisoners.

1.6 Monthly canteen vouchers for vocational trainees

The Chief Inspector's attention has been drawn to the remuneration conditions of trainees within a particular institution, within the context of monitoring of pre-certifying training programmes. Indeed, according to the information brought to the CGLPL's attention, trainees enrolled in these programmes are not paid, but reportedly benefit from a monthly canteen voucher worth 50 euros.

In connection with the opinion of 22 December 2016 on work and vocational training in penal institutions, published in the *Journal officiel* (Official Gazette) of 9 February 2017, the Chief Inspector took stock of the provision and delivery of vocational training in detention and the effects of transferring competence concerning its management to the regional councils, following the Act of 5 March 2014 on vocational training, employment and social democracy. It has become clear that pre-certifying training can provide a springboard for accessing certifying training and even employment, and that they should be developed in this regard.

Following the publication of the opinion, the Chief Inspector asked the management of the prison about the types of vocational training available, as well as the remuneration conditions of trainees.

She noted with interest, in the response given, the institution's introduction of a monthly canteen voucher worth 50 euros to encourage trainees to take part in pre-certifying training programmes (these are not remunerated by the Public services and payments agency/ASP). Moreover, given the loan assignment delay within the ASP, the Chief Inspector considered the advance system set up to be a good practice; this entailed issuing a canteen voucher worth 50 euros a month to trainees on certifying training programmes.

1.7 The procedure for calculating the remuneration of prisoners selected to work as general service assistants

During discussions held with the management of one long-term detention centre, the Chief Inspector found that the contractual documents and job descriptions of the prisoners selected to work as general service assistants contained different procedures for calculating their remuneration, with the contractual documents referring to daily rates and the job descriptions to hourly rates. This difference made it impossible for the prisoners in question to understand how to calculate their remuneration.

If remuneration was calculated according to the procedure set out in the job description, so three hours a day in the week and two hours a day at the weekend, it should correspond to 82 hours worked per month - a lot more than the number of hours indicated in the payslips of the prisoners working as general service assistants. It became clear upon studying the payslips that the remuneration

[30] *Annual report 2015, p. 71.*

was calculated on an hourly basis which did not correspond to the number of hours indicated on the job description.

Given that the prisoners selected for general service struggle to make sense of their payslips and understand how their wages are calculated, the Chief Inspector recommended, as part of its prevention mission, rewriting the documents so that they could be understood by the prisoners concerned.

In response, the institution said that it had circulated a memo for the attention of prisoners informing them that their remuneration was based upon an hourly rate, pursuant to the applicable regulations, and that the contractual documents and job descriptions for the general service had been updated.

1.8 The working hours of general service assistants

During discussions held with the management of one prison on prisoners' access to work and the procedures for providing information on the work contractual documents, the Chief Inspector found that several prisoners selected for general service worked every day of the week.

In its opinion of 22 December 2016 on work and vocational training in penal institutions, the CGLPL points out that "inspectors often observe that the majority of general service assistants do not get a day off in the week, and therefore work every day. The CGLPL is strongly against such practice. Introducing a so-called "versatile" assistant position to cover the absences of other general service assistants (particularly during their weekly days off), or a rotation system, would be a way of enabling everyone to get at least one day off a week.

The Chief Inspector has therefore recommended to the institution's director that prisoners selected for general service are granted at least one day off a week.

The director replied that discussions would promptly be held with the labour manager, personal accounts administration and staff to enable prisoners selected to work as a general service floor assistant to be granted at least one day off a week, either via the introduction of versatile positions, or the setup of a rotation system. The Chief Inspector was interested to note the organisation of these joint discussions and wished to know how they were progressing and what measures were decided on.

2. Nationwide concerns identified by referrals

In 2017, the Chief Inspector contacted the Ministers of Justice and the Interior on four occasions to draw their attention to nationwide issues. It referred 17 general concerns to the prison administration department. It also pushed on with the discussions initiated in previous years with the authorities.

Some of these referrals have been mentioned in previous annual reports and are part of long-standing discussions with the competent authorities - sometimes with no significant progress having been made, for either the CGLPL's views are not taken into account, or it is still waiting for a response that is proving a long time coming: referral on the progress of provisions concerning access to computers in detention[31], on renewals of residence permits for detained foreign nationals[32], on

[31] *See CGLPL Annual Report for 2016, p. 77.*
[32] *See CGLPL Annual Reports for 2015, p. 69 and 2016, p. 93.*

night rounds[33], on application of the pension scheme specific to prisoners in the general service category[34], on difficulties relating to external movements and permissions to take escorted leave[35].

Other referrals have led to discussions, some of which have brought an end to the violations of rights or enhanced the rights of people deprived of liberty. Accordingly, discussions were held in 2017 on such diverse subjects as the exercising of prisoners' right to vote, the issue of high occupancy rates in penal institutions receiving young offenders in Ile de France (the Parisian region) and the sharp rise in 2016 and 2017 in the number of children detained, or the inclusion of the International prisons watchdog (OIP) in the list of telephone contacts for prisoners.

Finally, some referrals still have had no responses forthcoming several months after their dispatch.

A few examples of nationwide concerns that the Chief Inspector referred to the authorities in 2016 and 2017 are given below. The Chief Inspector is still awaiting an answer from the authorities for most of these questions. For others, the authorities have already responded and talks will continue through 2018.

This section also addresses three issues identified because of their relevance, in that they concern myriad institutions and were the subject of discussions with a number of authorities in 2017 – directors of institutions, prefects, court administrators and ministers: exercise of the rights to appeal in detention centres for illegal immigrants, respect for dignity and professional confidentiality during external movements for medical reasons and the management of prisoners that the prison authorities have identified as being radicalised.

2.1 Referrals for which responses have been forthcoming from the authorities with which cases are taken up

2.1.1 The procedure for exercising the right to vote within penal institutions

In February 2017, with the presidential and legislative elections approaching, the Chief Inspector wanted to draw the Minister of Justice's attention to the procedure for exercising the right to vote in penal institutions and to gather her comments on the systems currently provided for by the electoral code - voting by proxy - and the Code of criminal procedure - permission to leave – as well as on the possibility of installing polling stations within penal institutions themselves.

A factor of citizenship, the right to vote is a fundamental right guaranteed by the Constitution and, at international level, by Article 25 of the International Covenant on Civil and Political Rights and Articles 39 and 40 of the Charter Of Fundamental Rights Of The European Union. Article 30 of the Prison Act of 24 November 2009 and the Ministry of Justice's circular dated 1 February 2012 outline the procedure for exercising the right to vote in penal institutions: prisoners may vote by proxy or ask the Judge responsible for the enforcement of sentences for permission to leave.

And yet the right to vote is seldom exercised in detention, as attested by the figures from the 2012 presidential elections (760 votes by proxy and 352 permissions to leave granted) and the 2014 municipal elections (519 votes by proxy were counted and 54 permissions to leave granted). Some situations which were reported to the Chief Inspector refer to the barriers that prisoners encountered in their efforts to vote by proxy: voting by proxy proved impossible despite the requests in writing they made, on the grounds that they had forgotten to mention the identity of the proxy; absence of

[33] *See CGLPL Annual Reports for 2015, p. 69 and 2016, p. 94.*
[34] *See CGLPL Annual Report for 2016, p. 96.*
[35] *See CGLPL Annual Report for 2016, p. 101.*

due procedure and inadequate information provided to be able to assist prisoners in exercising their right to vote.

In its 2013 annual report, the CGLPL had already highlighted the difficulties encountered by prisoners in guaranteeing their effective exercise of the right to vote, and recommended "setting up a procedure enabling people placed in penal institutions to properly exercise their right to vote. This encompasses the facilitated issuance of identity documents, information provided sufficiently ahead of time, a special permission to leave protocol and a possible relaxing in the proxy rules, guaranteed by the registry".

Discussions with the Ministry of Justice addressed the exercise of the right to vote by proxy, the procedure for electing domicile at the penal institution, the arrangements for allowing the prisoner appointing a proxy to meet his/her proxy at the penal institution, exercise of the right to vote by benefiting from permission to leave, awareness-raising and information measures for prisoners about the right to vote, and the installation of polling stations in detention.

The Chief Inspector was interested to note that a survey was due to be launched to list the number of elections of domicile carried out and any difficulties encountered in this framework. She wished to know what the results were, as well as the number of permissions to leave granted during the most recent presidential and legislative elections of 2017.

Regarding the procedure for appointing proxies (via associations and voters of the relevant municipality) and organising their visit to the penal institution, in her response the Minister of Justice claims not to have information on this subject. Because the Chief Inspector's attention was once again drawn to the fact that some prisoners were unable to meet their proxy at the penal institution during the last presidential and legislative elections, she reiterated that this preliminary meeting is nevertheless essential to be able to build the necessary trust between a voter and his or her proxy.

Following on from the recommendations issued in 2013, given that the installation of polling stations in penal institutions would likely promote turnout at the polls among prisoners, the CGLPL wished to know what kind of discussions have been initiated by the Ministry to make such a development possible. In response, the Minister maintained that this voting option would require a certain number of legislative and regulatory provisions to be amended, and generate considerable organisational pressures for penal institutions. The Minister explained he had conducted an analysis with the stakeholders concerned on the question of setting up a pilot voting scheme in detention in one or more penal institutions, but in light of the legal and physical constraints, this pilot scheme never got off the ground. The Chief Inspector sets great store by the effective exercise of the right to vote by prisoners, and therefore asked for more details on this pilot scheme.

In his answer, the Minister of Justice mentioned the possibility of amending the Prison Act of 24 November 2009, adding a new provision which enables prisoners to exercise their right to vote by post in a sealed envelope, along the same lines as the elections of MPs representing French citizens abroad, under Article L.330-13 of the Electoral Code. The Chief Inspector voiced approval of such an amendment, insofar as this voting option – easier and more accessible – would enable more prisoners to exercise their right to vote. She therefore wanted to hear what the current Minister of Justice's observations were on this subject.

2.1.2 The occupancy rate in institutions receiving children in the Parisian region and the rise in the number of detained children

Following a report and as part of work on the thematic report on prison overcrowding, the Chief Inspector called on the Prison Administration Director for his observations on the high occupancy rates in penal institutions receiving children in the Parisian region and the significant rise in 2016 and 2017 in the number of detained juveniles. The number of detained juveniles rose from 775 on 1 June 2016 to 851 on 1 June 2017. She drew his attention to the disastrous consequences of prison

overcrowding on the detention conditions of those directly concerned, and pointed out that under no circumstances should detained juveniles be placed in such a situation in view of the specific provision they require - based on personalised and tailored educational efforts.

The Prison Administration Department replied that the juvenile wings of the Paris Interregional Directorate for Prison Services (DISP) had indeed been experiencing high occupancy rates since the start of 2017, climbing from 87% in January to 104% in April. He included in his response a table of the occupancy rates of these institutions which shows that, since January 2017, institutions receiving children in the Parisian region have seen their occupancy rate go up and that all of them have reached a temporary occupancy rate of more than 100% at some point since the start of 2017, with the exception of Villepinte; the Nanterre juvenile wing was systematically overcrowded in 2017, its occupancy rate spiking at 128% in April 2017.

He conceded that other DISPs had also seen the occupancy rates of their juvenile detention facilities steadily increase, especially the directorates in Lille, Lyon and Marseilles.

He explained that these high occupancy rates were the result of a structural increase in detention by the courts, something over which the prison authorities do not have any direct control.

He said that, to avoid facilities being stretched over-capacity, the DISPs organise administrative transfers to distribute the young offenders across their region. Regarding the Parisian region, he said that his departments were carrying out a transfer policy aimed at harmonising the occupancy rates of juvenile wings and prisons for minors in the Parisian region with those of the neighbouring interregional directorates for prison services with lower occupancy rates, and therefore provide young offenders with acceptable detention conditions and appropriate care. He indicated that 39 young people had thus been transferred since 1 January outside the Paris DISP, and emphasised the close attention his departments were paying to ensuring family ties could be maintained.

Finally, he explained that the Prison Administration Department and Judicial Youth Protection Service Directorate were looking into the merits of a joint memo on detained juvenile transfers, so as to specify the specific coordination arrangements, ensure a joint assessment of individual situations prior to any transfer and guarantee the exchange of information between the professionals involved in the juveniles' provision and information for holders of parental responsibility.

The Chief Inspector is continuing to keep a close eye on this issue and reiterates her misgivings over the procedures to reduce crowding in prisons via transfers, expressed in the thematic report that the CGLPL published in February 2018 entitled "Fundamental rights under threat from prison overcrowding". This is because such procedures, by nature, tend to disregard prisoners' rights to maintain family ties and their sentence enforcement pathway.

2.1.3 Prisoners' access to the telephone services of the International prisons watchdog (French section) (OIP)

Following discussions with several heads of institutions who refused to include the number of the International Prisons Watchdog in the telephone lists for prisoners, the Chief Inspector referred the case to the Prison Administration Department. A range of reasons were given by the heads of institutions to justify their refusals: maintaining good order in the institution, not including this association in the list of automatically authorised associations, or the claim that the OIP is apparently not an association allowing, under the terms of Article 39 of the Prison Act of 24 November 2009, for "the preparation of prisoners' reintegration". In the letter she sent to the Prison Administration Director, the Chief Inspector particularly indicated that all of these arguments appeared questionable, and that denying prisoners the opportunity to ring the OIP amounted to a violation of their rights insofar as this association advocates precisely in favour of defending these rights.

In response, the Prison Administration Director said that he had asked the Legal Action and Prison Law Bureau to analyse the arguments provided locally and to reach a national position on this matter.

This analysis makes it clear that because the OIP is committed to advocating in favour of prisoners' fundamental rights, any call made to this association can be justified on the grounds of preparing for the convict's reintegration. The Prison Administration Director says that he has forwarded this analysis to institutions that refused to allow the OIP's number to be included out of principle.

2.2 Referrals still pending an answer from the authorities

Other referrals to the Ministers or Prison Administration Department have been made more recently and are still pending an answer from one or all of the authorities which received them. Discussions on these subjects will carry on in 2018.

This goes for talks initiated with the Ministries of Health and the Interior on medical care access for migrants detained in detention centres, talks with the Ministries of Justice and the Interior on external movements and judicial transfers and the referral to the Minister of the Interior on placements in detention under the Dublin III Regulation, despite a decision by the Court of Cassation dated 27 September 2017 ruling detention on such grounds unlawful.

Mention could also be made of older referrals to the Prison Administration Department on the roll-out of gratings across penal institutions, the consequences on the exercise of detained persons' rights of committal to specially-equipped hospitalisation units (UHSA) and interregional secure hospital units (UHSI) or the difficulties associated with the introduction of a fixed-rate fee for taking the driving theory test.

Despite several reminders being sent out, the Prison Administration Department has still not responded to these referrals, which date back to 2016 or the beginning of 2017.

With respect to grating, the Chief Inspector stressed the negative consequences of rolling out this system within penal institutions, observed during inspections and in the case referrals. Following a referral from the CGLPL, one head of institution measured the lighting levels, which revealed that installing grating reduced lighting by 43% in a south-facing cell and by 40% in a north-facing cell. Installing grating thus plunges cells into virtual darkness during the daytime, which exacerbates the prisoners' sense of isolation and prevents them from reading and working by natural light. Poor lighting in cells may also lead to sight problems.

This system thus violates prisoners' fundamental rights and appears at odds with the provisions of Article D.351 of the Code of criminal procedure, which provides that "In all places where prisoners are required to live or work, the windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air. Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight."

The Chief Inspector indicated to the Prison Administration Department that, in light of these findings, it appeared advisable to suspend the installation of grating in penal institutions and to consider other measures for meeting both the requirements bearing on security and cleanliness of communal areas and the right to sufficient lighting and aeration in cells. She called on the Prison Administration Department for comments on these points. No response has been forthcoming on this request since June 2016.

Another outstanding general issue, first raised back in 2016, concerns the consequences of committal to a specially-equipped hospitalisation unit (UHSA), interregional secure hospital unit

(UHSI) or the National public health institution at the remand prison of Fresnes for patients who are not imprisoned in the institutions affiliated to these structures.

The CGLPL has found that the change in prisoner register number following such committal, with no consideration of the duration of stay, has disproportionate repercussions for the patients detained, which amount to violations of their fundamental rights. These are associated with the fact that such a committal and return to the original institution are deemed a reassignment within another institution. During such committals, the right to maintain family ties and exercise of the rights of defence are thus affected. An interruption in the financial aid allowance for indigent prisoners is also sometimes observed, as well as significant hold-ups in the transfer of personal account funds, preventing people from being able to eat in the canteen or top up their phone credit. All of these difficulties may end up dissuading some prisoners from accepting medical care in this context.

There are also difficulties on returning to the original institution, due to the fact that the prisoner is once again considered a new arrival and needs to put his or her name back on the waiting lists for work, vocational training or participation in socio-cultural activities - with no consideration of the fact that s/he was already on these lists - and had been for some months in some cases. For the same reason, processing of change in assignment or reference files as well as sentence adjustment applications is often delayed, and sentence reduction processing may also be affected.

The Chief Inspector called on the Prison Administration Director for comments on all of these points and asked him about the technical criteria that require such a change in prisoner register number, as well as potential solutions for addressing the difficulties observed.

A third referral still pending a response from the Prison Administration Department concerns the difficulties associated with introducing a fixed-rate fee for taking the driving theory test. This fee, introduced since 13 June 2016, can only be paid online, which is problematic for prisoners with no Internet access or payment card, since they have no way of paying this fee. The Prison Administration Director has been asked for his comments on this matter.

3. Referrals revealing repeated violations of prisoners' rights: a closer look at some examples in 2017

3.1 Exercise of the rights to appeal in detention centres for illegal immigrants

This report's assessment on detention centres for illegal immigrants reveals fairly major reservations over respect for the right to information and assistance for detained migrants in exercising their rights. These reservations are confirmed by a number of referrals on the difficulties these migrants have in exercising their rights to appeal. The procedures in detention centres often give short shift to this fundamental right, which is nevertheless central to the situation of detained migrants. In this context, rights to appeal are not only complex to exercise owing to the technicalities of the issue, but also too often run up against barriers on account of the authorities in charge of such procedures not sufficiently applying the statutory requirements.

The Chief Inspector was referred several cases in 2016 and 2017 of deportation measures enforced against detained migrants with no regard for their right to effective appeal. These referrals bore on situations reported in mainland France as well as the Overseas territories, even though derogations have already been enacted there.

First, the CGLPL was referred several cases of deportations carried out from mainland France, when the detained migrants had submitted an appeal for suspension before the competent court, before the latter was able to issue a ruling. One referral also concerned a migrant who was

removed even though the 48-hour time-limit for being able to appeal against an obligation to leave French territory (OQTF) had not expired, and that the person could not therefore lawfully be removed.

In response to the CGLPL's requests for explanations, the General Director for Foreigners in France specified that most of the cases submitted could be explained by material errors in the transmission of information between the people concerned by the procedures. He conceded that these unlawful practices should not have happened and that a reminder had been sent to the prefectures concerned in this respect.

The Chief Inspector is remaining vigilant as regards respect for the fundamental right to benefit from effective remedies in detention centres, since such removals completely cancel out any possible consequences of having lawfully exercised rights to appeal.

Overseas, the right to effective appeal is also neglected. Prior to 2016, appeals against deportation measures in these territories did not have a suspensive effect. The Act of 7 March 2016 introduced a provision in the Code for Entry and Residence of Foreigners and Right of Asylum allowing people against whom an obligation to leave Overseas France has been handed down to benefit from suspensive remedy where they demonstrate a serious violation of a fundamental freedom via an appeal on the grounds of Article L.521-2 of the Administrative Justice Code (interim liberty decision). In such a case they cannot be removed "until the court hearing the applications for interim measures has informed the parties that a public hearing will or will not be held (…), or, if the parties have been informed of such a hearing, until the court has ruled on the request"[36]. And yet, according to information brought to the Chief Inspector's attention, removals from the French Guiana and Guadeloupe detention centres are enforced so quickly that such appeals are sometimes simply impossible to exercise.

Accordingly, the CGLPL has been referred cases concerning several detention centres for illegal immigrants where the migrants were removed after having submitted an interim application before the administrative court. In the cases reported, removal was enforced extremely swiftly, before the administrative court had time to rule on whether or not a hearing would be held. In all, fourteen similar situations have been reported to the CGLPL in French Guiana, and four in Guadeloupe.

The Chief Inspector contacted the head of Les Abymes detention centre for illegal immigrants about an initial situation in May 2017. He replies that he had received late notice of the existence of the appeal by the administrative court, after the removal had taken place. Upon being referred several other similar cases, the Chief Inspector contacted the Prefect of the Guadeloupe Region in December 2017 as well as the President of the Administrative Court of Guadeloupe, Saint-Barthélémy and Saint-Martin to find out what system is in place for enabling immediate suspension of a removal measure where there is an interim liberty application and, where applicable, what measures are taken to prevent recurrence of these situations. The President of the Administrative Court of Guadeloupe, Saint-Barthélémy and Saint-Martin confirmed the increase in such procedures en 2017. He explained that these situations were problematic in view of the right to effective appeal, given the swiftness of the removals carried out and lack of suspensive effect of the time-limit for remedy or the presentation of an appeal. The Chief Inspector also contacted the head of Matoury detention centre for illegal immigrants as well as the Prefect of French Guiana about similar cases in April 2017. Despite several reminders, these authorities have still not replied.

The Grand Chamber judgment from the European Court of Human Rights in the case of de Souza Ribeiro v. France of 13 December 2012 (following which the provision in the Code for Entry and Residence of Foreigners and Right of Asylum (CESEDA) was adopted, introducing a suspensive interim liberty application Overseas) nevertheless indicated that "in order to be effective, the remedy

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[36] *Article L.514-1 of the Code for Entry and Residence of Foreigners and Right of Asylum.*

required by Article 13 must be available in practice as well as in law, in particular in the sense that its exercise must not be unjustifiably hindered by the acts or omissions of the authorities of the respondent State". Similarly, in its guide to good practice in respect of domestic remedies, the Council of Europe states that "a remedy is only effective if it is available and sufficient" [37]. It adds that "the authorities must not, in practice, make the remedies ineffectual and therefore unavailable. That would be the case, for example, when a removal took place with undue haste"[38].

Furthermore, the Programming Act of 28 February 2017 on substantive equality Overseas has introduced, in Mayotte, a new discriminatory provision that is at odds with the stated goal of "substantive" equality and which involves bringing back the five-day timescale for the liberty and custody judge to issue a decision, solely for Mayotte. As was indicated in the 2016 Annual Report, the Chief Inspector has drawn the Senate's attention to the untimely nature of this provision, which introduces inequality of treatment and is not appropriate for the situation in Mayotte where the widespread existence of detention placements should, on the contrary, lead to closer scrutiny by the judicial authority rather than a limitation in its role.

> The CGLPL insists on the necessity of maintaining a 48-hour timescale throughout national territory – including in Mayotte – for the presentation of migrants placed in administrative detention before the liberty and custody judge.

These various examples are evidence of the inadequacy of the current French system, which is supposed to afford effective remedy to foreigners placed in detention centres for illegal immigrants - particularly in Overseas France.

In this regard, the Chief Inspector commends and supports the work of the National Consultative Commission on Human Rights (CNCDH), which has announced the publication in 2018 of a study on the effectiveness of rights Overseas and has already published, on 26 September 2017, an opinion on foreigners' rights and the right to asylum in Overseas France on the cases specific to French Guiana and Mayotte; this is consistent with the CGLPL's findings on these points. She agrees with the findings of all the UN human rights treaty bodies, which highlight at regular intervals in their observations that violations of rights are widespread, plural in nature and sometimes cumulative in certain Overseas territories.

3.2 Respect for dignity and professional secrecy during external movements for medical reasons

The difficulties associated with respect for dignity and professional secrecy during external movements for medical reasons are a recurrent concern for the CGLPL; recommendations have been issued on this subject on numerous occasions.

The CGLPL's first annual report, through one prisoner's personal account, mentioned that medical care had been turned down because of excessive security measures and violations of medical confidentiality[39].

The 2012 annual report presented an in-depth analysis of this subject, in relation to the issue of personalising external movement procedures[40]. This report maintained that, on this point, the Prison Act of 24 November 2009 fell short of the requirements regarding humane treatment, insofar as Article 52, in an interpretation a contrario, does not exclude handcuffing during childbirth and, for all other surgical procedures or examinations, does not prohibit the use of handcuffs and restraints or

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[37] *Guide to good practice in respect of domestic remedies, adopted by the Committee of Ministers on 18 September 2013, Directorate General Human Rights and Rule of Law, Council of Europe, p. 12.*
[38] *Ibid., p. 35.*
[39] *Hospital external movements (letter received from a prisoner), Chapter 5 of the 2008 annual report, p. 110.*
[40] *See Annual report for 2012, p. 52.*

the attendance of warders[41]. It recommended that another provision replace the current Article 52: "Respect for the secrets of Article 45 and dignity prohibits the use of handcuffs and restraints as well as attendance by prison staff during the dispensation of medical care of any kind to prisoners. The necessary security shall be ensured by other means". The CGLPL indicated that the risk of escape on which excessive security measures were founded was low, as shown by the very low number of escapes counted annually, and should not justify the precautions taken, which are uncomfortable and humiliating for tens of thousands of people and lead to several hundred turning down care.

In its opinion dated 16 June 2015 on provision for patients detained in health facilities, the Contrôleur général des lieux de privation de liberté bemoaned the many situations in which medical confidentiality is breached - not least owing to prison staff being in attendance during appointments and treatments. The same year, it was referred several cases in which the provisions of Article 52 of the Prison Act had not been honoured. It submitted these cases to the Prison Administration Department.

In response to the three individual cases submitted, the prison administration director stated that security considerations had prevailed in managing the medical examinations of these three female detainees. She specified that the presence of a female warder in the examination or treatment room was justified by the layout of the rooms, which did not sufficiently guarantee the safety of people. She stated that these situations are assessed on a case-by-case basis, according to the layout of the facilities and the level of dangerousness of the detainees.

Via a memo dated 8 December 2015, the prison administration director had nevertheless drawn the attention of the interregional directorates for prison services to the restraint means and surveillance measures during external movements for medical reasons of pregnant women or women attending a gynaecological checkup, and reiterated the applicable rules. Lastly, the Prison Administration Department asked that these principles and requirements be strictly applied, and warned that violations would give rise to the enforcement of disciplinary sanctions.

In its opinion on the situation of women deprived of their liberty of 25 January 2016, the CGLPL once again underscored the need to strictly comply with the provisions under Article 52 of the Prison Act.

And yet, in August 2016, the Chief Inspector's attention was once again drawn to a problematic situation from the point of view of compliance with these provisions. This concerned a woman in temporary detention at Fleury-Mérogis, admitted on terrorist offences, who gave birth in an extremely strained atmosphere, including between the medical and prison teams, particularly because of the security conditions it was deemed necessary to apply around her. On-site verifications conducted in September and October 2016 found serious intrusion on the person's dignity, invasion of her privacy and breach of medical confidentiality. They also laid bare failures in the treatment of the prisoner during her transfer and hospitalisation.

> The CGLPL consequently recommended in its on-site verification report that an express reminder of the principle laid down in Article 52 of the Prison Act of 24 November 2009 be given to prison staff, clarifying that there are several stages involved in the childbirth process that does not merely refer to the mother's delivery. As such, any treatment room, at the hospital, where a female detainee has gone into labour, becomes a delivery room.

In response to the submission of the report drawn up following the inspection of the Fleury-Mérogis women's remand prison, the Minister of Social Affairs and Health intended to reiterate "that,

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[41] *Article 52 of the Act of 24 November 2009: "Any delivery or gynaecological examination must be performed without restraints and without the presence of the prison staff, in order to guarantee the right to respect of the dignity of detained women".*

in all circumstances, all births and gynaecological examinations, without exception, must take place free from handcuffs and restraints and with no prison staff in attendance."

This report also provided an opportunity to underscore that respect for medical confidentiality, the patient's right, is an absolute duty for the physician who must abide by it. Where attendance of prison staff may, under exceptional circumstances, prove necessary during an appointment, means must be taken to ensure that the patient's privacy is respected (by communicating in writing or using curtains or screens, etc.). An express reminder of the principle of respect for medical confidentiality must be given to medical and prison staff alike.

In 2017, similar recommendations were issued to several heads of institutions concerning cases which had been referred to the CGLPL by post.

One referral received in 2017 is particularly edifying in this regard:

> "Dear Madam,
>
> In October 2015 I had written to you about a problem I encountered during a transfer to the hospital for medical reasons. The otolaryngologist had refused to allow my handcuffs to be taken off during the examination. You took action and nothing of this sort happened again.
>
> I have just experienced the problem again yesterday, but in a more violent way (…).
>
> This time it was the warders in charge of the transfer who refused to take my handcuffs off in the presence of the stunned practitioner, even though I had asked them to do so. Two of them remained in the room throughout the appointment, and medical confidentiality was not respected as a result. I told them that I was going to contact my lawyer, but this had no effect on their attitude (…).
>
> I am 66 years old and I have never had an incident report drawn up against me during more than seven years in prison. These humiliating attitudes are becoming ever more common [in the institution], I have already written to you about this in my previous letters (…). I'll admit that I fear reprisals as writing to you is seen in a very bad light".

Talks were held with the heads of institutions following inspections. Accordingly, in one long-stay prison, it had been found during an inspection in 2016 that a memo required a warder to be present during medical treatment. A recommendation had been issued for the purposes of repealing it. The management of the relevant hospital had proposed organising discussions on this subject with the nursing staff.

During talks with the management of this institution in 2017, it was found that the memo in question had been repealed. The job description for the warder assigned to the health block now provides that the employee only attend the appointment where requested by the practitioners or advised by the institution's management. In this context, a reminder is given of the importance of honouring the principle of discretion set out particularly in the professional practices guide on health block surveillance.

Similar to the on-site verification conducted at the Fleury-Mérogis remand prison in 2016, these examples are characteristic of the difficulties encountered in applying the principles enshrined in law, which the CGLPL has nevertheless reiterated countless times, in practice. The Chief Inspector will continue to pay close attention to these questions, which are fundamental for ensuring that the dignity of detainees during external movements for medical reasons and medical confidentiality are respected under all circumstances.

The CGLPL recommends that a joint Ministry of Justice-Ministry of Health circular bear on measures conducive to ensuring respect for detainees' dignity during external movements for medical reasons and respect for medical confidentiality during medical consultations.

3.3 Management of prisoners that the prison authorities have identified as being radicalised

After studying the phenomenon of Islamist radicalisation in prisons in an opinion and report published on 30 June 2015 and analysing the pilot schemes being trialled across certain penal institutions, the CGLPL gave its opinion in 2016 on the system for grouping together within dedicated wings as part of the "Report on managing Islamist radicalisation in prisons: dedicated units opened in 2016". An inspection of the dedicated units in the Osny and Fleury-Mérogis remand prisons was carried out in 2016.

The Chief Inspector was informed that the dedicated unit pilot scheme had been discontinued in favour of setting up radicalisation assessment wings (QER) and wings for violent prisoners (QDV). The CGLPL's attention was also drawn by a number of referrals on the procedure for managing prisoners within this new system, not least the restrictions to their fundamental rights within the Osny and Fleury-Mérogis remand prisons.

3.3.1 The procedure for managing prisoners in the radicalisation assessment wings at Osny remand prison

The Chief Inspector received several referrals in 2017 about the conditions in which prisoners in this wing are managed. These referrals described heightened security measures: belongings reduced to the strict minimum and difficulties for handing over items (books and shoes in particular) via visiting rooms, weekly cell changes, systematic frisking for each movement of prisoners, conducting of several cell searches and full-body searches each week, compulsory positioning of prisoners at the back of their cell each time a member of staff opens the door, etc. Moreover, according to information brought to the CGLPL's attention, prisoners did not have any access to sociocultural activities or education and found it difficult to access the sports room. In breach of medical confidentiality, warders attended the medical checkup for new prisoners. Finally, prisoners were no longer allowed to attend collective religious practices, only individual meetings with the chaplain were henceforth authorised. The Chief Inspector contacted the director of Osny remand prison about these myriad restrictions to prisoners' rights.

In response, the prison administration director maintained that the doctrine of use in radicalisation assessment wings was defined in a memo dated 23 February 2017 and that the detention regime of the prisoners assigned to these wings remains an ordinary regime. That said, he clarified that the dangerousness of the prisoners assigned to such wings justifies the appropriate supervisory measures: cell searches, limitation of belongings in cells, frisking and full-body searches conducted pursuant to the texts, etc. The CGLPL shall continue to watch that a balance between security and respect for people's rights is struck within these detention wings.

Regarding access to activities for prisoners assigned to radicalisation assessment wings, the director confirms that they are unable to access the activity provision available to the rest of the prison population. Instead, collective activities (participant numbers for which are limited to six) are provided. He adds that prisoners can, upon making a written request, be permitted to go to the library to take books out and that a chess game has been provided. Prisoners also have access to the radicalisation assessment wing sports room, owing to a weekly individual session, on request and according to the timetable. On a final note, the director points out that prisoners can benefit from academic follow-up, at their request or following a report from a unit official.

Regarding the exercise of religious practices, the director reports that the organisation of collective religious practices previously performed in radicalisation prevention units (UPR) has been changed to individual practices within the radicalisation assessment wing, not least owing to pressure and proselytism by certain prisoners over others.

The director also informs the CGLPL that when a prisoner arrives in the radicalisation assessment wing, the obligatory new arrival plan is set in motion, which includes attending a medical examination. However, unlike the conventional new arrivals' plan, this medical examination is held in a room in the radicalisation assessment wing. The director confirms that, with the healthcare professionals' agreement, a warder attends this medical checkup on the grounds that no precise assessment of the danger posed by the prisoner to the prison and people has yet been conducted and that "even though this procedure is not exactly compliant with the provisions of Article 45 of the Prison Act, it is justified by the serious risk for the safety, and particularly physical integrity, of the nursing staff". In the context of medical surveillance, the prisoner is transferred to the health block sector escorted by an official, who in principle remains outside the appointment room "unless the prisoner presents a hetero-aggressive risk". The CGLPL condemns this manifest breach of the medical confidentiality of the new arrival in the radicalisation assessment wing and recommends that measures be taken to guarantee confidential communication between the prisoner and physician.

3.3.2 The ban on prisoners serving sentences for terrorist offences at Fleury-Mérogis remand prison working or doing vocational training

The CGLPL's attention has also been drawn to the general instructions issued by the management of Fleury-Mérogis remand prison according to which prisoners serving sentences for terrorist offences may not work or do vocational training for reasons associated with the security of the institution and staff.

The individual cases brought to the CGLPL's attention reveal the difficulties that the prisoners to whom this out-right ban applies encounter on a daily basis. As such, one prisoner, recognised as being indigent and receiving no visits from his family who lived abroad, had spent several months asking to be selected for a job, in vain, even though he had received permission to work from the judge examining his file. Another prisoner was selected on the main labour list only to be demoted from his job on account of charges being presented against him for a terrorism-related offence.

The general instructions issued by the management of the remand prison prevent a whole category of prisoners from being able to work or do vocational training, with no individual consideration or assessment of their family situation and, what is more, at stark odds with the reintegration purpose served by professional activity in detention.

Given that they amount, for all of these prisoners, to a violation of their right to access a professional activity, on 12 December 2017 the CGLPL contacted the prison administration director for his comments on this situation in breach of the fundamental rights of the prisoners concerned.

4. On-site verifications

Pursuant to the second paragraph of Article 6-1 of the amended Act dated 30 October 2007 establishing the Contrôleur général des lieux de privation de liberté (Chief Inspector of places of deprivation of liberty), "Where the facts or the situation brought to his attention fall within his jurisdiction, the Chief Inspector of places of deprivation of liberty may carry out inspections, where necessary, on-site". The on-site verifications are conducted by the inspectors in charge of the referred cases. Inspectors in charge of missions sometimes also take part in on-site verifications, in particular when specific needs are involved (e.g.: verifications requiring the presence of a physician).

As part of on-site verifications, inspectors visit any location required by the investigation to meet with any person and to receive any document under the sole reservations mentioned in Articles 8 and 8-1 of the Act of 30 October 2007 amended. The verifications can be carried out unannounced or at short notice, particularly in order to allow the management to compile the documents requested. The person who referred the case to the CGLPL may also, where applicable, be apprised of this verification and, to the extent possible, interviewed on-site by the inspectors. The latter also take any steps which seem likely to increase their understanding of the case they have been referred, in order to gain as complete a picture of the situation as possible.

All on-site verifications lead to a written report setting out the inspectors' findings and recommendations. The report is sent to the authorities concerned, who feed back their observations.

At the end of this adversarial procedure, the reports of the on-site verifications and observations are published, unless special circumstances dictate otherwise, on the CGLPL's website. Any information by which the person(s) concerned may be identified is removed beforehand, to respect professional confidentiality and the confidentiality of the talks with the people who referred the case to the CGLPL.

4.1 On-site verifications conducted in 2017

Some on-site verifications concern individual situations, while others are conducted as part of thematic thought processes, which can take place prior to an opinion. Accordingly, one of the on-site verifications conducted in 2017 was to do with work on access to medical care in detention centres for illegal immigrants - following on from the aforementioned referral concerning the Ministers of Health and the Interior.

Some on-site verifications, bearing on individual circumstances, can also take place as part of general work. In this way, one on-site verification concerning a hospitalised child was carried out as part of the drafting of the thematic report on the fundamental rights on children in mental health institutions.

In all cases, on-site verifications – even when they concern an individual situation – are always an opportunity for the CGLPL to issue general recommendations with a view to preventing fundamental right violations.

> From January to December 2017, the CGLPL performed seven on-site verifications - three of which were carried out unannounced. Other on-site verifications were announced two to three days prior to the inspectors' arrival.
>
> Some of them required observations to be made swiftly on-site with no prior adversarial talks with the responsible authority. In other situations, the information gathered from an adversarial procedure conducted beforehand by post did not enable the CGLPL to gain an objective picture of the situation.

Two on-site verifications were carried out at detention centres for illegal immigrants, two in penal institutions and one in a hospital. Two other on-site verifications required travel to more than one institution: for one, a penal institution and a hospital, and for the other, a detention centre for illegal immigrants and the affiliated hospital.

4.1.1 Protection of vulnerable prisoners at the Béziers prison complex

For the first time, an on-site verification was conducted jointly with officials delegated by the Defender of Rights. The Chief Inspector had received several referrals in 2016 bearing on the detention conditions at the Béziers prison complex, not least in the solitary confinement wing and punishment wing, as well as reports of violence perpetrated between prisoners and involving warders.

The Defender of Rights had also been contacted about the situation of several prisoners in this prison complex, who complained both of individual violations of ethical security practices on the part of prison warders and of difficulties relating to the general detention conditions. Regarding the respective missions of the Chief Inspector and Defender of Rights, a joint inspection was organised from Tuesday 7 to Thursday 9 March 2017. The Chief Inspector thus delegated five inspectors to observe the protection arrangements for prisoners, prevention of violence and management of vulnerable prisoners in the prison, as well as the operation of the vulnerable wing opened in the detention centre wing in February 2016. The Defender of Rights' three officials interviewed one prisoner who had reached out to them about acts of violence committed by warders.

In addition to the referrals, these on-site verifications were based upon findings brought to light during the CGLPL's previous inspection of the institution in 2015. Indeed, the CGLPL had found there to be a strong feeling of insecurity reigning over the prison. To escape the climate of violence prevailing at the prison, some 150 prisoners, so a fifth of the prison's population, had chosen to be set apart in order to safeguard their safety. All of the detention wings were used as ways out from ordinary detention so as to meet the request for protection made by prisoners: the solitary confinement wing, open wing (QSL), new arrivals wing, punishment wing and wing where, in the remand prison, sex offenders were assigned who never left their cell.

In 2017 the CGLPL found that the situation observed back in 2015 had persisted, despite the introduction of a protected wing within the detention centre wing. As such, several detention wings are still being used as ways out from ordinary detention so as to meet the request for protection made by prisoners. The new arrivals and detention wings are thus being used for purposes for which they were not originally intended. The assignment of prisoners who are vulnerable or fear for their safety to these wings violates their fundamental rights, as it keeps them in poor detention conditions which prevent many of them from being able to access the exercise yard, go to the visiting room or do paid work.

> Following these on-site verifications, the CGLPL particularly recommended that this situation come to an end and that preventive measures be developed, particularly based on discussions on the causes of these separations, on the rationales and approaches within the prison and on their impact on the day-to-day lives of the prisoners.
>
> Recommendations were also issued on the operation of the protected wing in the detention centre wing, created in February 2016. For it was found that although this wing fulfilled its purpose in that the prisoners assigned there could live under improved safety conditions, a shift towards a more flexible detention regime would be advisable. Improvements could also be made to the assessment and monitoring of the system.

The comments that the institution's director made in response to the on-site verification report particularly indicate a change in the detention system within the vulnerable wing, planned for the end of 2017. These comments are published along with the on-site verification report on the CGLPL's website.

4.1.2 Provision for women imprisoned with their child in an institution where there is no nursery wing

In its 2016 annual report, the CGLPL stressed the need to upgrade older institutions so as to be able provide quality care for mothers imprisoned with their child.

Referred the case of a mother and her child left with her in a mother-child cell in Dijon remand prison, the Chief Inspector delegated two inspectors to carry out on-site verifications so as to observe the provision for children left with their mother imprisoned in this institution, which has two

mother-child cells. This study also builds on the recommendations issued in the opinion dated 8 August 2013 on young children in prison and their detained mothers, as well as in the opinion dated 25 January 2016 on women deprived of their liberty.

In Dijon remand prison, which does not have a nursery wing, the CGLPL found the physical provision for children to be unsuitable, primarily because of the layout of the premises. The layout of the mother-child cells, with two adjoining cells, enables a separation of the mother's space from the child's, thereby guaranteeing the mother's privacy. But the windows of the mother-child cells look directly out on the exercise yard of the women's wing and the windows of the ordinary detention cells, which means there is a lot of noise. The CGLPL also finds that the conditions in which children are received in the isolated cells located along a detention corridor are not conducive to the child's development. Finally, no games or activities room has been provided for children.

The inspectors did, however, note the professionalism and dedication of the female warders assigned to the women's wing in managing mothers and their children.

Regarding exercise of the right to maintain family ties, the CGLPL has found that women go with their child to the visiting area, in an identical cabin to those used by all of the women at the remand prison. Although the CGLPL is pleased to note that a high number of extended visiting sessions are granted to mothers with their child, it recommends a specific fitting-out of the visiting cabins so that children have enough room to move around and be able to play. Regarding telephone access, the CGLPL recommends, on the one hand, longer calling time slots and, on the other, the installation of another telephone point in the detention corridors to enable easier access to the telephone for women imprisoned with their child.

There is no specific canteen for the nursery; mothers must buy suitable products for infants *via* the external canteens. Moreover, the normal canteens, most of which are unsuitable for infants, provide little in the way of fresh fruit and vegetables. The CGLPL recommends that the list of products accessible via normal canteens contain certain specific products for children (baby jars, yoghurts and other products of a variety of brands) as well as fresh ingredients for making up balanced meals that are suitable for the children's ages.

On the day of the on-site verifications, the exercise yard in the women's wing was reserved for women with their children every day from 3.45pm to 5pm. The CGLPL notes that the exercise yard is neither laid out nor equipped for children in terms of its accessibility and the absence of specific equipment (outdoor play area, etc.).

Medical surveillance of children is ensured by the mother and child protection (PMI) paediatrician (PMI), at regular intervals, equivalent to the provision on the outside (every month up to six months of age, then more spaced out appointments). In an emergency, even though ordinary law doctors working within the nursery do enable genuine health provision for children and education of their mother about her responsibilities, the CGLPL nevertheless thinks it preferable that children be tended to by paediatricians. Furthermore, an agreement between the remand prison and PMI services should be drawn up at the earliest possible opportunity.

For the purposes of preparing for the child's release, two places are reserved in the municipal day nursery for accommodating two children placed alongside their imprisoned mothers. The PMI health visitor is in charge of taking the child to the nursery throughout the settling-in period. She then ensures the link between the imprisoned mother and the day nursery. Once the settling-in period has been completed, the child's reception is scheduled over three to five days, depending on his or her age.

The CGLPL considers that a meeting, held at least annually, should be organised between all the stakeholders working with children left with their imprisoned mother (mothers and children, PMI, Prison rehabilitation and probation service, child-parent assistants, supervisors and warders, etc.) with a view to discussing how the children are provided for and any difficulties encountered.

To conclude, the current provision for children left with their imprisoned mothers at Dijon remand prison do not enable the children to thrive, particularly because there is no nursery wing. Furthermore, the circular dated 16 August 1999 is not being applied as effectively as it could. The mobilisation and dedication of the various stakeholders – institutional, voluntary and prison, etc. – would, however, help to offset some of the structural shortcomings and to more appropriately accommodate children left with their imprisoned mothers.

The report drawn up following these on-site verifications has been forwarded to the remand prison's management, which has not made any comments in return.

4.1.3 Two unannounced on-site verifications at a detention centre for illegal immigrants

Two on-site verifications were conducted without prior notice following reports in detention centres for illegal immigrants.

One concerned the situation of a family, following on from the on-site verifications that had already been carried out on the question of provision for families in detention centres for illegal immigrants.

The other concerned the situation of a migrant placed in Le Mesnil-Amelot detention centre 2 (CRA2) following a refusal to board a plane as part of a removal measure to Cameroon. On their arrival at the detention centre, the inspectors found that the migrant being detained was in a seclusion room, lying down on his back next to a mattress, with his hands clasped together on his stomach by a personal protective device, his ankles bound with self-adhesive tape (it has been placed around his knees but had slipped to his ankles), a headguard and his clothes stained with excrement; the floor of the room bore traces of urine. The toilet pan had come loose and was damaged, and the frame of the door to the seclusion room had shunted a millimetre towards the outside. A dozen police officers were stationed in front of the seclusion room door.

The inspectors found the detention conditions of this migrant to be inhuman and degrading. In light of the findings gathered both from the border police and the migrant detained, they concluded that even though the latter was partly to blame for the inhuman and degrading situation in which he found himself, it was no less true that the context and absence of measures other than security measures taken to try and improve the situation were likely to lead to a recurrence of such a situation. Discussions and new procedures are required to avoid a repeat of this situation.

4.1.4 Hospitalisation conditions of a fourteen-year-old child

Following a report, the Chief Inspector delegated two inspectors to check the conditions in which a fourteen-year-old child had been hospitalised for nearly eight months. These on-site verifications were conducted as part of the drafting of the thematic report on the fundamental rights of children in mental health institutions. They are elaborated upon in this thematic report, and have also been addressed by a specific, more detailed report.

In this report, the inspectors analysed the circumstances of this child, accommodated in a unit for adults, where he remained for almost eight months in a locked room, initially for almost three months in the seclusion room of an intensive care unit, and then nearly five months in a specially-equipped room of the locked unit. Although the nursing staff did their best to brighten up his stay, he only received visits from his family assistant two to three times a week and child welfare social workers every ten days or so. A few rare outings were organised, always in the company of two adults and subject to the Prefect having been informed 48 hours in advance.

The inspectors found that this situation not only illustrated but also summed up a number of the problems often observed. A deprived sector, with no child psychiatry bed in full-time hospitalisation and unable to provide this child with mental health monitoring right when he needed

it, has been compounded by a lack of communication and concerted efforts on the part of the various medical stakeholders in the host hospital, child welfare social workers and judges. The dysfunctional communication between the different institutions led to a hospitalisation in a legal framework which significantly complicated the child's care, and lost sight of its protection and healthcare objective because of a primarily security purpose - the end result being the child was deprived, for nearly eight months, of direct access to fresh air, contact with other children of his age and schooling.

> Accordingly, there have been unjustified and disproportionate violations of the child's fundamental rights throughout the process: violation of the right to an education, by a lack of schooling; violation of the right to education, by an educational provision that is not comprehensive enough given the problems and situation of isolation and idleness experienced by the child; violation of the right to a social life and learning about living in society, by reduced contact with people from outside the hospital and with child welfare services and by a total lack of contact with children of the same age; violation of the right to leisure and recreational activities specific to his age; violation of the right to have a legal guardian capable of exercising the child's rights during administrative and legal procedures; violation of the right to access medical treatment, by a delay in the provision of psychiatric care when the first requests for treatment were made, by the refusal of the child psychiatry structures called on to receive the child and, finally, by the harm that keeping him at the hospital ended up having on his state of health, despite the consideration of the nursing staff; unequal treatment, insofar as children in a similar situation, but living in a health territory that has a better provision of child psychiatry structures, can have access to more suitable care in light of their needs and their state of health, which amounts to lost opportunities for the child; violation of the freedom to come and go, by long-term seclusion in a room, unjustified by the child's condition but on the grounds of his hospitalisation in an ill-suited structure; unjustified deprivation of liberty, since his sectioning was no longer justified by strictly medical reasons but was primarily due to the various institutional and structural difficulties mentioned in the on-site verification report.

4.1.5 The provision conditions for a prisoner on a hunger strike

Two inspectors including one medical inspector travelled to the national public health institution at the remand prison of Fresnes (ESPNF), and then to a hospital following a referral on the provision conditions for a prisoner on a hunger strike for 69 days.

The investigation particularly examined organisational and medical provision at ESPNF. The inspectors also observed difficulties in the organisation and delivery of the system whereby guards remain in place to keep watch at the hospital, which have endangered the prisoner's health. Lastly, the investigation bore on the conditions in which a doctor may or may not resort to force-feeding a prisoner where his condition is becoming life-threatening over the short-term, in relation to respect for fundamental rights. A study of the international and regional texts as well as national legislation and regulations – spread across the Public Health, Civil, Criminal and Criminal Procedure Codes –, of case law - not least that of the European Court of Human Rights - and the standpoints of such bodies as the National Order of Doctors (CNOM), National Ethics Advisory Council (CCNE), World Medical Association (WMA) and International Committee of the Red Cross (ICRC) reveals a diversity of significantly different approaches.

Following the investigation, the Chief Inspector contacted the CNOM, the Interregional Directorate for Prison Services (DISP) and the prefectures concerned for their comments on the difficulties observed.

4.1.6 Access to medical care for migrants placed in detention centres for illegal immigrants

As part of the discussions initiated by the Chief Inspector on access to medical care for detained migrants, an on-site verification was carried out at Bordeaux detention centre for illegal immigrants from 28 November to 1 December. The investigation probed all of the questions associated with the detained migrants' access to medical care (healthcare system, mission of the detention centre's medical unit, medical appointment procedure, procedures in the event of incompatibility with staying in the detention centre or a removal, continuity of care, etc.). The investigation also examined access to psychiatric treatment and the hospitalisation procedure for the migrants, which mostly entailed voluntary committal to a closed unit. In this context, the question of hospitalised detainees' access to rights was given particular consideration.

4.2 Action taken following the on-site verifications concerning the physical conditions of the "women's" disciplinary wing in Metz prison complex

The 2016 annual report referred to monitoring of the on-site verifications carried out in 2015 on the provision for a female detainee in the disciplinary wing of Metz prison complex. Following these on-site verifications, the Chief Inspector had sent recommendations to the institution's management and the Minister of Justice. These recommendations bore particularly on building work to be carried out in the room which was used as an exercise yard.

> The area dedicated to exercise adjoined the disciplinary cell. In reality this was just a room rather than a yard, with a concrete roof and enclosed by walls, posts and Plexiglas acrylic panels. This area provided no outdoor access. The CGLPL had issued recommendations in favour of undertaking building work to ensure that women placed in the disciplinary wing could go for walks in an actual yard.

In keeping with its desire to be kept apprised of the action taken following its recommendations in this context, the Chief Inspector continued to liaise with the Metz prison management so as to obtain details about the works carried out in the disciplinary wing and the studies undertaken with a view to improving the exercise yard.

In 2016, the prison management confirmed that all of the minor works recommended had been carried out. It also indicated, with regard to the exercise yard, that the Interregional Directorate for Prison Services had tasked an engineering firm with assessing the feasibility of work so that this can get under way for the end of 2016 or beginning of 2017.

At the end of 2017, the prison management confirmed to the Chief Inspector that this work had been completed. The accomplishment of this work is to be commended, while reminding that, far from serving a purely comfort purpose, it ensures at the very least compliance with the statutory provisions according to which all prisoners shall have at least one hour of suitable exercise in the open air daily[42].

[42] *Article 12 of the Annex to Article R.57-6-18 of the Code of criminal procedure on the standard Rules of Procedure of penal institutions.*

4.3 Action taken following the on-site verifications concerning the trial to set up a medical-social facility aimed at helping disabled adults to better integrate socially through work (ESAT) at the Val-de-Reuil long-term detention centre

These on-site verifications had been organised as part of preparations for the opinion of 9 February 2017 on work and vocational training in detention. The report written following these verifications had been sent to the institution's director and the association in charge of the ESAT. The latter sent a response to the Chief Inspector setting out the action that had been taken concerning her recommendations.

The association particularly indicated that the ESAT admission and selection process had been amended: requests are now sent to the *Département*-level centre for disabled people (MDPH), whether the single multidisciplinary committee (CPU) has issued an opinion in favour or against. Moreover, a reception procedure at the ESAT has been developed by the association and forwarded to the CPU for approval.

The CGLPL had considered that monitoring of users did not, on the day the on-site verifications took place, allow for an individual assessment of each detainee admitted to the ESAT during the CPU meetings. The association replied that information is now sent to each CPU member a week prior to the meeting and a personalised plan is implemented for each detainee admitted to the ESAT.

The fact that incidents, absences and departures from the ESAT are not formally recorded had been raised. The CGLPL is interested to note the introduction, on the one hand, of an internal procedure for reporting adverse events as well as a procedure for managing incidents and punishments in conjunction with the management of the long-term detention centre and, on the other, of a departure procedure for systematically informing and consulting with the Committee for the Rights and Autonomy of Disabled People (CDAPH).

Regarding the working conditions of prisoners, the CGLPL found it regrettable that the ESAT only provided a majority of solely occupational tasks, with not enough regular, stimulating professional activity. The association replied that developing commercial activity has been a priority for the ESAT since its creation. It added that it had secured a three-monthly mailing and magazine packing contract, a health kit packing contract and a reprographics contract. The CGLPL is pleased to note that prospecting efforts have been carried out.

On the subject of users' rights, the CGLPL was surprised that there was no payment of remuneration or daily allowances during sick leave, and neither was any paid leave granted, unlike the provision in ESAT medical-social facilities in non-detention environments. The association replied that justified absence on medical grounds should effectively be paid, and that talks with the management of the long-term detention centre were planned to ensure this legal provision is applied. In terms of paid leave, the applicable system within the other concessions and workshops of the long-term detention centre has been adopted for the ESAT, even if the ESAT closes for certain periods every year.

On a final note, the CGLPL found it regrettable that, without any sustained professional activity, the ESAT was unable to properly prepare its users for their release from detention. It recommended the setup of "justice places" within the neighbouring ESATs for released detainees who had held a position within the ESAT at Val-de-Reuil long-term detention centre. The association replied that this prospect would be included in the trial's assessment report and suggested to the Regional Health Agency (ARS). It added that since released detainees did not all live within the *département*, the roll-out of "justice places" should be extended to all ESATs nationwide. It maintained that the ESAT enables this vulnerable group, recognised as suffering from mental disabilities, to carry out an occupation in the twofold aim of socialisation and integration. Thus the benefit of the ESAT

in sentence enforcement pathways is highlighted, in the consideration of vulnerability and the exercise of the rights of vulnerable people to access a professional activity.

Chapter 5

Assessment of the work of the Chief Inspector of places of deprivation of liberty in 2017

1. Relations with public authorities and other legal entities

1.1 Relations with public authorities

1.1.1 The President of the Republic

As is the case every year, the Chief Inspector submitted the annual report for the previous year to the President of the Republic in March 2017. On 16 October, she was received by the President of the Republic elected in May 2017.

On this occasion, she drew his attention to the need to establish a policy for easing prison overcrowding, without which the prison authorities will be unable to perform their reintegration role over the long-term. To that end, she recommended to the President of the Republic that a prison regulation procedure be set up for locally managing imprisonment and release measures in a concerted manner between all of the stakeholders in the criminal justice chain, and with account taken of the prison authorities' reception capacities. She also encouraged him to initiate a discussion on the purpose of short sentences and that of sentences enforced a very long time after the offences were committed. Furthermore, she asked him to develop alternatives to imprisonment as well as means for providing care for prisoners with mental problems or suffering from chronic disorders.

In the psychiatry sphere, she shared with the President of the Republic her concerns about the diversity of provision methods and ensuing violations of rights.

Finally, she voiced her concerns over the toughening of the administrative detention policy for irregular migrants. She particularly drew attention to the regressive and unnecessary nature of the doubling of the maximum detention time-limit, which is due to be increased from 45 to 90 days, and the shocking nature of the surge in the number of children currently being placed in detention with their families.

1.1.2 The Government

Pursuant to the new provisions of the 20 January 2017 Act on the general status of independent government agencies and independent public authorities, the Chief Inspector has, for the first time, submitted the CGLPL's annual report to the Prime Minister, on 28 March 2017. She also submitted it, as usual, to the Minister of Social Affairs and Health and the Minister of Justice, prior to the presidential elections.

She then met with the members of the appointed Government in June 2017.

The Minister for Solidarity and Health (28 August).

On the subject of psychiatry, the Chief Inspector referred to the negative repercussions of the diversity of provision methods on respect for patients' rights, the still inadequate control of use of

solitary confinement and restraints and the need to organise specific training for staff in mental health institutions on the rights of sectioned patients. She also urged the Minister to address, together with the Minister of Justice, the remaining difficulties that the CGLPL observes in the running of hearings with the liberty and custody judge: the holding, in some institutions, of hearings organised at the court and the difficulty mobilising lawyers, not least in mental health institutions that are a long way from courts' headquarters. Lastly, she strongly criticised the excessive priority being given to security measures which is particularly leading to permissions for short-term leave being restricted, even though this is necessary for gradually preparing patients for normal life, or to the systematic placement of involuntary patients in seclusion rooms or restraints, even when their clinical condition does not justify such a move.

Regarding health provision for prisoners, the Chief Inspector asked the Minister to take all steps to ensure that health blocks in prisons are managed on all accounts in the same way as hospital services located in hospitals. She underlined the many breaches of medical confidentiality that the CGLPL observes during its inspections and the need to develop telemedicine. She finally drew the Minister's attention to the situation of Château-Thierry prison complex, regarding which the previous Government had committed to rolling out an action plan, and the implementation of which will be watched closely by the CGLPL.

On a final note, she reminded the Minister of the need for an overall programme on the health provision of migrants detained in detention centres for illegal immigrants.

The Minister of Justice (30 August)

The Chief Inspector drew the Minister's attention to the alarming situation of prisons, which are grappling with both prison overcrowding and a shortage of warders. She also shared her concerns over an excessive application of security measures, especially during searches when prisoners are being transferred for medical reasons. She strongly criticised the difficulties accessing prison work and reiterated her recommendation on developing fully-fledged social rights for prisons. She voiced her concerns over the observed overcrowding of wings and institutions for juveniles, which is seriously undermining their ability to honour the requirement for personalised provision, personalised educational efforts and a strict separation between children and adults.

On the subject of juvenile detention centres, the Chief Inspector gave a reminder of the consensus on the situation in such institutions and the measures to be taken to guarantee their proper operation. Despite this consensus, she bemoaned the fact that the situation in these centres is not improving, and recommended that precedence be given to ensuring staff stability, training, supervision and oversight.

She shared her misgivings about the installation of an outbuilding of the Bobigny Court of first instance in civil and criminal matters (TGI) in premises adjacent to those of the Roissy waiting area, and about the resulting risks of undermining the image of an independent justice system.

Finally, in terms of psychiatry, she told the Minister of Justice about her concerns over the hearing of the liberty and custody judge and the mobilisation of lawyers, which she also shared with the Minister for Solidarity and Health.

The Minister of the Interior

Despite several requests, the Chief Inspector was unable to meet with the Minister of the Interior.

Such a meeting would have enabled the subject of the toughening of immigration detention policies, the recurring nature of the difficulties detected during inspections of policy custody facilities and the local policies, which are sometimes excessively restrictive, that prefectures implement to manage short-term releases in psychiatry, to be raised.

It is a great shame that this could not take place.

Governmental departments

The CGLPL took part in work conducted by committees or working groups coming under the Government. In this respect, it made particular contributions before the committee tasked with drafting a *White Paper on the Prison Estate,* and, in October, before the French High Council for Public Health, as part of its work on the evaluability of the national strategy for offenders.

1.1.3 Parliament

The Chief Inspector of places of deprivation of liberty submitted the annual report for the previous year to the President of the National Assembly and President of the Senate on 14 and 16 March 2017.

She was heard, in person or through one of her representatives, on a number of occasions:

- on 1 February, by the evaluation mission of the Social Affairs Committee of the National Assembly on the rights and protection of psychiatric care patients and the provision methods;
- on 2 March, by the information mission of the Laws Committee of the Senate on the reorganisation of the justice system;
- on 28 September, by the rapporteurs of the Finance Committee of the National Assembly, on the immigration, asylum and integration mission for the 2018 finance bill;
- on 4 October, by the rapporteur for opinion of the Committee of Laws of the National Assembly on the draft prison administration budget for 2018;
- on 20 October, by the rapporteur for opinion of the Laws Committee of the Senate on the draft budget of the "direction of governmental action" mission for 2018;
- on 26 October, by the rapporteur for opinion of the Laws Committee of the Senate on the draft prison administration budget for 2018;
- on 9 November, by the information mission of the Committee of Laws of the National Assembly, on the application of the 7 March 2016 Law on foreigners' rights in France;
- on 14 November, by the Committee of Laws of the National Assembly on the CGLPL's findings and recommendations concerning penal institutions.

Among these hearings, the last one is particularly worth highlighting because of its originality. Indeed, this one followed a series of penal institution inspections organised simultaneously by members of the Committee of Laws of the National Assembly. This hearing, which lasted an unusually long time, enabled the MPs to carry out a sweeping overview, with the Chief Inspector, of the conclusions they had drawn from their inspections and to compare them with the CGLPL's own observations - which often concurred.

1.2 Relations with non-public legal entities

As in previous years, the Chief Inspector presented her annual report to the professional organisations representing staff employed in institutions under its oversight.

She also presented her annual report during a meeting to which the main associations concerned by places of deprivation had been invited.

She pressed on with the cycle of meetings initiated in 2016 on more specialised discussions depending on the type of place of deprivation of liberty. A meeting with the associations who work in

places of detention was held in January 2017. A meeting with the associations who work in detention centres for illegal immigrants was held in June.

The Chief Inspector also received the associations which called on her to hold discussions on more specific subjects. Regular communication also takes place with the latter through case referrals.

Finally, as every year, the Contrôleur général was asked to contribute to symposia, vocational training programmes, public meetings and conferences. Accordingly, the CGLPL made some fifty such contributions over the year, in France and abroad, within intergovernmental and non-governmental international bodies.

The Chief Inspector has provided insight at a wide array of events, including:

- a contribution at the seminar "On the boundaries of vulnerability" organised by the French National Association for the Assistance of Foreigners at Borders – Anafé;
- a contribution on prison overcrowding during the Annual General Meeting of the Federation of Associations Reflection-Action, Prison and Justice (FARAPEJ);
- a contribution at the 3rd international French-speaking conference Psychiatry and Violence (Lausanne, Switzerland);
- a contribution at the national congress of the French National Association of Prison Visitors – ANVP (Vichy);
- a contribution during a symposium on prisoners' rights, organised by Les Hauts-de-Seine Bar;
- a contribution at a conference on "Sexuality in women's prisons" organised by the Sciences Po PRESAGE programme (Research and Educational Program on Gender Studies);
- a contribution at the 23rd Autumn School of the French Human Rights League on the topic "Health in all its states: thinking and acting for rights";
- a contribution at the opening plenary session of the Génépi Prison-Justice Day.

1.3 Participation in training, education or research activities

The CGLPL was called on for initial training or continuing professional development activities by the French National School for the Judiciary (ENM), French National College of Policing (ENSP), School for National Gendarmerie Officers (EOGN) and French National School for Prison Administration (ENAP).

It participated in classes taught at the Paris Institute of Political Studies, the Universities of Paris 1, Grenoble-Alpes, Pau and Pays de l'Adour and Toulouse-Capitole, as well as the Toulouse Catholic Institute, where a class of law students was sponsored by the Chief Inspector of places of deprivation of liberty.

The Chief Inspector contributed to several symposia, not least on 24 March, on *"Prison overcrowding"* at the Institute of criminal sciences and criminology of the Faculty of Law and Politics at Aix-Marseille and on 12 September, on *"The hidden side of human rights in prison"* at the Sorbonne Philosophical and Legal Science Institute (University of Paris 1)

On a final note, one inspector took part in the summer school on the *Nelson Mandela Rules* organised by the Association for the Prevention of Torture (APT) and NGO Penal Reform International (PRI) at the University of Bristol (UK).

1.4 The work of the Contrôleur général's scientific committee

On 28 April 2017, the scientific committee of the Contrôleur général met at the CGLPL.

Two key themes were addressed: first the question of migrants, and then sexuality in psychiatric hospitals.

Ad hoc documentation had been distributed beforehand, to enable any inspectors wishing to do so to delve into the subjects in more detail. This documentation had also been forwarded to the members of the scientific committee, whose recent studies and publications were also communicated.

On the subject of migration, inspection reports (particularly bearing on the inspections in Calais), recommendations, opinions and excerpts from the 2016 annual report were shared. Michel Agier, an anthropologist, particularly talked about his experience in Calais and the work in which his students are involved. Benjamin Stora, a historian - who had submitted to the CGLPL his report for the Ministers of Culture and Research on the current situation of research in the humanities and social sciences on migration and refugees - spoke about the changing perceptions of the migratory phenomenon.

Regarding the issue of sexuality in psychiatric institutions, which is not systematically addressed in the reports drafted by the CGLPL, Dr Daniel Zagury, a psychiatrist, shared his experience as a hospital director.

Didier Fassin, a sociologist and Professor of Social Sciences at Princeton's Institute for Advanced Study and Course Director at the School of Advanced Studies in the Social Sciences (EHESS), whose book "Punir, une passion contemporaine" has just been published by Éditions du Seuil, presented the findings of his research on rationales that are contributing to a toughening of sentences today, by placing his thoughts within a historical context.

The members of the scientific committee were invited to take part in the CGLPL's anniversary symposium which took place a few months later.

2. A symposium to mark the tenth anniversary of the Act of 30 October 2007 establishing a Contrôleur général des lieux de privation de liberté

On the occasion of the tenth anniversary of the Act of 30 October 2007 establishing a Contrôleur général des lieux de privation de liberté, a symposium was organised on 17 and 18 November 2017 at the Palais du Luxembourg and Maison du Barreau in Paris.

This event provided an opportunity to go back over the conditions regarding the CGLPL's founding and running, and to observe the place it has acquired as an authority for external oversight of places of deprivation of liberty. Through comparative accounts given by the CGLPL's observers, the other bodies it works with and its former members, it also enabled an assessment to be made of its action and the work that remains to be outlined in terms of protecting fundamental rights.

During her opening address, the Chief Inspector went back over the long history during which, Victor Hugo to Michel Foucault, civil society has changed its perspective of prisons. She highlighted that, today, inspections bearing on the deprivation of liberty cannot be confined to penal institutions: these also encompass psychiatric hospitals and, more recently, a wide range of places, which may be informal, in which foreigners are deprived of liberty in conditions which are sometimes dictated more by urgency than by law. She also emphasised the unique role that CGLPL plays in attesting to the daily reality experienced by people deprived of their liberty, condemning what is unacceptable in this context and raising the alarm over the excessive security measures or indifference.

Finally, after giving a recap of the CGLPL's past ten years, she urged the participants to take up new challenges posed by: the state of emergency, terrorism, migration and a world where those who defend the rights of detained people are finding it increasingly difficult to make themselves heard.

An initial panel discussion laid bare the urgent need for an external perspective on detention that was sensed at the end of the 20th century owing to a growing awareness of the state of prisons - dubbed the "shame of the Republic". The need to establish an independent, external oversight of prison conditions was thus confirmed. At the same time, the international community was developing its tools for combating inhuman and degrading treatment. Accordingly, the States Parties to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment committed to setting up a national preventive mechanism tasked with conducting inspections in "any place [...] where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence [...] with a view to strengthening, if necessary, the protection of these persons against torture and other cruel, inhuman or degrading treatment or punishment". This twofold momentum culminated in the passing of the Act of 30 October 2007.

This panel discussion was followed by a contribution from Jean-Marie Delarue, Honorary State Councillor, Chief Inspector of places of deprivation of liberty from 2008 to 2014, who went back over the choices made when the CGLPL was founded and gave a report of his six years in office.

The afternoon was opened by a contribution from Didier Fassin, Professor of Social Sciences at Princeton's Institute for Advanced Study, Course Director at the School of Advanced Studies in the Social Sciences (EHESS) who, describing the CGLPL's founding as a democratic requirement, placed this in the context of the "tension existing in contemporary societies, particularly French society, namely the simultaneous deployment, in recent times, of the Criminal State, which is taking an ever harsher and more inequitable line […], and the Liberal State, which is both more mindful of respecting rights within its institutions, at least from a formal point of view, and more concerned with individual accountability, to the detriment of a sociological approach to social worlds."

This was followed by a panel discussion on the shaping of the legitimacy of the institution which, created from scratch to assume a completely new role, had to make methodological, human and legal choices. Such legitimacy is grounded in long and numerous inspections and extensive exchanges of letters with people deprived of their liberty. These choices have shored up its independence and place as a national preventive mechanism. Since it was established, nearly 1,400 inspections of places of deprivation of liberty and the examination of more than 30,000 case referrals demonstrate the hard work and dedication of the CGLPL on a daily basis.

The day ended with a preview of the film *12 jours* (12 days) by Raymond Depardon. This sheds light on the views of patients sectioned in psychiatric hospitals expressed during hearings with the liberty and custody judge, which take place within twelve days of the placement measure being enacted. This showing was followed by a discussion with the director and his crew.

The next day, an initial panel discussion presented the CGLPL from the perspective of the other bodies it works with. Operating as it does within an already complex landscape, the CGLPL has had to organise its interaction with the existing bodies: the government, which has a duty to protect the rights of those it provides for, the courts and non-governmental organisations. Raised from the outset, the questions of ensuring complementarity between the CGLPL's work and the bodies it works with, the formal or informal organisation of intermediaries and even the risk of conflict assumed between the institutional stakeholders are still relevant today.

During a second panel discussion, an assessment was made of ten years of change in fundamental rights - between progress and impasse. The CGLPL's work has raised the profile of people deprived of their liberty, brought about changes in the law, enabled improvements in the day-

to-day lives of detained people and, in some cases, led to "serious violations of fundamental rights" being denounced. And yet too many recommendations - even when upheld time and again - are not acted upon.

The afternoon opened with a contribution from Mireille Delmas-Marty, Honorary Professor at Collège de France, member of the Academy of Moral and Political Sciences, President of the Pharos Observatory on the pluralism of cultures and religions and Chair of the CGLPL's scientific committee. In her analysis of the increasingly common application of state of emergency measures to the point of slipping into a "soft despotism", she showed that, over the course of a long development, "by making the lifting of the state of emergency dependent upon the transfer of its primary provisions into ordinary law, the law is weakening the Rule of Law - and French society is barely batting an eyelid." She ended by calling on CGLPL members to act "in some ways as guardians of the spirit of laws, keeping watch and refusing to be governed by fear."

A final panel discussion revealed a duty for vigilance, since new problems, civil society's expectations and international legal requirements all make prevention of violations of fundamental rights an enduring requirement.

Bruno Cotte, Honorary President of the Criminal Chamber of the Court of Cassation, former President of the Trial Judicial Division at the International Criminal Court, and Member of the Academy of Moral and Political Sciences, summed up these two study days.

On a final note, the Chief Inspector underscored the CGLPL's meaningful role: supervision of the effectiveness of rights, daily presence in places of deprivation of liberty, daily contact with detained people. She gave a reminder that the law and case law exist, but are called to evolve for they are sometimes insufficient with regard to guaranteeing the effectiveness of fundamental rights of people deprived of liberty. These people are sometimes kept locked up in silence. The CGLPL's role is to give them a voice so that their truth, brought to the public's attention, promotes their rights.

This symposium brought together 25 speakers and nearly 300 participants. Its proceedings will be published in Spring 2018.

3. International relations

In 2017 the CGLPL had the opportunity to invest in a wide variety of international projects.

Within the United Nations, 2017 was marked by preparations for the **Universal Periodic Review** (UPR), which was conducted in France's case in January 2018.

The CGLPL submitted an alternative contribution before being heard during the UPR Pre-Session, organised by UPR-Info, alongside the National Consultative Commission on Human Rights, French Human Rights League, Secours catholique and ATD quart monde. The previous UPR particularly contained recommendations on the following subjects: immigration detention of families, population overcrowding, detention conditions and investigations into poor treatment.

Since no recommendations bore on the question of respect for rights in mental health institutions during this previous review, the CGLPL decided to bring this issue to the fore, from two angles:

- by highlighting the increase in sectioning owing to a shortage of means post- and pre-the hospitalisation itself,
- by drawing attention to the widespread confinement of patients – even voluntary patients – with restrictions on their rights, sometimes lasting years, leading to institutionalisation in a number of their cases.

The CGLPL then flagged the most restrictive practices in terms of freedoms which include such restraint methods as placement in a seclusion room and use of mechanical restraint instruments, voicing particular concern over the situation of detainees in crisis, who are systematically subjected to restraint methods. The CGLPL put forward recommendations aimed at improving the extent to which the United Nations Convention on the Rights of Persons with Disabilities is taken on board in mental health institutions, and implementation of its approach centred on human rights.

The CGLPL also addressed afresh the issue of prison overcrowding, on which recommendations had been issued during the last UPR, focusing on alternative sentences and promoting reintegration. It reiterated that the issue could not be dealt with solely from the prison angle, and that simply building new prison places was not an effective solution. A fully-fledged public policy involving all of the stakeholders in the criminal justice chain needs to be rolled out, along with prison regulation mechanisms.

The Nelson Mandela Rules

After four years of consultation, the revision of all of the 1955 Standard Minimum Rules for the Treatment of Prisoners was adopted at the end of 2015 by the United Nations General Assembly, and renamed "the Nelson Mandela Rules". These now contain a more extensive section on the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. What is more, the importance and necessity of supervision of prisons is now recognised, along the lines of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT): the Rules recommend setting up a twofold system for regular inspections of prisons, entailing internal or administrative inspections, and external inspections conducted by a body independent of the prison, such as the NPM or international organisations.

In the context of promoting these Rules, the CGLPL first participated in a consultation of experts organised by the Justice Section of the United Nations Office on Drugs and Crime (UNODC), bringing together representatives of prison administrations of the OSCE's Atlantic pillar, as well as international associations and organisations. The CGLPL was the only NPM represented at this high-level meeting, which aimed at establishing a tool enabling States to assess the compliance of their national prison systems with the Nelson Mandela Rules, and thus facilitate their practical application at national level.

It then shared its expertise at a regional meeting organised by the OSCE Office for Democratic Institutions and Human Rights (ODIHR), *Penal Reform International* and the UNODC in Warsaw. The experts examined the content of a practical guide to the Nelson Mandela Rules for the attention of prison administrations and their staff.

Participation in these discussions informed efforts to take on board the revised standards at the CGLPL. In this context, thanks to the summer school organised by the Association for the Prevention of Torture and University of Bristol, the subject could be delved into in greater depth: its programme was drawn up in a bid to acquire technical knowledge on the main provisions of the Nelson Mandela Rules so as to inform supervisory missions, and issue sounder recommendations.

Codification of international standards governing immigration detention

The Council of Europe's European Committee on Legal Co-operation (CDCJ) has conducted a **codifying exercise on a detailed set of immigration detention rules**, based on international and regional standards. However, because immigration detention law is incomplete, the codifying exercise revealed a number of gaps: definition of places of detention, provision for vulnerable groups, disciplinary problems, etc. In order to overcome this difficulty, the writers have decided to transpose the European prison rules each time there is no corresponding standard. As such, the draft instrument involved applying to detained migrants the rules established for prisoners, thereby adopting a criminal justice approach to detention.

The CGLPL was consulted along with other NPMs, international organisations and associations for comments on the draft instrument. It adopted a standpoint shared with the other independent experts, advocating an approach that was more centred on human rights.

The initial draft codifying instrument fell short of the existing standards: the rules proposed concerning vulnerable people did not go far enough in terms of protection, with it being possible to admit children into detention, in the same way as provisions bearing on avenues of appeal, rights of communication and visits and the rules concerning disciplinary measures, use of force and admissible methods of restraint. Moreover, sources had not been used, including the OPCAT for example.

The objective of immigration detention had to be clarified, and in addition to reference to Article 5 of the ECHR and its principle of proportionality, details had to be added to exclude short detention periods that serve no purpose and misuse of procedures for example.

Beyond consultations in the company of other experts, the CGLPL also submitted a written contribution and was selected to be heard by the European Committee on Legal Co-operation. It was able to voice the same concerns before the CDCJ Chair, text writers and the Special Representative of the Secretary General for Migration and Refugees. The new version of the text has not yet been published.

On another note, the CGLPL also took part in an international conference on immigration detention of children, organised by the Council of Europe in Prague. Part of the Council of Europe's Action Plan on Protecting Refugee and Migrant Children, this conference was an opportunity to discuss the need for an alternative to detaining children.

Visit from the Special Rapporteur on the Rights of Persons with Disabilities

From 3 to 13 October 2017, France received the first visit from the United Nations Special Rapporteur on the Rights of Persons with Disabilities, Ms Catalina Devandas-Aguilar. She was appointed at the end of 2014, following the United Nations Human Rights Council's decision to appoint a Special Rapporteur on the Rights of Persons with Disabilities. She has been elected for a ten-year term.

She visited various facilities which accommodate people with disabilities, including two mental health institutions (one psychiatric hospital and one unit for difficult psychiatric patients).

During one meeting, the Chief Inspector presented to the Special Rapporteur the violations of fundamental rights observed during institutional inspections in the following areas: provision for mental disabilities in penal institutions, involuntary care in mental health institutions, and physical disability in penal institutions.

The Special Rapporteur's preliminary observations included remarks on the situation of disabled people in France. First and foremost she finds that the United Nations Convention on the Rights of Persons with Disabilities is not sufficiently taken on board as an institutional reference. What is more, she maintains that "current attempts to meet the needs of people with disabilities are extremely specialised and isolated, made according to a silo mentality", which continues to fuel "the misunderstanding according to which disabled people are "objects of treatment" rather than "subjects with rights".

Regarding sectioning, the Special Rapporteur is strongly critical of the number of autistic patients or patients with psychosocial disabilities being subjected to involuntary care. She also points out that judicial oversight operated on the basis of the legality of hospitalisation is not proving effective. Additionally, she finds that "many people with disabilities remain in a psychiatric hospital for long periods of time. The absence of local support means that some are subsequently placed in long-stay facilities where they spend the rest of their lives."

Finally, she refers to cases "of sexual and psychological abuse, the use of solitary confinement and restraint, the practice of "packing" (or wrapping in cold towels) of autistic patients and threats of sectioning made by nursing staff." A form of blackmail consisting of imposing unjustified restrictions within a care programme, or face being hospitalised, has also been condemned.

Management of radicalised prisoners

The CGLPL was consulted as part of a project led by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) on the management of prisoners in contexts of violent extremism or radicalisation leading to terrorism. Invited as an expert, the CGLPL was able to share its experience on managing such people in the French context. A series of expert meetings is due to culminate in a publication providing guidance for the supervision of measures taken to manage these prisoners.

Training and awareness measures

At bilateral level, the CGLPL has underscored its involvement in supporting and training several counterparts, national mechanisms for preventing torture. Five inspectors, including the President, from the Tunisian NPM, the President of the Senegalese NPM, and one inspector from the Romanian NPM were thus able to take part in missions in French penal institutions with a view to observing and discussing the CGLPL's supervisory method.

Various training measures could also be conducted, including participation in a training scheme of the Moroccan National Human Rights Council, within which the NPM is shortly set to be established. Thanks to this training, organised by the Council of Europe, a methodological guide to inspecting penal institutions could be drawn up.

The CGLPL also took part in a training measure on the inspection of mental health institutions, given to the Tunisian NPM, and organised by the Council of Europe.

The CGLPL contributed to the training of physicians across various French-speaking countries in health issues in penal institutions, organised by the International Committee of the Red Cross and Bioforce Institute.

With the Association for the Prevention of Torture, the CGLPL trained the members of the Mauritanian NPM in inspections of police stations. Theory and practice were combined in this training, with the organisation of two visits to police stations in Nouakchott.

Lastly, the CGLPL was asked to share its experience during a forum on prisons, organised by the French Embassy in Moscow, bringing together representatives of the prison administration, regional prison inspection committees and human rights defence associations. Representatives of the International Prisons Watchdog (OIP), European Prison Litigation Network and Emmaüs France also attended. The aim was to discuss institutional supervision of prisons and its complementarity with the supervision operated by civil society.

Regional meetings

At European level, the CGLPL took part in various meetings organised by the Council of Europe in partnership with the European Commission. These meetings were aimed at coordinating a European network of NPMs, and at enabling them to share viewpoints about different topics. The role that national preventive mechanisms (NPMs) could play in judicial cooperation between European countries was mentioned in particular, although various limitations have been identified which hamper such a possibility: NPM independence is an obstacle to being able to validate a transfer request made by a judge in an identified penal institution.

The CGLPL also took a leading position on the issue of measuring the impact of NPMs, during a meeting organised by the Council of Europe in Paris, where it was able to present its method for monitoring action taken regarding recommendations.

On a final note, the CGLPL took part in a regional meeting of NPMs from North Africa, organised by the Association for the Prevention of Torture in Rabat, with the Tunisian and Mauritanian NPMs and members of the Moroccan National Human Rights Council, which is shortly set to be chosen to host the NPM. The Italian NPM also attended. During this interactive meeting, participants went back over the general strategy that a NPM must adopt, as well as the methodological concepts associated with conducting inspections of institutions.

4. Cases referred

Article 6 of the Act of 30 October 2007 amended establishing the Chief Inspector of places of deprivation of liberty provides that "*any natural person, as well as any legal entity with the task of ensuring respect of fundamental rights, can bring to the attention of the Chief inspector of places of deprivation facts or situations that are likely to come within its remit.*"

Article 6-1 of said Act provides that when natural or legal persons bring facts or situations to the attention of the CGLPL, which they consider to constitute an infringement or risk of infringement of the fundamental rights of persons deprived of liberty, the CGLPL may conduct verifications, on-site if necessary.

The inspectors in charge of the referrals, delegated by the Chief Inspector for conducting on-site verifications, benefit from the same prerogatives as at the time of inspections: confidential interviews, access to any useful document necessary for properly understanding the situation brought to the knowledge of the CGLPL and access to all of the facilities.

When these inspections have been completed and after having received the observations of the competent authorities with respect to the denounced situation, the Chief Inspector may make recommendations pertaining to the facts or situations to the person responsible for the place of deprivation of liberty concerned. These observations and recommendations may be made public.

The time taken to respond to referrals fell significantly in 2016. These time-limits were upheld in 2017. Accordingly, the average response time in 2015 was 68 days. In 2016 this was 52 days, and in 2017, 51 days.

It should be noted that the significant increase in case referrals concerning health facilities observed in 2016 has continued, with such referrals now accounting for more than 10% of all letters sent to the Chief Inspector. Similarly, the rise in case referrals from associations has continued in 2017, particularly on the subject of immigration detention.

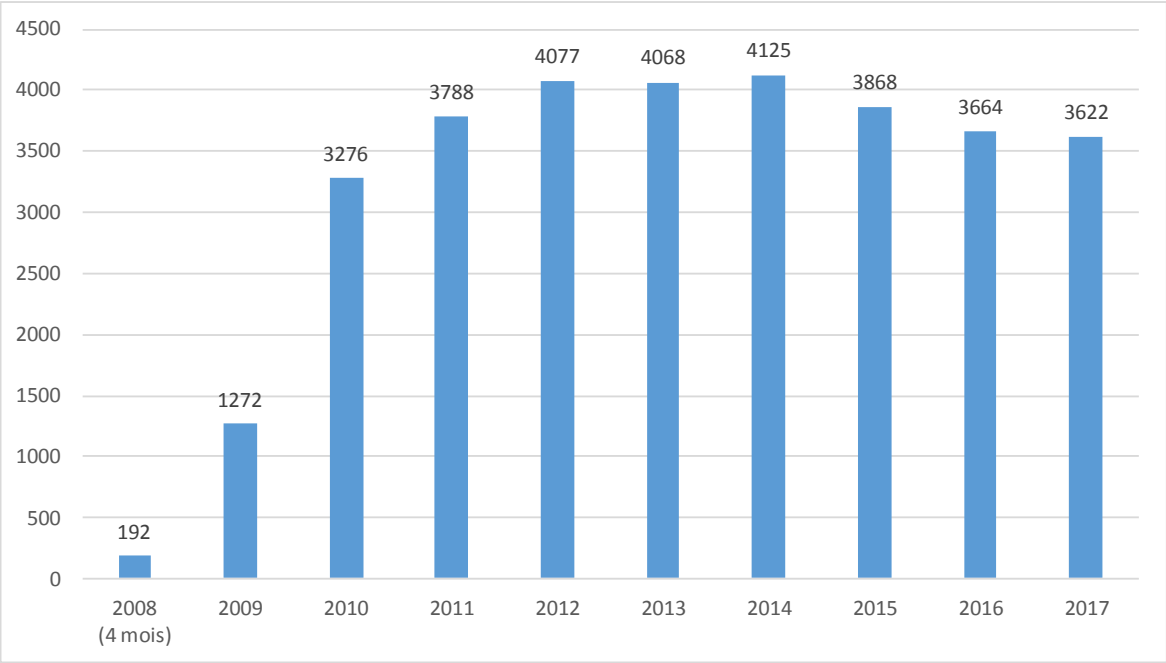
4.1 Analysis of the cases referred to the CGLPL in 2017

4.1.1 The letters received

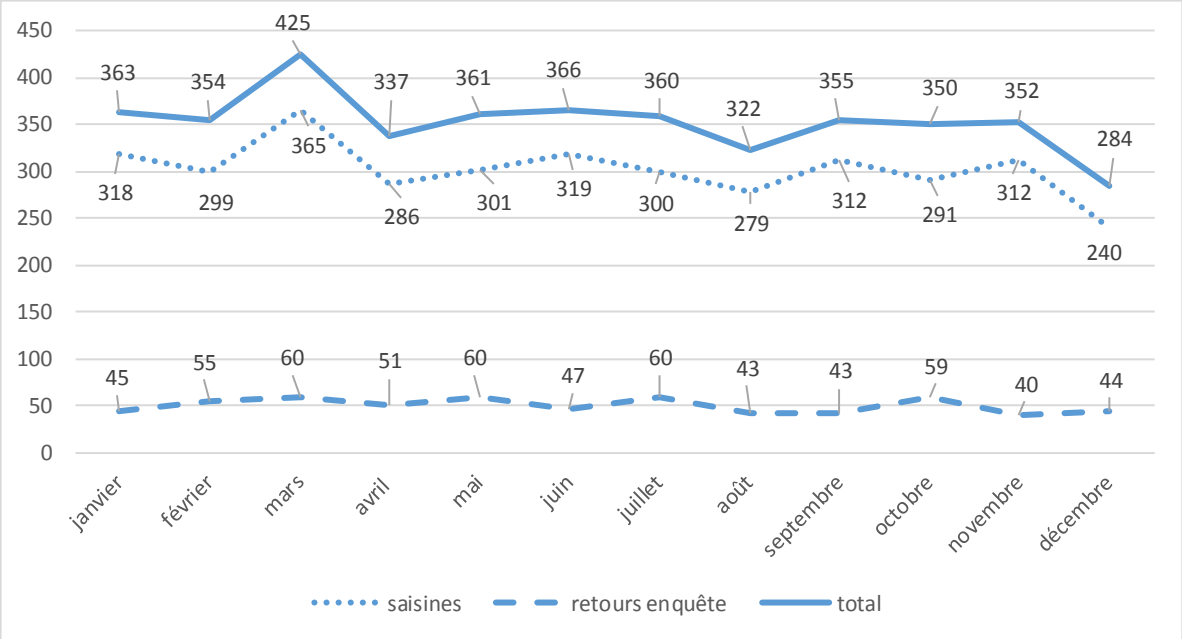
Overall volume of the number of letters sent to the CGLPL per year

The number of case referrals is relatively stable compared with 2016 (-1.1%).

Out of the letters of referral as a whole received between 1 January and 31 December 2017, an average of two letters (2.06) concerned the same person's situation.

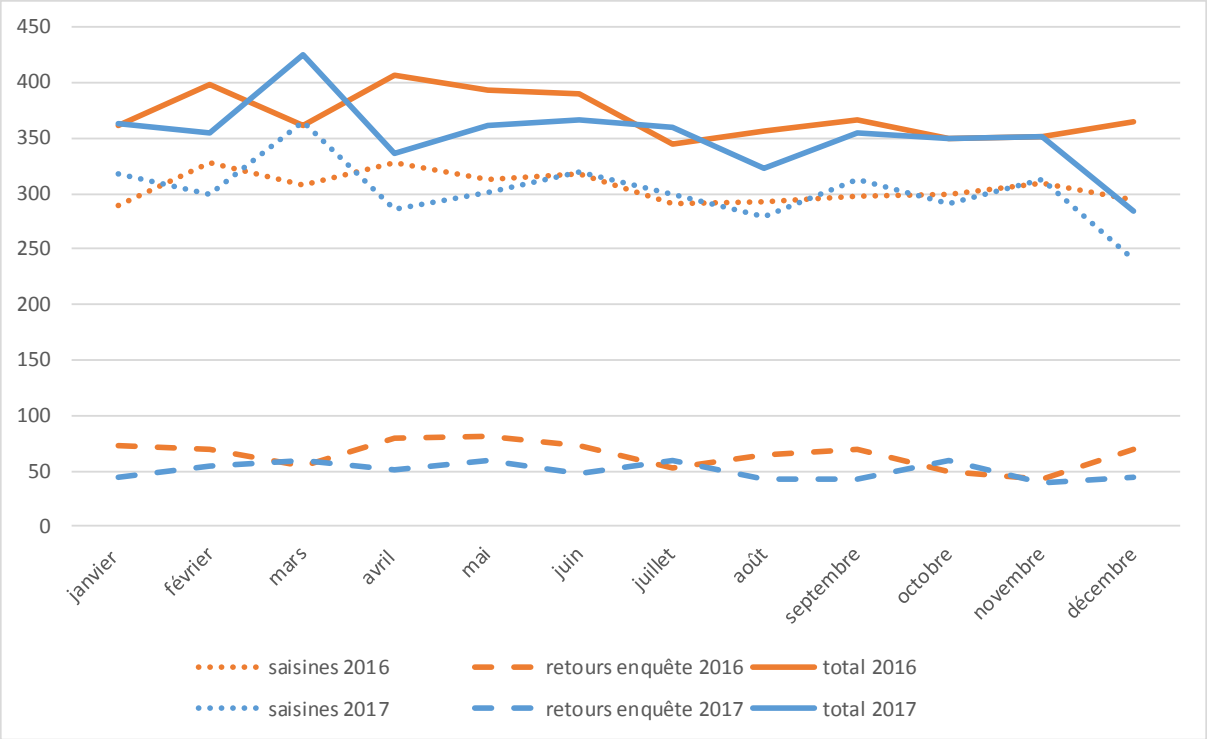


Monthly trends of numbers of letters received[43]



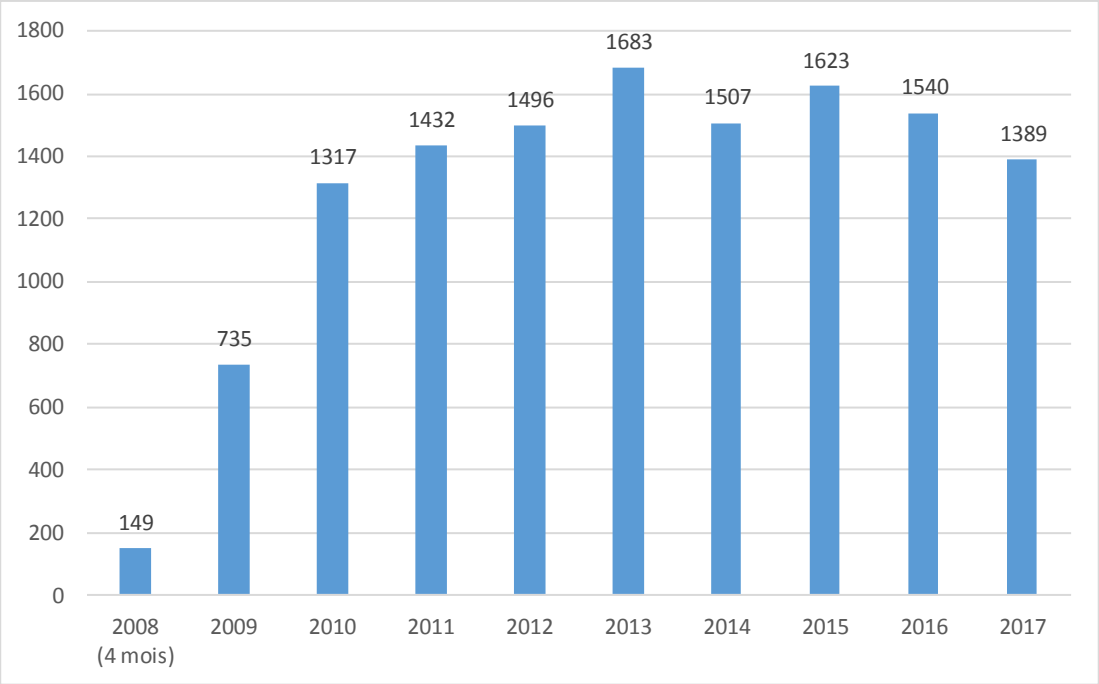
[43] *The number of letters received corresponds to the cases referred to the CGLPL, as well as the responses made by the authorities with which the CGLPL took these cases up within the context of verifications.*

Comparison of the number of letters received 2016/2017



4.1.2 Persons and places concerned

Number of Persons Deprived of Liberty (or groups of persons) concerned by cases referred to the CGLPL for the first time

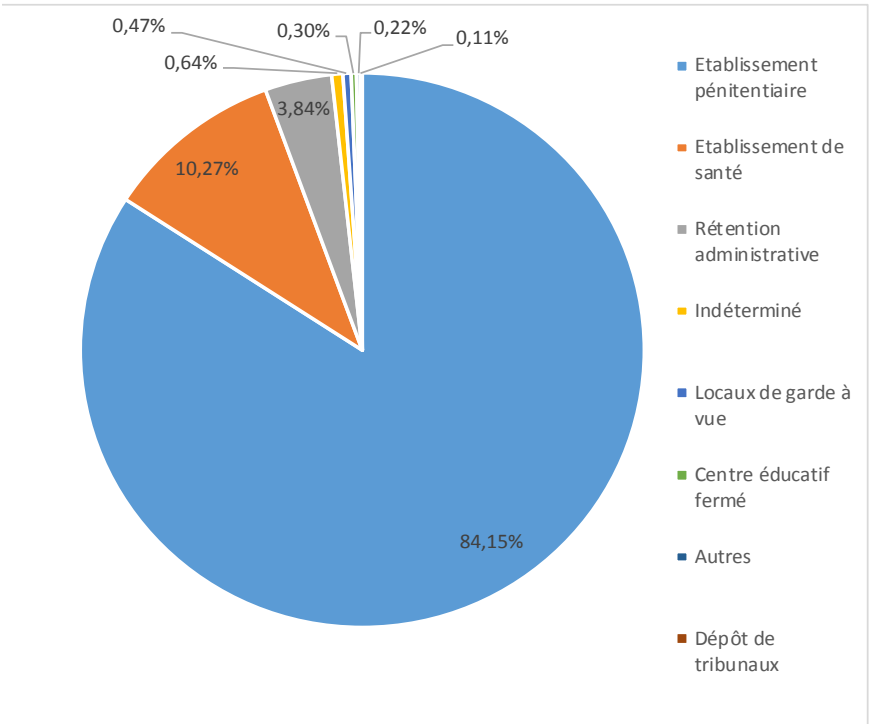


Distribution of cases by category of person referring them and nature of the institution concerned

	Person concerned	Family / relatives	Association	Lawyer	Other[44]	IGA	Physicians / medical staff	TOTAL	Percentage
PENAL INSTITUTIONS	**2,261**	**345**	**126**	**147**	**114**	**38**	**17**	**3,048**	**84.15%** of PDL
CP - prison	1,041	182	65	66	54	17	8	1,433	47.01% of PI
MA - Remand prison	542	90	38	57	27	9	7	770	25.26%
CD - detention centre	477	56	17	13	17	5		585	19.19%
MC - long-stay prison	170	9	4	6	5	4		198	6.50%
Hospitals (UHSA, UHSI, EPSNF)[45]	16	5	1	3		1	2	28	0.92%
Unspecified PI / All	5	3	1		4			13	0.43%
EPM - Prison for minors	2				7	2		11	0.36%
CNE - national assessment centre	5			2				7	0.23%
CSL - Open Prison	3							3	0.10%
HEALTHCARE INSTITUTIONS	**246**	**78**	**5**	**6**	**17**	**6**	**14**	**372**	**10.27%** of PDL
EPS - public psychiatric institution	136	44	1	1	9	2	9	202	54.30% of HI
EPS - public health institution psychiatric department	59	20		4	7	2	4	96	25.81%
HI - Unspecified / All	34	9	1	1	1	2		48	12.90%
UMD - Unit for difficult psychiatric patients	12	4						16	4.30%
EPS - secure rooms	4	1	3					8	2.15%
Private institution with psychiatric treatment	1						1	2	0.54%
ADMINISTRATIVE DETENTION	**23**		**101**	**8**	**4**	**2**	**1**	**139**	**3.84%** of PDL
CRA - Detention centre for illegal immigrants	21		78	7	3	2	1	112	80.58% of AD
ZA - waiting area			15	1	1			17	12.23%
Deportations	1		5					6	4.32%
AD - other	1		2					3	2.16%
LRA - Detention facility for illegal immigrants			1					1	0.71%
UNSPECIFIED	**17**	**2**	**2**		**2**			**23**	**0.64% of PDL**
CUSTODY FACILITIES	**10**		**1**	**3**	**2**	**1**		**17**	**0.47%** of PDL
CIAT - police stations and headquarters	8		1	3	2	1		15	88.24% of custody facilities

[44] The "other" category includes 30 fellow persons deprived of liberty, 29 "other", 22 participants, 21 staff members, 17 individuals, 11 judges, 8 professional organisations, 7 unknown persons, 2 institution directors, 1 trade union and 1 CPIP.
[45] Out of which, 17 referrals pertained to a UHSA, 7 to the EPSNF and 4 to a UHSI.

BT - territorial gendarmerie	2							2	11.76%
JUVENILE DETENTION CENTRES	**1**	**2**			**7**	**1**		**11**	**0.30% of PDL**
OTHER[46]	**3**		**1**	**1**	**2**		**1**	**8**	**0.22% of PDL**
COURT CELLS				**3**	**1**			**4**	**0.11% of PDL**
TOTAL	**2,561**	**427**	**236**	**168**	**149**	**48**	**33**	**3,622**	**100%**
PERCENTAGE	**70.71%**	**11.79%**	**6.52%**	**4.64%**	**4.11%**	**1.33%**	**0.90%**	**100%**	



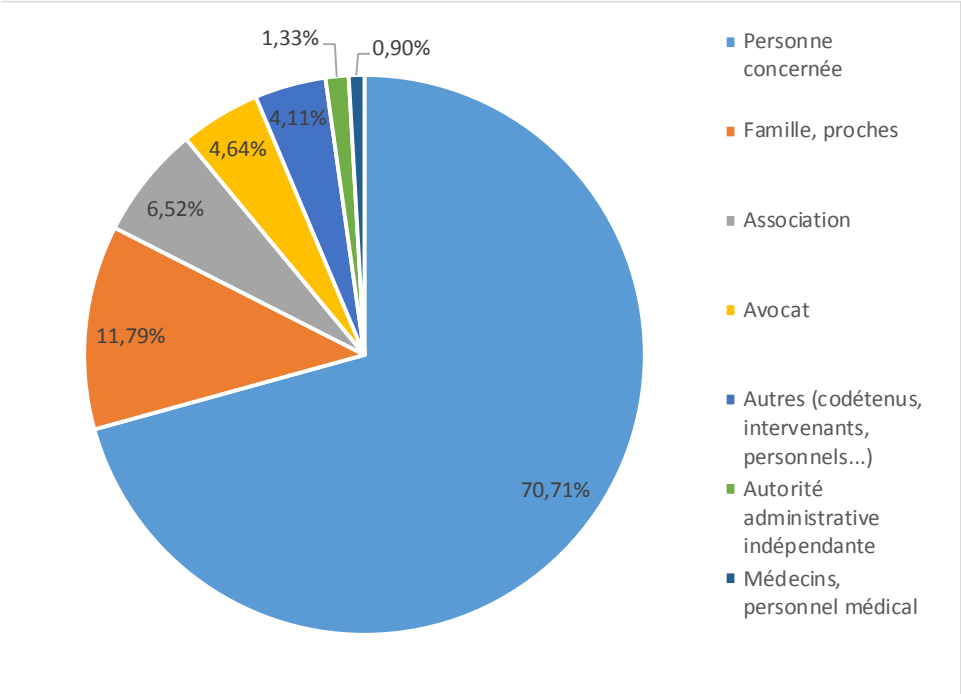
Category of place concerned	Statistics drawn up on the basis of the letters received as a whole[47]						
	2011	2012	2013	2014	2015	2016	2017
Penal institution	94.15%	93.11%	90.59%	90.28%	88.91%	85.45%	84.15%
Healthcare institution	3.48%	4.24%	5.88%	6.40%	6.75%	10.10%	10.27%
Administrative detention	0.71%	1.10%	1.18%	1.21%	2.33%	2.51%	3.84%
Unspecified	0.42%	0.47%	0.42%	0.39%	0.54%	0.44%	0.64%
Custody facilities	0.29%	0.74%	0.61%	0.80%	0.83%	0.87%	0.47%
Juvenile detention centre	0.05%	0.15%	0.12%	0.19%	0.31%	0.16%	0.30%
Other	0.79%	0.12%	1.16%	0.70%	0.26%	0.44%	0.22%
Cells	0.11%	0.07%	0.04%	0.03%	0.07%	0.03%	0.11%
Total	100%	100%	100%	100%	100%	100%	100%

[46] *Including 2 letters related to EHPAD and retirement homes.*
[47] *This table does not present the statistics drawn up in 2009 and 2010, which were based on the 1st referral letter and not on all of the letters received.*

In 2017, the increase in referrals concerning health institutions observed in 2016[48] is continuing, with such referrals still accounting for 10% of the total. The proportion of referrals from the people concerned remains high (246 letters received versus 231 in 2016, which represents a 6.49% increase).

The increase in referrals concerning immigration detention is also continuing, with associations remaining the main source (101 letters received versus 68 in 2016, which represents a 48.53% increase).

With respect to penal institutions, the proportion of referrals sent by detainees remains the same as in 2016 (2,261 letters) while the proportion of referrals sent by associations is slightly up (126 letters received versus 112 in 2016, which represents a 12.5% increase).



Category of persons referring cases to the inspectorate	Statistics drawn up on the basis of the letters received as a whole[49]						
	2011	2012	2013	2014	2015	2016	2017
Person concerned	77.61%	77.90%	75.57%	71.10%	73.42%	69.92%	70.71%
Family, relatives	9.37%	10.94%	12.81%	13.04%	10.75%	12.5%	11.79%
Association	3.02%	2.97%	2.93%	4.39%	4.29%	5.18%	6.52%
Lawyer	2.85%	3.68%	2.58%	3.49%	4.70%	4.61%	4.64%
Independent government agency	0.79%	0.81%	0.96%	1.79%	1.40%	2.16%	1.33%
Physicians, medical staff	1.24%	0.76%	1.20%	1.25%	0.70%	1.45%	0.90%
Other (fellow prisoner, participant, private individual, etc.)	5.12%	2.94%	3.95%	4.94%	4.74%	4.18%	4.11%
Total	100%	100%	100%	100%	100%	100%	100%

[48] Most of the data for 2016 comes from the press pack on the 2016 annual report, which establishes the actual figures for the year in question (since most of the datasets from the annual report are extrapolations over the year, the statistics are based on data for the first eleven months of the year).

[49] This table does not present the statistics drawn up in 2009 and 2010, which were based on the 1st referral letter and not on all of the letters received.

The rise in referrals from associations observed in 2016 is continuing in 2017 (236 letters received versus 190 in 2016, which represents a 24.21% increase).

All places combined, there has been a stabilisation in the number of referrals from the people concerned (2,561 letters received versus 2,562 in 2016) and lawyers (168 letters received versus 169 in 2016) and a slight fall in the number of referrals from relatives (427 letters versus 458 in 2016, which represents a 6.77% decrease), other IGAs (48 letters received versus 79 in 2016, which represents a 39.24% decrease in the number of dispatches) and medical staff (33 letters versus 53 in 2016, which represents a 37.74% decrease). It should nevertheless be noted that referrals from other IGAs and medical staff had increased significantly in 2016 (51.02% and 76.92% respectively).

4.1.3 The situations raised

Distribution of cases referred according to the primary grounds and type of person referring the case

For each letter received, primary grounds and secondary grounds for referral of the case are given. The last column of the table below shows the percentage of occurrence of different types of grounds, taking the reasons for referral of cases as a whole (without distinguishing between primary and secondary grounds). For example, although the main grounds for referrals concerning difficulties with psychiatric hospitals appear to be procedural issues (41.60%), these grounds only account for 22.46% of all the problems addressed to the CGLPL between 1 January and 31 December 2017 with a bearing on psychiatry.

In view of the small number of letters received concerning police custody facilities, detention of illegal immigrants and juvenile detention centres, the primary grounds for the referral of cases presented below only concern penal and health institutions.

Healthcare institutions receiving involuntary patients: Primary grounds according to the category of person referring the case

Order of grounds 2017	Psychiatric hospital grounds	Person concerned	Family / relatives	Physicians / medical staff	Other[50]	Total	% 2017	% 2016	% all grounds combined (primary and secondary) 2017
1	PROCEDURE	132	15	4	5	156	41.60%	29.14%	↘22.46%
	Dispute of hospitalisation	117	8		4	129			
	Non-compliance with procedure	3	4	1		8			
	Liberty and custody judge procedure	3		1	1	5			
	Medical treatment committee	3	1			4			
	Other	1	1	2		4			
	Dispute of UMD transfer order	3				3			
	Supervisory procedure	2	1			3			
2	ACCESS TO HEALTHCARE	27	6		2	35	9.33%	12.30%	↗14.12%
	Access to psychiatric healthcare	15	1		2	18			
	Access to medical records	5	2			7			

[50] *The "other" category includes 7 referrals from lawyers, 6 from IGAs, 5 from associations, 3 from patients on behalf of other patients, 2 from individuals, 2 from judges, 1 from a participant, 1 from an unknown person, 1 from a professional organisation and 2 "other" referrals.*

	Healthcare programme	4	2			6			
	Access to somatic healthcare	3	1			4			
3	SOLITARY CONFINEMENT	7	16	5	5	33	8.80%	11.23%	↗8.88%
	Duration	3	8	1	2	14			
	Conditions	2	3		2	7			
	Grounds provided	1	4	2		7			
	Protocol	1	1	1		3			
	Other			1	1	2			
4	RELATIONS WITH THE OUTSIDE WORLD	18	6			24	6.40%	7.75%	↗12.94%
	Visit	8				8			
	Notification to family	5				5			
	Correspondence	1	4			5			
	Telephone	1	2			3			
	Trusted person	2				2			
	Other	1				1			
5	PATIENT/STAFF RELATIONS	12		3	2	17	4.53%	4.55%	↗4.92%
	Use of force	4		2	2	8			
	Confrontational relations	5				5			
	Respect	2		1		3			
	Other	1				1			
6	ASSIGNMENT	5	5	5	1	16	4.27%	6.15%	↘3.32%
	Assignment to inappropriate unit		4	2	1	7			
	Other	4	1			5			
	Sector determination			2		2			
	Assignment outside sector	1		1		2			
7	PREPARATION FOR RELEASE	14	1			15	4%	-	↘3.85%
	Discharge from hospitalisation	9				9			
	Preliminary discharge	5				5			
	Other		1			1			
8	PHYSICAL CONDITIONS	5	3	1	4	13	3.47%	4.81%	↗8.66%
	Accommodation	2	1		1	4			
	Clothing	1	2		1	4			
	Other	1		1	1	3			
	Hygiene / Upkeep	1			1	2			
-	UNSPECIFIED	7	1			8	2.13%	-	↘0.85%
-	OTHER GROUNDS[51]	31	12	4	11	58	15.47%	24.07%	↗20%
	Total	258	65	22	30	375	100%	100%	100%

In 2017, the three primary grounds for referring a case regarding health institutions are procedures, access to health care and placement in solitary confinement, just as in 2016.

[51] *Letters concerning the other grounds are not enough in number to be significant. They pertain to internal order (confiscation of items, management of incidents, patient safety, CCTV surveillance), restraint (conditions and duration), relations with the CGLPL (correspondence, interview requests), access to defence (lawyer, exercising avenues of appeal), activities (training, education, IT, therapeutic activities), staff working conditions, relations between patients, their financial situation, the processing of appeals, the right to vote and other grounds.*

Since 2010, the main primary grounds has been procedures – particularly dispute of hospitalisation. Since 2014, the main secondary grounds for referral has been access to health care.

In 2017, all grounds taken together, the main ones are procedures, access to health care and relations with the outside world. In 2016, they were procedures, access to health care and solitary confinement.

It can be highlighted that the persons concerned primarily refer cases to the CGLPL about procedures; families and relatives about placement in solitary confinement and medical staff about assignments and solitary confinement.

Penal institutions: Primary grounds according to the category of person referring the case

The last column of this table lists the percentage of different grounds when the reasons for a particular letter are considered as a whole (one letter may contain one or more reasons), rather than the primary grounds only, as before. Accordingly, regarding transfers, although this reason accounts for 10.62% of the primary grounds for letters received between 1 January and 31 December 2017, this percentage goes down if its positioning is considered in light of all the reasons, when it only represents 8.04% of all difficulties brought to the CGLPL's attention in 2017. The percentage of the primary grounds for referral, physical conditions, further increases when all of the reasons are looked at together, accounting for 15.38% of all the difficulties brought to the CGLPL's attention in 2017.

Order of grounds 2017	Penal institution grounds	Person concerned	Family / relatives	Lawyer	Other[52]	Association	IGA	Total	% 2017	% 2016	% all grounds combined (primary and secondary) 2017
1	PHYSICAL CONDITIONS	255	23	12	6	33	13	342	11.17%	10.56%	↗15.38%
	Accommodation	74	9	7	3	15	8	116			
	Canteens	66	3	2	1	2	2	76			
	Hygiene/upkeep	48	4			12	2	66			
	Food	28	3			2		33			
	Cloakroom/search	21	2	3	1			27			
	Television	13				1		14			
	Other	5	2		1	1	1	10			
2	TRANSFER	251	47	16	6	4	1	325	10.62%	11.04%	↘8.04%
	Requested transfer	178	36	10	5	1		230			
	Conditions of the transfer	48	7	4	1	2	1	63			
	Administrative transfer	21	2	2		1		26			
	International transfer	3						3			
	Other	1	2					3			
3	RELATIONS WITH THE OUTSIDE WORLD	222	61	14	3	19		319	10.42%	8.91%	↘10.05%
	Correspondence	101	13	7	2	9		132			
	Access to visiting rights	37	28	4		2		71			
	Telephone	40	1	2	1	5		49			

[52] *The "other" category includes 27 "other", 26 fellow prisoners, 19 institution participants, 16 physicians, 11 individuals, 11 staff members, 9 judges, 6 unknown persons, 3 professional organisations, 1 trade union, 1 CPIP, 1 director.*

	Visiting room conditions	12	14			2		28			
	UVF family visiting rooms	15	2			1		18			
	Maintenance of parent/child bonds	9	1					10			
	Other	5	1					6			
	Notification to family	2	1					3			
	Management of internal movements	1		1				2			
4	ACCESS TO HEALTHCARE	210	52	17	11	7	2	299	9.77%	8.97%	↘9.44%
	Access to somatic healthcare	65	19	2	4	1	1	92			
	Access to specialised healthcare	57	9	6		1		73			
	Access to hospitalisation	31	6	3	1	2	1	44			
	Access to psychiatric healthcare	21	9	3	2	2		37			
	Other	10	4		3			17			
	Distribution of medicines	4	3	1				8			
	Management of internal movements	5	1	1				7			
	Consent to treatment	6						6			
	Medical services/prisons administration/police relations	3	1		1			5			
	Access to medical records	4		1				5			
	Drafting of medical certificates	2				1		3			
	Paramedical devices	2						2			
5	PRISONER/STAFF RELATIONS	205	33	8	18	11	6	281	9.18%	9.80%	↘7.49%
	Confrontational relations	118	15		5	3		141			
	Violence	49	16	5	10	6	6	92			
	Disrespect	37	2	2	3	2		46			
	Other	1		1				2			
6	INTERNAL ORDER	156	18	17	15	14	6	226	7.38%	7.67%	↗9.39%
	Discipline	70	4	6	5	8	3	96			
	Body searches	31	7	9	2	1	1	51			
	Confiscation, retention of property	17	1		2			20			
	Use of force/violence	10	4		1	1	2	18			
	Cell searches	13			1			14			
	Security devices	8			1	1		10			
	Use of means of restraint	2	2		3	1		8			
	CCTV surveillance	1		1		2		4			
	Management of movements	2		1				3			
	Other	2						2			
7	PREPARATION FOR RELEASE	154	17	6	21	7		205	6.70%	7.16%	↘5.22%
	Adjustment of sentences	95	13	5	16	3		132			
	SPIP / Preparation for release	29	1		1			31			
	Administrative formalities	11	2		3	1		17			
	Sentence enforcement programmes	7	1			2		10			
	Deportation procedure	4		1	1	1		7			

	Other	5						5			
	Relations with outside bodies	3						3			
8	RELATIONSHIP BETWEEN PRISONERS	124	27	2	3	4		160	5.23%	4.26%	↘3.68%

	Threats/racketeering/theft	61	14	1	1			77			
	Physical violence	54	13	1	2	4		74			
	Other	6						6			
	Measures taken after an offence	3						3			
9	ACTIVITIES	109	13	11	9	5	2	149	4.87%	6.11%	↗7.46%
	Work	63	6	3	1	2	1	76			
	Information technology (IT)	14	4	4	1		1	24			
	Education/training	8	1	2	3	1		15			
	Walks	8	1			1		10			
	Sports	6	1		2			9			
	Library	6						6			
	Other	3		2				5			
	Socio-cultural activities	1			2	1		4			
10	PROCEDURES	120	11	4	6	3		144	4.70%	4.61%	↘3.51%
	Dispute of procedure	68	5	1	3			77			
	Execution of sentences	27	2		1			30			
	Procedural questions	15	3	1	1	1		21			
	Disclosure of grounds for imprisonment	7	1	2		2		12			
	Other	3			1			4			
11	SOLITARY CONFINEMENT	68	9	14	10	3	2	106	3.46%	-	↘2.81%
	For the safety of the person	25	4	1	2	1	2	35			
	For the security of the institution	41	5	13	6	2		67			
	Other	2			2			4			
12	INTERNAL ALLOCATION	84	10	3	1	5	2	105	3.43%	-	↘2.66%
	Allocation of cells	49	3	2		5	1	60			
	Differentiated regime	22	5		1			28			
	Other	7	2					9			
	New arrivals wing	6		1			1	8			
13	OVERSIGHT (CGLPL – request for interview)	73	5	3	1	1		83	2.71%	3.50%	↘1.44%
14	FINANCIAL SITUATION	68	6	2	1	1		78	2.55%	-	↗3.01%
	Personal account	29		2	1			32			
	Taking poverty into account	15	1					16			
	Money orders	8	3					11			
	Payment to civil parties	8				1		9			
	Deductions in favour of the Treasury	3						3			
	Welfare benefits and allowances	2						2			
	Other		2					2			

15	OTHER[53]	52	2	4	11	6	2	77	2.53%	17.41%	↘1.52%
16	LEGAL INFORMATION AND ADVICE	57	4	9	1	1	1	73	2.38%	-	↗2.62%
	Access to lawyers	14	1	4			1	20			
	Access to personal data – GENESIS, etc.	15	1					16			

[53] *The "Other" category includes 22 letters concerning transfers (for medical and legal reasons), 20 "other" letters, 18 concerning religion, 9 an undetermined reason, 5 staff working conditions and 3 the right to vote.*

	Information	13	1	1				15			
	Means of remedy	9	1	3				13			
	Interpreter services	3		1		1		5			
	Welfare rights (CPAM State health insurance office, etc.)	2						2			
	Other	1			1			2			
17	SELF-HARMING BEHAVIOUR	31	8	4	6	4	1	54	1.76%	-	↗1.88%
	Suicide/suicide attempt	17	3	2	3	2		27			
	Hunger/thirst strike	12	3	1	3		1	20			
	Death/circumstances of death	2		1		2		5			
	Other		2					2			
18	PROCESSING OF APPEALS	31	2		2			35	1.14%	-	↗4.42%
	Absence of response	18	1		1			20			
	Calls/intercom	6			1			7			
	Hearings	4						4			
	Other	3	1					4			
	TOTAL	2,270	348	146	131	128	38	3,061	100%	100%	100%

In 2017, the three primary grounds for referring a case regarding penal institutions are physical conditions, transfers and relations with the outside world.

From 2010 to 2016, the primary grounds for referring a case remained the same: transfers. The secondary grounds remained access to health care (from 2010 to 2012), then concerned staff/prisoner relations (in 2013 and 2014), relations with the outside world (in 2015) and finally physical conditions (2016).

In 2017, all grounds combined[54], the primary grounds are physical conditions, relations with the outside world and access to healthcare. In 2016, these had to do with the physical conditions, internal order and relations with the outside world.

Furthermore, it can be highlighted that the primary grounds for the referral of a case to the CGLPL by the people concerned and associations concerns physical conditions; families and relatives are mainly concerned about relations with the outside world, and lawyers about access to healthcare and internal order. Referrals from IGAs first and foremost concern physical conditions.

[54] *I.e. the primary and secondary grounds included.*

4.2 The consequences

4.2.1 Overall data

Type of letters sent

	Type of action taken	Total 2017	Percentage 2017	Percentage 2016
Verifications (Article 6-1 of the Act of 30 October 2007)	Referral of case to the authority by letter	706	24.56%	26.94%
	Number of on-site verification reports sent	3	0.10%	0.21%
Sub-total		709	24.66%	27.15%
Responses given to letters not having given rise to the immediate opening of an inquiry	Request for details	963	33.50%	32.11%
	Information	898	31.23%	29.35%
	Other (consideration for visit, passed on for reasons of competence[55], etc.)	232	8.07%	6.69%
	Lack of competence	73	2.54%	4.71%
Sub-total		2,166	75.34%	72.85%
TOTAL		2,875	100%	100%

As part of the verifications undertaken, the CGLPL sent the following letters between 1 January and 31 December 2017:

- 709 letters to the authorities concerned (as compared to 761 in 2016);
- 625 letters to persons having referred cases, informing them of the verifications conducted (630 in 2016);
- 478 letters to authorities to which the cases were referred, informing them of actions taken in order to follow-up on the verifications (546 in 2016);
- 368 letters to persons having referred cases, informing them of actions taken in order to follow-up on the verifications (427 in 2016);
- 445 reminder letters (436 in 2016);
- 302 letters to persons having referred cases, informing them of reminders issued (256 in 2016).

The CGLPL thus sent 5,093 letters between January and December 2017 (as compared to 5,120 in 2016), i.e. an average of 424 letters per month (as compared to 427 in 2016).

Time required for responses (letters sent between January and November 2017)

As at 30 November 2017, the CGLPL had replied to 582 letters of referral addressed to it during 2016 (i.e. 14.68% of its replies) and to 3,383 letters that arrived in 2017 (i.e. 85.32% of its replies).

As at 30 November 2016, the CGLPL had replied to 398 letters of referral addressed to it during 2015 (i.e. 12.91% of its replies) and to 2,685 letters that arrived in 2016 (i.e. 87.09% of its replies).

[55] *Including 51 to the Defender of Rights and 2 to other authorities.*

Length of response time	Number in 2017 (Jan. – Nov.)	% 2017	Number in 2016 (Jan. – Nov.)	% 2016
0-30 days	1,503	37.91%	1,066	28.30%
30-60 days	774	19.52%	830	22.03%
More than 60 days	1,193	30.09%	1,188	31.54%
Response pending	333	8.40%	563	14.95%
Cases not taken up[56]	162	4.08%	120	3.18%
TOTAL	3,965	100%	3,767	100%

65.62% of letters in 2017 were replied to in less than 60 days. In 2016, this rate was 61.48%. The average response time in 2017 was 51 days (i.e. 1.7 months). In 2016, this response time was 52 days (i.e. 1.7 months).

4.2.2 Verifications with the authorities

In view of the institutions concerned and the issues raised in the cases referred[57], requests for observations and documents are, in most cases, sent to prison directors and physicians working in health blocks and regional mental health departments for prisons (SMPR).

Category of authorities called upon as part of the verifications

Type of authority referred to	Number of referrals	Percentage 2017	Percentage 2016
Head of institution	491	69.25%	67.41%
Prison director	434	(61.21%)	
Director of a hospital facility	32		
CRA Director	18		
Police station	3		
Other director	4		
Medical staff	107	15.09%	14.14%
Physician in charge of health block, SMPR	100	(14.10%)	
CRA doctor	4		
Hospital doctor	3		
Decentralised management	41	5.78%	4.97%
DISP	19	(2.68%)	
Prefecture	13		
Other	5		
ARS	4		
SPIP	22	3.10%	4.84%
DSPIP	13		
Satellite office	9		

[56] The fact that a case is not taken up does not systematically mean that no action will be taken as regards the issue raised; it refers to letters for which a response is not given directly to the person, either because the sender has wished to remain anonymous, or because the person has been released in the meantime, his/her referral becomes irrelevant or s/he did not wish to receive a response. Verifications can nevertheless be initiated based on a case that is not taken up.

[57] See above, analysis of the cases referred to the CGLPL

Central administration	21	2.96%	3.66%
DAP	18		
Other central management	3		
Magistrate	15	2.12%	1.57%
Minister	8	1.13%	1.96%
Minister of the Interior	4		
Minister of Justice	4		
Other	4	0.56%	1.44%
TOTAL	709	100%	100%

Inquiry case-files

When the situation brought to the CGLPL's attention calls for verifications with an authority, an inquiry case file is opened. This can lead to one or more inquiry letters being sent out to one or more authorities; as such, the number of files newly opened is less than the number of inquiry letters generated in the year. The start of the inquiry corresponds to the date on which the letter giving rise to these verifications is received, and the end of the inquiry to the dispatch dates of the letters informing the persons referring the cases of the action taken and the analysis to the authorities referred the information which they have brought to the attention of the CGLPL.

In 2017, 452 new inquiry case-files were opened (versus 417 over the course of the first eleven months of 2016), of which 131 were closed as at 31 December 2017 (versus 131 as at 30 November 2016). Among the inquiry case-files that were opened earlier:

- 133 were still in progress as at 31 December 2017 (versus 154 as at 30 November 2016);
- 242 had been closed during the year (versus 255 in 2016 over the first eleven months of the year).

The following statistics pertain only to the inquiry case-files that were newly opened (unless specified otherwise).

Types of persons referring cases leading to the opening of case-files

Category of persons	Total 2017	% 2017	% 2016
Person concerned	304	67.26%	60.67%
Family / relatives	55	12.17%	11.03%
Association	35	7.74%	10.79%
Lawyer	35	7.74%	8.87%
Other	11	2.43%	2.88%
Own-initiative referrals (CGLPL)	6	1.34%	2.40%
Physicians / medical staff	3	0.66%	1.92%
Fellow person deprived of liberty	3	0.66%	1.44%
Total	452	100%	100%

Type of institutions concerned

Place of deprivation of liberty	Total	% 2017	% 2016
Penal institution	404	89.38%	87.77%
CP - prison	174		
MA - remand prison	121		
CD - detention centre	75		
MC - long-stay prison	18		
Hospitals (UHSA, UHSI, EPSNF)[58]	6		
EPM - Prison for minors	5		
All	2		
CSL - Open Prison	1		
CPA - Adjusted sentence training prison	1		
CNE - National Assessment Centre	1		
Administrative detention	23	5.09%	5.99%
CRA - Detention centre for illegal immigrants	20		
ZA - Waiting area	2		
LRA - Detention facility for illegal immigrants	1		
Healthcare institution	22	4.87%	4.32%
EPS - public psychiatric institution	11		
EPS - public health institution psychiatric department	7		
UMD - Unit for difficult psychiatric patients	2		
EPS - secure rooms	1		
HI - all	1		
Custody facilities	3	0.66%	1.68%
CIAT - police stations and headquarters	3		
Other	-	-	0.24%
Total	452	100%	100%

Average length of inquiries

355 inquiry case-files were closed between January and December 2017 (versus 386 over the first eleven months of 2016). The average length of time taken by inquiries was 8 months (versus 9 months in 2016). Almost 50% of them took less than 7 months.

Duration	Number of case-files 2017	Percentage 2017	Cumulative percentage 2017	Cumulative percentage 2016
Less than 6 months	146	41.13%	41.13%	39.64%
From 6 to 12 months	141	39.72%	80.85%	78.50%
More than 12 months	68	19.15%	100%	100%
Total	**355**	**100%**	**100%**	**100%**

[58] *Respectively 2, 2 and 2.*

Primary grounds upon which verifications were taken up with the authorities

The CGLPL may request observations concerning various different issues from authorities to which cases are referred. However, the CGLPL defines each inquiry case-file on the basis of the primary grounds for verification.

Primary grounds with regard to health institutions receiving involuntary patients

Psychiatric hospital grounds	Total
Solitary confinement (duration, traceability, other)	5
Procedures (Liberty and custody judge, Medical treatment committee)	3
Relations with the outside world (visits, telephone)	3
Preparation for release (preliminary discharge, lifting of hospitalisation)	2
Assignment (inappropriate unit, other)	2
Legal information and advice (lawyer, information)	2
Voting rights	1
Activities (access to sport)	1
Access to healthcare (care programme)	1
Total	**20**

Primary grounds concerning penal institutions

Penal institution grounds	Total
Access to healthcare (somatic, specialist, psychiatric, etc.)	72
Physical conditions (accommodation, hygiene/upkeep, canteens, etc.)	46
Relations with the outside world (access to visiting rights, telephone, etc.)	43
Transfer (requested, administrative, conditions of the transfer, etc.)	38
Relations between prisoners (threats/racketeering/theft, physical violence, etc.)	36
Internal order (discipline, body searches, security devices, etc.)	36
Activities (work, IT, education/training, sports, etc.)	27
Internal assignment (assignment to a cell, differentiated regime, etc.)	21
Solitary confinement (grounds, conditions, duration, etc.)	19
Preparation for release (administrative formalities, adjustment of sentences, etc.)	15
Legal information and advice (means of remedy, personal data access, etc.)	11
Financial situation (payment to civil parties, consideration of poverty, etc.)	11
Prisoner/staff relations (violence, confrontational relations)	7
Self-harming behaviour (suicide/suicide attempt, hunger/thirst strike, etc.)	6
Procedures (procedural litigation, revelation of grounds of imprisonment, etc.)	5
Transfers (for medical or legal reasons, conditions, cancellations, etc.)	5
Religion (cultural items, diet, access)	4
Other (processing of appeals, right to vote, other)	5
Total	407

Fundamental rights concerned in inquiry case-files by type of place of deprivation of liberty

Fundamental rights	Penal institution	Administrative detention	Healthcare institution	Custody facilities	Total 2017	% 2017	% 2016
Access to healthcare and prevention	78	5	3		86	19.03%	15.89%
Physical integrity	69	1		3	73	16.15%	13.24%
Dignity	58	5	1		64	14.16%	14.05%
Maintenance of family bonds, relations with the outside world	52	2	2		56	12.39%	15.47%
Protection from mental injury	23	2			25	5.53%	3.87%
Access to work, activity, etc.	22		1		23	5.09%	7.13%
Rehabilitation / preparation for release	22		1		23	5.09%	5.30%
Legal information and advice	15	3	3		21	4.65%	6.52%
Freedom of movement	9	1	8		18	3.98%	3.87%
Property rights	17				17	3.76%	5.09%
Equal treatment	16				16	3.54%	2.24%
Right of defence	8	2			10	2.21%	2.24%
Confidentiality	6				6	1.33%	1.43%
Freedom of conscience	4				4	0.89%	0.61%
Right to individual expression	3				3	0.66%	0.41%
Voting rights	2		1		3	0.66%	0.20%
Unjustified detention		1			1	0.22%	0.41%
Welfare rights	1				1	0.22%	0.81%
Privacy	1				1	0.22%	0.20%
Other	1				1	0.22%	1.02%
Total	407	22	20	3	452	100%	100%

The case-files newly opened in 2017 primarily concerned access to healthcare, as far as penal institutions are concerned; for administrative detention, they concerned dignity and access to healthcare; for health institutions, they concerned freedom of movement; and for custody facilities, they concerned physical integrity.

The six main fundamental rights on which the newly opened inquiries focused this year are the same as in 2016: access to health care, physical integrity, dignity, maintaining family ties, access to activities and work and, more than in 2016, moral integrity.

4.2.3 Verification findings at the closing of the case-file

For the third year in a row, the CGLPL is able to give indications on the findings of the verifications carried out with the authorities with which cases are taken up. In order to report these findings, a distinction has been drawn between any violations of fundamental rights, the results obtained for the person concerned and action taken as regards the authorities.

The data below shows that a violation has been proven (even partially) in 51.55% of case-files (versus 57.07% over the first eleven months of 2016).

In 41.13% of cases, the problem was resolved: either for the person, or for the future, or in a partial manner (versus 48.70% in 2016).

Finally, as regards the actions taken, the Chief Inspector sent recommendations to the authorities called upon in 21.97% of cases (versus 13.35% in 2016). Corrective measures resulting from the inquiry addressed by the CGLPL to the authorities concerned were taken in nearly 13.52% of cases (versus 15.71% in 2016). No special follow-up was given by the Contrôleur général in 38.31% of inquiry case-files (versus 42.14% in 2016), either because no violation of a fundamental right was proven, or because the person deprived of liberty was transferred or released and the fundamental right in question could not be dissociated from his or her individual situation, or due to a lack of information justifying the issue of recommendations or a call for vigilance.

Out of the 355 case-files closed in 2017, the following results were obtained:

	Results of the inquiry	Number of case-files	% 2017	% 2016 (Jan. – Nov.)
Violation of a fundamental right	Violation not proven	172	48.45%	42.93%
	Violation proven	136	38.31%	34.29%
	Violation proven partially	47	13.24%	22.78%
Total		355	100%	100%
Result for the person deprived of liberty	Not applicable	84	23.66%	21.98%
	Problem solved	63	17.75%	20.16%
	Problem not solved	63	17.75%	14.92%
	Unknown result	62	17.46%	14.40%
	Problem partially solved	45	12.68%	15.97%
	Problem solved for the future	38	10.70%	12.57%
Total		355	100%	100%
Actions taken up by the CG with the authorities concerned	No particular follow-up	136	38.31%	42.14%
	Call for vigilance	93	26.20%	28.80%
	Recommendations:	78	21.97%	13.35%
	heeded	*9*		
	not heeded	*11*		
	unknown results	*58*		
	Corrective measure taken by the authority or implementation of a best practice	48	13.52%	15.71%
TOTAL		355	100%	100%

5. Visits conducted in 2017

5.1 Quantitative data

Visits per year and per category of institution

Categories of institutions	Total no. of institutions[59]	2008-2013	2014	2015	2016	2017	TOTAL	including institutions visited once[60]	% visits over no. of institutions
Custody facilities	**4,059**	**296**	**55**	**58**	**52**	**48**	**509**	**475**	
– including police[61]	673	193	27	32	22	24	298	269	**11.70%**
– gendarmerie[62]	3,386	85	24	22	26	24	181	180	
– other[63]	ND	18	4	4	4	-	30	26	
Customs detention[64]	**179**	**25**	**11**	**5**	**2**	**3**	**46**	**44**	
– including courts	11	2	1	-	1	-	4	3	**24.58%**
– common law	168	23	10	5	1	3	42	41	
Court jails/cells[65]	**197**	**64**	**4**	**9**	**10**	**11**	**98**	**93**	**47.21%**
Other[66]	-	**1**	-	-	-	-	**1**	**1**	-
Penal institutions	**184**	**179**	**31**	**27**	**26**	**21**	**284**	**198**	
– including remand prisons	81	92	14	12	10	8	136	95	
- prisons	55	35	8	9	7	8	67	48	
- detention centres	25	25	4	3	5	1	38	27	**107.61%**
– long-stay prisons	6	7	1	-	1	2	11	7	
– institutions for minors	6	7	2	2	1	1	13	6	
- open prisons	10	12	1	1	2	1	17	14	
- EPSNF	1	1	1	-	-	-	2	1	
Administrative detention	**101**	**71**	**9**	**14**	**6**	**11**	**111**	**72**	**71.29%**
– Including CRA	24	38	6	7	1	6	58	31	

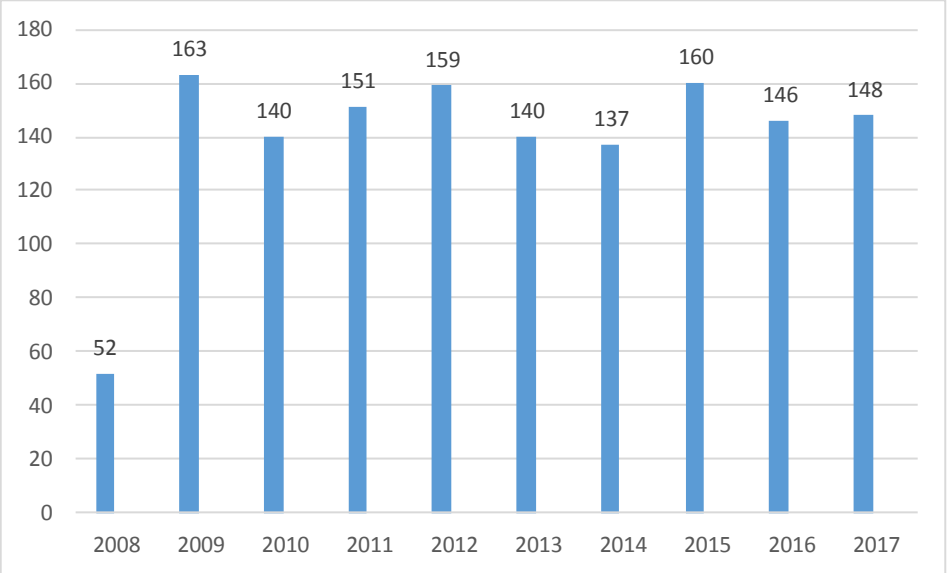
[59] *The number of institutions changed between 2016 and 2017. The figures shown below were particularly updated for juvenile detention centres (as at 1 December 2017) and penal institutions (as at 1 November 2017).*
[60] *The number of follow-up visits is respectively one in 2009, five in 2010, six in 2011, ten in 2012, seven in 2013, thirty-six in 2014, sixty-one in 2015, fifty-two in 2016 and forty-one in 2017.* ***Due to certain structures closing down during these nine years, the number of places visited at least once can be greater than the number of institutions to be inspected.***
[61] *Data provided by the IGPN and the DCPAF, comprising custody facilities of the DCSP (496), the DCPAF (57) and the police headquarters (120), updated in December 2017.*
[62] *Data provided by the DGGN, January 2018.*
[63] *These are facilities of the central directorates of the national police (PJ, PAF, etc.).*
[64] *Data provided by customs, updated in February 2015. Four customs detention facilities are common to them and have not been recorded among the customs detention facilities of common law.*
[65] *The cases in which the cells or jails of the TGI and those of the courts of appeals are located at the same site are not taken into account.*
[66] *Military detention facilities, etc.*

– LRA[67]	26	19	2	4	2	1	28	22	
– ZA[68]	51	14	1	3	2	4	24	18	
– Other information[69]	-	-	-	-	1	-	1	1	
Deportation measure	-	-	**3**	**4**	**0**	**5**	**12**	**12**	-
Healthcare institutions[70]	**432**	**123**	**15**	**34**	**43**	**44**	**259**	**232**	
– including CHS	270	37	6	6	14	13	76	69	
– CH (psychiatric sector)		22	2	15	11	18	68	64	
– CH (secure rooms)	87	33	3	6	15	13	70	65	**53.70%**
– UHSI	8	7	1	4	-	-	12	7	
– UMD	10	10	-	3	-	-	13	10	
– UMJ	47	9	-	-	-	-	9	9	
– IPPP	1	1	-	-	-	-	1	1	
– UHSA	9	4	3	-	3	-	10	7	
Juvenile detention centres	**52**[71]	**46**	**9**	**9**	**7**	**5**	**76**	**50**	**96.15%**
GRAND TOTAL	**5,204**	**805**	**137**	**160**	**146**	**148**	**1,396**	**1,177**	**71.78%**[72]

5.1.1 Number of visits

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Number of visits	52	163	140	151	159	140	137	160	146	148

[67] *The data indicated here comes from the 2016 joint report on detention centres and facilities for illegal immigrants drawn up by the six associations working in immigration detention centres.*
[68] *The number of 51 waiting areas is a rough estimate and should not be taken literally: almost all of the detained foreign nationals are held in the waiting areas of the airports of Roissy-Charles-de-Gaulle and Orly.*
[69] *In October 2016, the CGLPL monitored the operations to dismantle the Calais Jungle Camp.*
[70] *Data provided by the DGOS for psychiatric institutions with the capacity to receive involuntary patients at any time of the day or night, for hospitals having secure rooms and for UMJ (December 2014).*
[71] *Four of the fifty-two juvenile detention centres were temporarily closed in 2017.*
[72] *The ratio is not calculated with the total of institutions visited at least once between 2008 and 2017, indicated in the previous column, but on the visits from which visits to custody facilities, customs detention facilities, court jails and cells and military detention centres, as well as the monitoring of deportation procedures were subtracted; i.e. 552 visits for a total of 769 places of deprivation of liberty;*



5.1.2 Average length of visits (in days)

	2009	2010	2011	2012	2013	2014	2015	2016	2017
Juvenile detention centre	2	3	4	4	3.25	3.56	3.56	3.29	3.20
Court jails and cells	1	2	2	1.5	2	1.75	1.56	1.10	1.37
Penal institution	4	4	5	5	5	5.20	5.67	6.19	5.86
Custody facilities	1	2	2	2	2	2.33	1.93	1.49	1.79
Administrative detention	2	2	2	3	5[73]	3.11	2.57	3.50	2.82
Customs detention	1	2	1	1.5	2	1.95	2.20	1	1
Healthcare institution	2	3	3	4	4	4.52	4.20	3.45	4.07
Deportation procedure	-	-	-	-	-	2	1	-	1.6
Average	2	3	3	3	3	3.33	3.04	3.12	3.11

In 2017, the inspectors spent:

- 179 days in hospitals;
- 123 days in detention facilities;
- 86 days in custody facilities;
- 31 days in administrative detention centres;
- 16 days in a juvenile detention centre;
- 15 days in jails and cells of courts;
- 8 days on deportation procedures;
- 3 days in customs detention centres.

I.e. a total of 461 days in places of deprivation of liberty.

[73] *Only the waiting area of Roissy was visited in 2013, over a five-day period.*

5.2 Nature of the visits (since 2008)

	Custody facilities, TGI cells, customs, etc.		Juvenile detention centres		Healthcare institutions		Penal institutions		Detention centres and facilities, waiting areas		Total
	Unann.	Sched.	Unann.	Sched.	Unann.	Sched.	Unann.	Sched.	Unann.	Sched.	
2008	20	0	0	0	0	5	2	14	7	4	**52**
2009	69	0	5	3	6	16	18	22	24	0	**163**
2010	60	2	8	0	8	10	13	24	11	4	**140**
2011	57	1	10	1	25	14	17	15	11	0	**151**
2012	96	0	7	0	13	9	14	11	9	0	**159**
2013	81	0	12	0	13	4	28	1	1	0	**140**
2014	70	0	8	1	11	5	18	12	12	0	**137**
2015	70	2	8	1	13	21	7	20	18	0	**160**
2016	64	0	7	0	21	22	6	20	5	1	**146**
2017	62	0	5	0	17	27	0	21	15	1	**148**
Total	**649**	**5**	**70**	**6**	**127**	**133**	**123**	**160**	**113**	**10**	**1,396**

	Custody facilities, TGI cells, customs, etc.	Juvenile detention centres	Healthcare institutions	Penal institutions	Detention centres and facilities, waiting areas, etc.	TOTAL
Unannounced	649	70	127	123	113	1,082
Scheduled	5	6	133	160	10	314

In all, 77.5% (1,082) of institutions were visited unannounced and 22.5% (314) in a scheduled manner. These percentages are to be adjusted according to the type of institution concerned. Visits conducted without prior notice thus comprise the following percentages:

- 99.24% with regard to police custody facilities, court cells and customs;
- 92.11% with regard to juvenile detention centres;
- 91.87% with regard to detention centres for illegal immigrants, waiting areas and deportation procedures;
- 48.85% with regard to healthcare institutions;
- 43.46% with regard to penal institutions;

This distribution between scheduled and unannounced visits varies little from one year to the next. In principle, it obeys a simple rule:

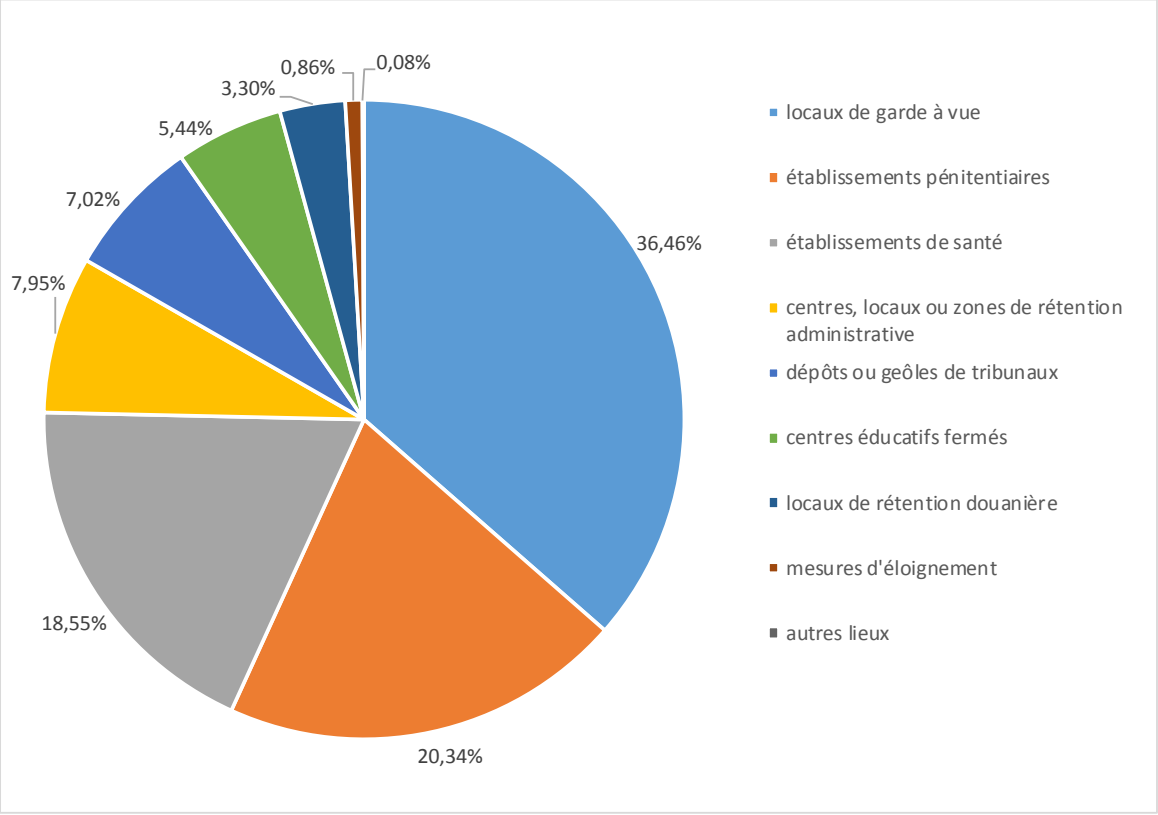
- visits to complex institutions in which persons deprived of liberty can spend several years are scheduled, unless there are grounds to do otherwise, since this way, the CGLPL can benefit, as soon as it arrives, from a documentary case-file and a meeting attended by the institution's main managers;

- on the other hand, visits to small institutions in which persons deprived of liberty spend only brief periods are, in principle, unannounced.

5.3 Categories of institutions visited

A total of 1,396 visits have been conducted since 2008. They are distributed as follows:

- 36.46% concerned police custody facilities;
- 20.34% concerned penal institutions;
- 18.55% concerned health institutions;
- 7.95% concerned detention centres and facilities for illegal immigrants and waiting zones;
- 7.02% concerned court jails and cells;
- 5.44% concerned juvenile detention centres;
- 3.30% concerned customs detention facilities;
- 0.86% concerned deportation measures;
- 0.08% concerned other places.



This distribution does not change much from one year to the next because past history plays an important role here.

6. Resources allocated to the Contrôleur général in 2017

CGLPL figures at a glance

- 61 members of staff, including 33 permanent employees
- 7% management staff
- 8% staff assuming a support role
- 85% inspectors, including:
- 48% permanent inspectors
- 52% external inspectors, with collaborator status
- 41% men
- 59% women
- 55 years old: average age (49 years old for permanent employees)
- 4 years of seniority on average
- 66% of staff arrived between 2014 and 2017
- 5.1m in budget (4m in staff appropriations and 1m in operating appropriations)

6.1 Stable human resources since 2015

The Finance Act for 2015 enabled the creation of three additional jobs owing to the new areas of competence bestowed by the legislation. The creation of two additional jobs had been anticipated in the 2015 management strategy and confirmed in the 2016 management strategy, bringing the institution's employment ceiling to 33 FTEs. With no new areas of competence, the CGLPL's employment structure is now confirmed.

To ensure the performance of missions, the institution also works with 26 external inspectors.

6.1.1 Human resources: permanent positions and external staff, trainees and casual employees in 2017

Permanent positions and external staff

On 13 March 2017, a prison commandant, a permanent inspector who retired at the end of 2016, was replaced by a prison services director. Two inspectors from the judges corps of the regular court system and a prison director returned to their original administration, which offered them positions with prospects of career promotion. They were replaced by staff from the same corps. However, the prison director's replacement did not arrive in 2017.

Two contract inspectors in charge of case referrals also embarked on external mobility. A young legal expert, just starting out but very involved in the associations sphere, was recruited to replace one of the staff members who left. The second position, vacant right at the end of the year, was not filled in 2017.

Two external inspectors ended their collaboration with the Contrôleur général des lieux de privation de liberté in 2017 for personal reasons. Two external inspectors, one psychiatrist working in

the hospital sector and one former inter-regional director for prison services, recently retired, have been recruited.

Trainees and casual employees

The Contrôleur général des lieux de privation de liberté received twelve trainees during the year, who came from civil service schools, professional training institutions or French universities.

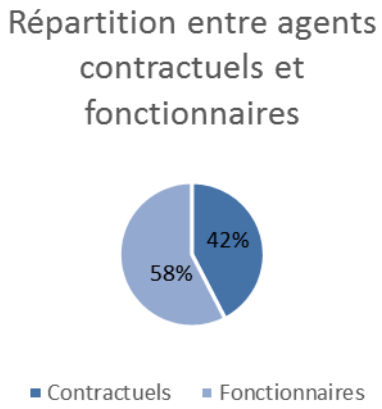
	Professional training institutions	Civil service schools (ENM, ENAP, IRA)	Universities
Number of trainees received	4	5	3

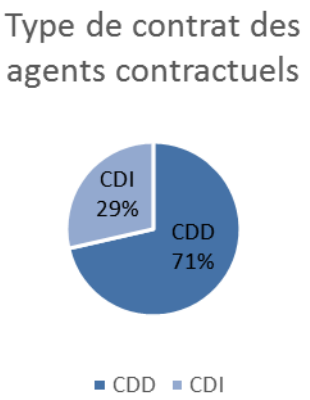
Contract workers on short-term missions

Two casual contract workers were recruited in succession in 2017 to replace a secretary's position which had been vacant for a few weeks, and then to coordinate the logistics of the institution's anniversary symposium in November.

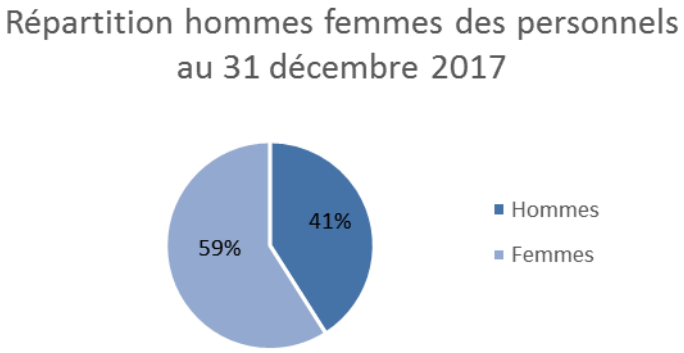
6.1.2 Social assessment data

Statuses of permanent employees

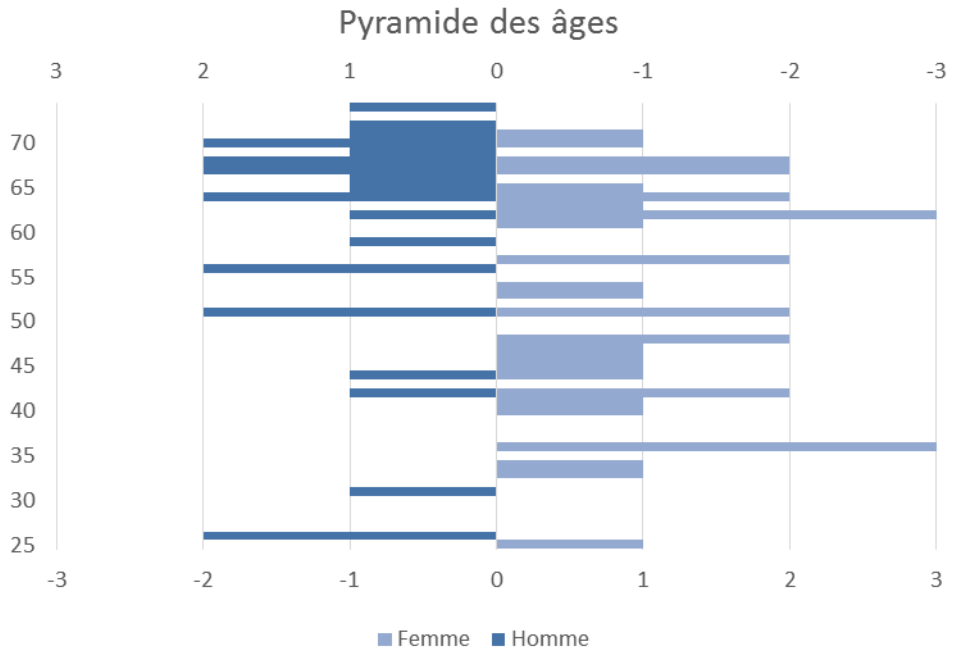




Men-women distribution



Pyramid of ages of all staff



Staff turnover and absenteeism

The staff turnover rate in 2017 indicates the institution's sound capacity to be able to support staff in their professional mobility plans. Uptake of casual workers on fixed-term contracts automatically increases the CGLPL's staff turnover rate, which is slightly higher (10.6% in 2017) than the average observed in the State civil service (8.1% in 2015 according to figures of the National Institute of Statistics and Economic Studies (INSEE). This correct turnover rate and relatively low rate of absenteeism reflects a good social climate and does not call for any immediate or in-depth consideration in terms of improving working conditions.

Year	2015	2016	2017
Staff turnover rate	16.1%	9.1%	10.6%

Rate of absenteeism for sickness	
Overall	2.1%
Contract workers	0.8%
Civil servants	3.1%

A new tool for monitoring working time will be set up in 2018. This will make it possible to simplify and automate monitoring of any work stoppages and leave.

Training: internal training in the CGLPL's speciality tools

				Number of participants
Training taken by CGLPL staff in 2017			**Total**	103
	Internal training		**Total**	91
		Thematic training	**Total**	72
			Mental problems - interview with a patient 1	11
			Mental problems - interview with a patient 2	10
			2011 Act 1	10
			2011 Act 2	13
			Organisation of psychiatry in France and organisation of a psychiatric institution 1	12
			Organisation of psychiatry in France and organisation of a psychiatric institution 2	16
		Technical training	**Total**	19
			Training in inspectors' tools and methods 1	5
			Training in inspectors' tools and methods 2	3
			Training in inspectors' tools and methods 3	5
			Training in inspectors' tools and methods 4	6
	External training		**Total**	12
		ENM training	Designing and adjusting sentences	2
			Racism and anti-Semitism: contemporary issues	2
			Foreign nationals and judicial judges	2
		Symposia	Symposium on care ordered by the criminal justice system (Nantes)	1
			Symposium of the journal Cliniques, "daily life in an institution"	2
		Language training	Intensive foreign language learning: Arabic	1
			Intensive foreign language learning: English	1
		Competitive exam training	Sauvadet 2 training	1

103 training programmes were carried out in 2017.

Emphasis was placed on training for inspectors given internally:

- on the organisational, legal and human environment of inspections conducted in psychiatric settings,
- on the tools and working methods of inspections.

6.2 Multiannual growth in financial resources

6.2.1 Budgetary assessment for the 2015-2017 three-year period

Appropriations in €m	2015			2016			2017		
	Staff appropriations	Operating appropriations		Staff appropriations	Operating appropriations		Staff appropriations	Operating appropriations	
		CAs	PAs		CAs	PAs		CAs	PAs
Appropriations voted in the initial Finance Act	3.769	0.995	1.075	4.110	0.977	1.141	4.089	1.024	1.104
Appropriations open	3.750	2.567	1.044	4.089	0.946	1.020	4.065	0.899	0.972
Appropriations used	3.625	2.310	1.033	3.876	0.642	1.053	3.915	0.622	0.972
Utilisation rate of appropriations open	90%	90%	99%	95%	68%	103%	96%	69%	100%

Trends in jobs and wage bill over the three-year period

The Act of 26 May 2014 amending the Act of 30 October 2007 establishing a Contrôleur général des lieux de privation de liberté has particularly authorised inspection of the enforcement in practice of procedures for removing foreign nationals up until their handing-over to the State of destination and established a right to an on-site visit of the people deprived of liberty who referred a case to the institution. The Contrôleur général des lieux de privation de liberté has therefore seen an extension in its areas of competence which justified a certain increase in its staff over the 2015 financial year, completed in 2016, as well as an extension of its premises so as to accommodate additional workstations and lay out suitable meeting rooms.

In terms of staff expenses and jobs, the institution benefited from five new jobs created by the 2015 and 2016 Finance Acts on account of the new areas of competence bestowed by the Act of 26 May 2014. The institution's employment ceiling has been increased as a result of these measures from 28 FTEs in 2014 to 33 in 2016.

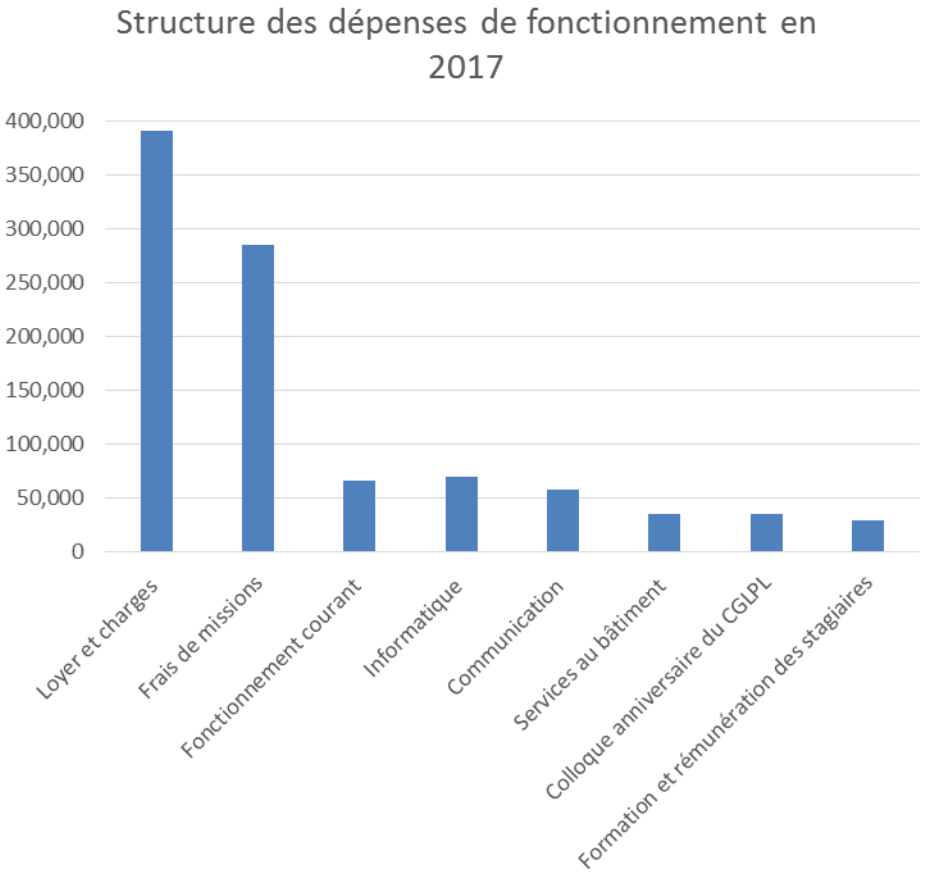
The Table above shows an increase in wage bill allocated to the institution between 2015 and 2016 for the full-year cover of the five newly created jobs in 2015. In 2017, the CGLPL saw a slight drop in appropriations corresponding to its participation in the effort to streamline public spending required for Programme 308.

Not all the appropriations allocated annually are used up, largely due to the (sometimes lengthy) frictional vacancy for recruitment of officials on secondment.

It is worth noting increased consumption of the budget for remuneration of external staff (stable consumption at 300,000 euros in 2016 and 2017, 34% higher than the 2015 budget), largely due to the increase in numbers of external inspectors (with stepped-up recruitment of professionals from the hospital and psychiatric sectors) and better remuneration for their participation in the institution’s work (including training and participation in thematic reports).

Reduced operating appropriations budgets since 2015

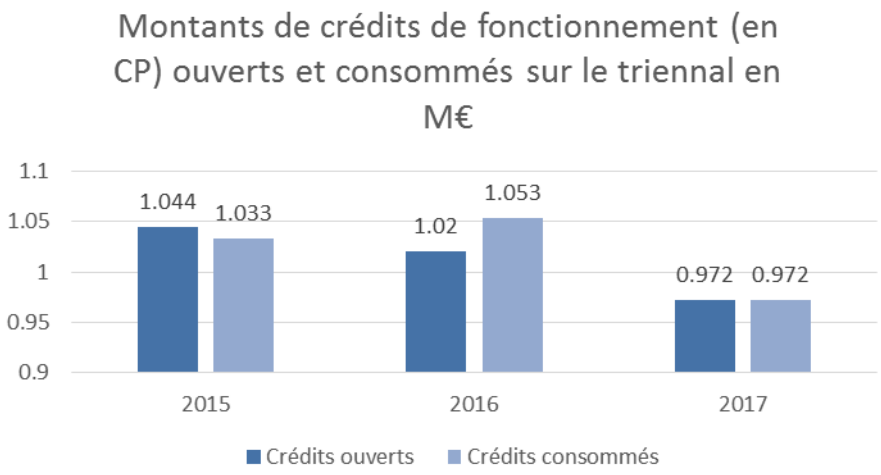
Operating appropriations finance the institution's operations:



The graph above highlights the extreme rigidity of the way operating expenditures are structured, leaving little room for manoeuvre: expenditures on rented properties, which are unavoidable and impossible to negotiate, account for over 1/3 of total expenditures.

1/3 of appropriations are allocated to funding the 150 inspection missions a year, in a context of generally increasing expenditure (rise in the flat-rate reimbursement per hotel night from 60 to 70 euros in 2017 and increase in the cost of rail transport).

The institution only has room for manoeuvre on a small proportion of expenditures, including general operating costs, entertainment expenses and data processing, as well as on funding of highlights of institutional life (seminars).



Operating appropriations to the institution in the form of payment appropriations have been decreasing since 2015, due to budget regulation measures imposed over the course of the financial year in 2016 and 2017.

In 2016, from a structural point of view, the Contrôleur Général des Lieux de Privation de Liberté suffered the effect of its organisational growth (+ 5 jobs: +17%), which had a major impact on operating expenditures that year.

In 2016, the CGLPL was provided with assistance to its programme in order to close the financial year and meet payment deadlines.

In 2017, the institution's anniversary colloquium, held on 17 and 18 December, was mostly funded out of management savings, with some external financing (in particular for international guests' travel expenses, by the Ministry for Europe and Foreign Affairs).

Management of the CGLPL's operating expenditures is particularly tight and the institution has to make every effort to rationalise its expenditures in order to keep within the appropriations budget allocated, including:

- keeping the general operating expenses budget at levels below that of 2014, before expansion of the institution's workforce and notwithstanding the increase in postal charges and the cost of translating referral letters;
- a close watch on consumption of mission expenses, with economising on accommodation expenses and anticipation of airfares - not easy to do, however, in the context of accompanying forced repatriations of foreigners.

6.2.2 Analysis of the financial situation over the five-year period (2018-2022): savings and efforts to rationalise expenditures

Appropriations allocated to the CGLPL over the 2018-2022 five-year budgetary period will enjoy a measure of stability. As far as expenditure on staff is concerned, no further jobs are expected to be created; expansion of the staff would only be considered in a favourable light if the institution were to be assigned new competences. The payroll will only evolve due to a positive age and job-skill coefficient.

As regards operating appropriations, the resources made available to the institution will also remain stable, requiring ongoing efforts to economise.

However, for the financial year 2018, the principle of management accountability applied by the Government, leading to a reduction in appropriations set aside at start of management and limiting the precautionary reserve to 3% of appropriations voted (instead of the previous 8%) and to setting aside a further 3% as a precautionary reserve, should result in an easier financial year. In 2017 (with the same total of appropriations voted as is expected for 2018), the CGLPL had 12% of its appropriations frozen and cancelled.

As regards a multiyear plan for optimisation of expenditures by pooling the institution's services with those of other autorités administratives indépendantes (AAIs – independent government agencies), it has to be said that lack of immediate geographic proximity with another AAI makes any real pooling difficult. However, it does not exclude a measure of cooperation and discussion on management practices.

Introduction of mobility paths between independent administrative authorities may be worth exploring, in particular for contract staff. A profile-exchange network is to be set up between AAIs whose missions include common themes: fundamental rights, the right to health and foreigners' rights. An initiative of this kind would help provide them with fresh career prospects insofar as such staff's salaries and seniority at the institution often closes civil society organisations' doors to them.

In addition, notwithstanding the difficulty of pooling services, the CGLPL has made every effort to rationalise its support function. Two staff members have been assigned to support functions since 2013 (an Administrative Director and an Administrative Manager).

No more staff have been added to such functions despite the growth of the CGLPL's workforce, thanks to increased efficiency largely due to use of financial information systems (Chorus DT, in particular), use of interministerial markets deployed by the Direction des achats de l'État (DAE – State Purchasing Directorate) and close cooperation with the Prime Minister's services (Direction des services administratifs et financiers (DSAF – Department of Administrative and Financial Services)) in the context of the service agreement.

Chapter 6

"To the Chief inspector..."

Letters received

Preparation for discharge

"Madam Chief Inspector of places of deprivation of liberty,

Following my telephone call to your office on 22 August 2017, I am taking the liberty of writing to you today for information.

Although I am not yet halfway through my sentence, I should like to know if you would be able to send me the documentation on assistance in the event of "sortie sèche" [i.e. release without follow-up to help with reintegration], or as it is known, release upon expiry of sentence.

I should like to have documentation on this subject, as it is true that assistance is provided in the event of release on parole, including community accommodation and help with finding a job, but I do not know what is in store for me when I am released.

My Rehabilitation and Probation Counsellor told me that assistance was also provided following release on expiry of sentence, but never how much, and I had the impression that I could not really count on parole, which was more or less confirmed according to what I have heard about other inmates to which it was not granted.

Even though the time has not yet come, I should like to start thinking about this now, I do not want to leave prison with NFA status.

I have absolutely nobody I can count on in the outside world and I shall be almost 60 years old when I am released, which is why I am worrying now about my future situation, all the more so because I am not in the best of health.

This is why I am humbly taking the liberty of writing to you.

My thanks in advance, Yours faithfully."

Prison conditions

"Dear Madam,

I am writing to you to tell you that I have left the remand prison in X and arrived at the prison complex in Y on 20 July 2017 for evaluation by the National Assessment Centre. I must report the fact that when I arrived at Fresnes on Thursday 20 July, I was put in a second-division cell at about 10 o'clock in the evening.

I was put in a cell with no chairs to sit on, no dustpan or brush, no mop and no knives or forks. Not even a cup or glass. They gave me something to eat and I had to eat with my fingers like an animal. I regard myself as a human being. I asked for something to eat with and sit down on. They did not want to give me a chair to sit on so I had to eating sitting on the floor. They did not give me breakfast in the morning for 2 days. No coffee and no bread to eat. I stayed like that until Sunday 23 July and nobody took me for assessment.

This makes me afraid to go back to the second division. The assessment finishes on 3 September and they are going to put me back in the second division until I am transferred to the detention centre for my family reunification. At the moment I have no resources. I asked the Directress if I could have the 20 euros a month poverty allowance but it was refused just as it was in the Laval remand prison. I cannot even telephone my son, who lives far away from me in V. We both suffer from being so far

away from each other. He cannot afford to come and see me here in Y in the visiting room. Between the remand prison in X and here, I do not understand the relentless treatment I am subjected to. Madam Directress, I turn to you as I am in despair and hope that you will be able to help me. I look forward to hearing from you.

Yours faithfully."

Exercising the right to vote

"Dear Madam,

I referred to you on 30 March concerning refusal of permission. I would now like to tell you of the consequences regarding authorisation for me to go to the polling station located within walking distance of the X prison complex.

As I told you before, I started taking the necessary steps to be able to vote in the presidential elections last October. I put down my address as the prison complex and asked to be registered on the electoral rolls. Since then, I have received my voting card.

I asked for permission to go to the polling station within walking distance of the prison. A prison visitor agreed to accompany me when I went to vote. In my request, I said that I agreed to have an escort if required. My request was refused for the single reason that my release date was too far off, even though I have been eligible for permission to go outside since February 2015, and for release on parole as from the 27th of this month.

I appealed against the order as the reason given did not take account of my character or my behaviour in prison. It was confirmed on appeal, without the President of the Chamber for Enforcement of Sentences' order giving any other reason. The order refuted my assertion that this was a violation of a "legitimate use of [my] right to vote", as I would be able "to take the necessary steps to appoint a proxy".

This decision obliged the prison administration to provide me with the means to do so. It turns out that the prison complex does not provide any information or implement any measure enabling prisoners to vote by proxy. In spite of the steps I have taken and my repeated requests (see attached copies of letters), I am still unable to vote by proxy. I have received no reply to my letters.

On Thursday 13 April, a prison guard informed me in passing that a judicial police officer would be coming by the next day to pick up my proxy. I told the guard that I had asked to be able to meet people likely to vote for the candidate of my choice. He told me that the administration had designated four people to act as proxies and that I had to choose one of them, without meeting any of them and without knowing who they were going to vote for. I told him that this was known as vote-rigging. He asked me if I wanted to see the judicial police officer or not. I replied that I did want to meet him in order to lodge a complaint regarding vote-rigging. I was not called on Friday when the officer came by.

Yours faithfully."

Exercise of fundamental rights during enforced hospitalisation

"To the attention of the Chief Inspector of places of deprivation of liberty,

Dear Madam,

My fundamental rights are being violated at this very moment by my being put here on the orders of X, as I wanted to go to hospital and even planned to do so under my own steam. The situation disturbs me deeply. My fundamental rights are also being violated by my being made to wear clothing supplied by the hospital when I have my own; I have not got the right to go home and get them either. My fundamental rights are also being violated by my not having the right to move freely around the hospital and the city of X or to go and stay at home.

Respectfully, […]"

"Madam, the Chief Inspector of places of deprivation of liberty,

You have been kind enough to reply to my letter of …, for which I thank you. Your service is of great use to citizens experiencing problems while in prison. My partner was hospitalised by court order at X with compulsory psychiatric treatment.

The letters I sent to the Court of first instance in civil and criminal matters and Administrative Court, as well as to his own general practitioner and the head of the X Psychiatric Department have had no result. The complaints I made as a person of trust defending patients' interests, as my partner is in a state of depression and was unable to defend himself, were taken into account.

He had the right to a slight improvement in hospitalisation conditions. He has the right to choose an activity from among the ones organised for patients once a week. He chose the "reading" workshop run by a psychologist.

He has the right to go outside into the hospital's garden with me when the weather is good, and have coffee with me in the UHC's cafeteria.

At my request, two nurses accompanied him to the polling station during the elections.

He has a weekly 15-minute interview with the same referring psychiatrist who once received me in her office at my request, in the presence of a lead nurse, and [my partner]. I told her of my worries and my hopes of their getting the patient adopt a more "trusting" attitude so that he would accept medication. I told her that unless he was listened to, he would not be able to accept all the prohibitions he was subject to without rebelling. I think that my intervention has borne fruit

[My partner] now has the right to use his mobile phone from 6 p.m. to 8 p.m. once a day.

During my visits on Sunday afternoons, the medical team is friendlier to me. Of course, [my partner] would like to see his enforced confinement lifted and/or be allowed outside. He is very sad when I visit him; I cheer him up. I still do not know what medical plans the public mental health institution team has for him. I do not know what kind of medical monitoring will be recommended in order to help the patient have a normal everyday life. [My partner] and I would both like to lead an ordinary life again.

My thanks once again to the Chief Inspector of places of deprivation of liberty and her Secretary-General; I was much moved by your reply and reassured on the Rule of Law in our country, France.

Yours faithfully."

Difficulties connected with escorts for inmates with exit permits due to the death of a relative

"Dear Madam,

I am the mother of A, a child confined in the juvenile wing at V since 4 February 2017 by court order. His father was seriously ill and passed away on 26 March 2017. We asked the Judicial Youth Protection Service (PJJ) youth workers to give him permission to go out under escort so that he could attend the funeral procession (…).

The X juvenile court delivered its decision on 28 March 2017 authorising an extraordinary leave of absence with an escort the following day from 7 a.m. to 7 p.m.

I arrived at the hospital at 7 a.m. to wait for my son. As nobody came, I contacted the remand prison. Someone told me that there was a problem and that they would get back to me. Thirty minutes later, I phoned again and Ms B., the deputy director of the juvenile wing, told me that they did not have enough escorts. She told me she was sorry and suggested a 20-minute visit to see my son at midday. She joined us at the end of my visit and told us she was trying to find a solution for the afternoon. I had no further news, and my son, who had been ready since 7 a.m. waited all day. He was unable to see his father to help him mourn with his family.

The PJJ youth workers sent a note to the X court's judges, but, as my son's legal guardian, I have taken it upon myself to inform you of this situation as my son's rights were not respected.

Yours faithfully,"

Chapter 7

Places of deprivation of liberty in France: statistics

By Nicolas Fischer[74]

CNRS – Centre for Sociological Research on Law and Penal Institutions

This data uses principal statistical sources including data on measures of deprivation of liberty and the persons concerned. Sources were described in more detail in section 10 of the Chief Inspector of places of deprivation of liberty's reports for 2009 and 2011. Changes noted were commented upon in these reports, to which the reader is invited to refer.

As for the other reports, this edition updates the same basic data on the basis of availability of the various sources. The tables and graphs are accompanied by informative notes on methods and short comments.

Bringing together in one single document data relating to deprivation of liberty in the penal field (custody and incarceration), health field (psychiatric care without consent) and the field of deportation of foreign nationals (the execution of measures and detention in illegal immigration centres) should not mask the fact that there are major differences in statistical concepts characterising them.

It is still important to ask oneself what sort of numbering methods are being used: moving from liberty to deprivation of liberty (flows of persons and measures) or indeed counting persons deprived of their liberty at any given moment. One well understands that, depending on field, the connection between the two is not at all the same, due to durations of deprivation of liberty which differ widely for remand, detention, illegal immigrant detention or care under constraint. Given the state of the available sources, it is not possible to draw a parallel of these sizes for the various places of deprivation of liberty in a single table.

[74] This year once again, the author would like to extend his sincere thanks to Bruno Aubusson de Cavarlay (CNRS-Cesdip), author of the statistics shown in the reports from 2009 to 2014, for his advice and invaluable help. This chapter is an update of the statistical series that he initially created, and also includes comments that he suggested.

1. Deprivation of liberty in criminal cases

1.1 Number of persons implicated in offences, police custody measures and persons imprisoned

Source: État 4001, Ministry of the Interior and ONDRP, series B. Aubusson.

Field: Crimes and offences reported to the State Prosecutor's Office by the police and gendarmerie (apart from traffic offences), Mainland France.

Five-yearly averages from 1975 to 1999, followed by annual results.

PERIOD	PERSONS IMPLICATED IN OFFENCES	CUSTODY MEASURES	which lasted 24 hours or less	which lasted more than 24 hours	IMPRISONED PERSONS
1975-1979	593,005	221,598	193,875	27,724	79,554
1980-1984	806,064	294,115	251,119	42,997	95,885
1985-1989	809,795	327,190	270,196	56,994	92,053
1990-1994	740,619	346,266	284,901	61,365	80,149
1995-1999	796,675	388,895	329,986	58,910	64,219
2000	834,549	364,535	306,604	57,931	53,806
2001	835,839	336,718	280,883	55,835	50,546
2002	906,969	381,342	312,341	69,001	60,998
2003	956,423	426,671	347,749	78,922	63,672
2004	1,017,940	472,064	386,080	85,984	66,898
2005	1,066,902	498,555	404,701	93,854	67,433
2006	1,100,398	530,994	435,336	95,658	63,794
2007	1,128,871	562,083	461,417	100,666	62,153
2008	1,172,393	577,816	477,223	100,593	62,403
2009	1,174,837	580,108	479,728	100,380	59,933
2010	146,315	523,069	427,756	95,313	60,752
2011	1,172,547	453,817	366,833	86,984	61,274
2012	1,152,159	380,374	298,228	82,146	63,090
2013	1,106,022	365,368	284,865	80,503	55,629
2014	1,111,882	364,911	284,926	79,985	52,484
2015	1,089,782	352,897	272,065	80,832	34,814
2016	1,066,216	360,423	268,139	92,284	31,227

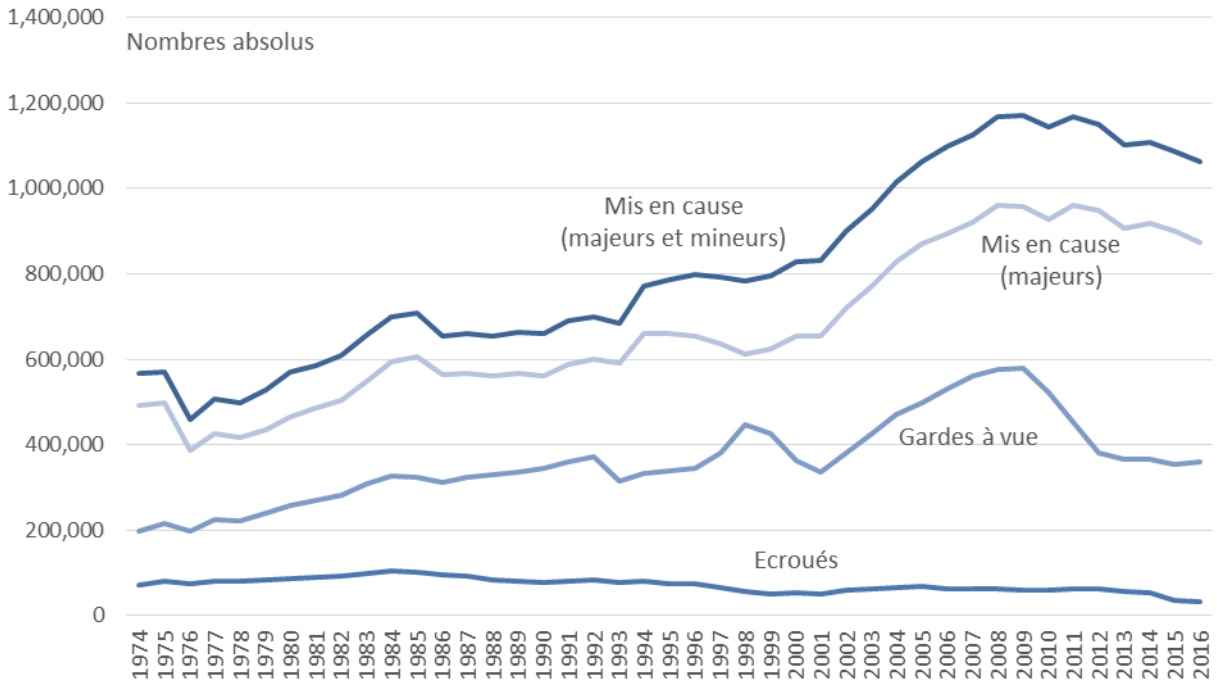
Note: The sharp drop in numbers of people imprisoned from 2015 onwards appears above all to be due to the change in the way data is collected, following digitisation of procedural management. This figure used to include people referred to the State Prosecutor's Office but who were only subject to detainment in cells pending appearance before a judge. The new definition now only includes imprisoned persons.

Reference: Temporary Detention Surveillance Committee, *2015-2016 Report*, Paris, CSDP, 2016.

1.2 Trends in numbers of persons implicated in offences, police custody measures and persons imprisoned

Source: État 4001, Ministry of the Interior, ONDRP after 2009 / CSDP 2015-2017 Report, series B. Aubusson.

Field: Crimes and offences reported to the State Prosecutor's Office by the police and gendarmerie (apart from traffic offences). Bad cheques are also excluded for reasons of homogeneity. Mainland France



Note: When counting persons involved in criminal activity or an offence in police investigative procedures ("persons implicated"), one single person may be involved in any one year for different cases and counted several times. For police custody, the charges decided upon are counted (there being the possibility of a number of successive charges for one single person in a case). The source excludes implication for contraventions, driving offences and contraventions uncovered by the specialist services (customs, work inspection, fraud investigation etc.).

The "Persons imprisoned" column shows the decision at the end of the custody period, the majority of measures resulting in release followed or not afterwards by court proceedings. The persons "imprisoned" have, by necessity, been presented before the court at the end of custody (brought before the court) but not all of the referred accused are then imprisoned by court order. The State Prosecutor's Office or court may decide to free the accused. Counting those imprisoned in police statistics presents a few problems; in some police jurisdictions, all referred accused are counted or have been counted as imprisoned since the investigating police department does not know the results of the appearance before a judge or public prosecutor and possibly the court appearance where individuals are held by another department (when a case is filed before the courts). It is however surprising to see existing, at criminal investigating department level (national police and gendarmerie) the collection of statistical information relating to criminal justice. But for the time being there are no equivalent statistics at public prosecutor level.

1.3 Number of police custody measures and rate of use according to type of offence

Source: État 4001, Ministry of the Interior, ONDRP after 2009 / CSDP 2015-2017 Report, series B. Aubusson.

Field: Crimes and offences reported to the State Prosecutor's Office by the police and gendarmerie (apart from traffic offences), Mainland France.

Type of offence	1994			2008			2016		
	Persons implicated in offences	Custody measures	%	Persons implicated in offences	Custody measures	%	Persons implicated in offences	Custody measures	%
Homicide	2,075	2,401	*115.7%*	1,819	2,134	*117.3%*	2,271	2,935	*129.2%*
Robberies	18,618	14,044	*75.4%*	20,058	18,290	*91.2%*	15,885	13,577	*85.5%*
Drug trafficking	13,314	11,543	*86.7%*	23,160	15,570	*67.2%*	15,000	11,942	*79.6%*
Procuring (prostitution)	901	976	*108.3%*	759	768	*101.2%*	840	620	*73.8%*
Insulting and violence against government officials	21,535	10,670	*49.5%*	42,348	29,574	*69.8%*	31,074	22,045	*70.9%*
Auto larceny	35,033	22,879	*65.3%*	20,714	16,188	*78.2%*	14,599	9,794	*67.1%*
Burglaries	55,272	34,611	*62.6%*	36,692	27,485	*74.9%*	39,591	26,528	*67.0%*
Fire, explosives	2,906	1,699	*58.5%*	7,881	6,249	*79.3%*	5,332	3,278	*61.5%*
Vehicle theft	40,076	24,721	*61.7%*	20,764	15,654	*75.4%*	12,716	7,916	*62.3%*
Sexual assaults	10,943	8,132	*74.3%*	14,969	12,242	*81.8%*	20,860	12,116	*58.1%*
Other behaviours	5,186	2,637	*50.8%*	12,095	8,660	*71.6%*	7,619	3,596	*47.2%*
Foreigners	48,514	37,389	*77.1%*	119,761	82,084	*68.5%*	11,099	5,366	*48.3%*
False documents	9,368	4,249	*45.4%*	8,260	4,777	*57.8%*	10,961	4,156	*37.9%*
Other thefts	89,278	40,032	*44.8%*	113,808	61,689	*54.2%*	11,6973	46,334	*39.6%*
Assault and battery	50,209	14,766	*29.4%*	150,264	73,141	*48.7%*	15,1877	57,817	*38.1%*
Shoplifting	55,654	11,082	*19.9%*	58,674	20,661	*35.2%*	52,095	16,952	*32.5%*
Weapons	12,117	5,928	*48.9%*	23,455	10,103	*43.1%*	23,446	6,826	*29.1%*
Drug use	55,505	32,824	*59.1%*	149,753	68,711	*45.9%*	168,864	42,035	*24.9%*
Destruction, damage	45,591	12,453	*27.3%*	74,115	29,319	*39.6%*	44,157	12,224	*27.7%*
Other trespass to persons	28,094	5,920	*21.1%*	65,066	20,511	*31.5%*	85,407	19,357	*22.7%*
Fraud, breach of trust	54,866	17,115	*31.2%*	63,123	21,916	*34.7%*	64,711	10,116	*15.6%*
Frauds, economic crime	40,353	6,636	*16.4%*	33,334	9,700	*29.1%*	34,705	4,822	*13.9%*
Other general policies	15,524	3,028	*19.5%*	6,190	926	*15.0%*	7,808	1,855	*23.8%*
Family, child	27,893	1,707	*6.1%*	43,121	4,176	*9.7%*	67,383	4,714	*7.0%*
Unpaid cheques	4,803	431	*9.0%*	3,135	457	*14.6%*	2,285	44	*1.9%*
Total	775,701	334,785	*43.2%*	1,172,393	577,816	*49.3%*	1,066,216	360,423	*33.8%*
Total without unpaid cheques	770,898	334,354	*43.4%*	1,169,258	577,359	*49.4%*	1,063,931	360,379	*33.9%*

Note: In drawing up this table, the headings for the offence names (known as "Index 107") have been restated in a wider way to attenuate breaks relating to changes in Index 107 and changes in recording practices. The heading "unpaid cheques" includes cheques without funds, before they were decriminalised in 1992. The large number of persons arrested was shown under this heading (over 200,000 in the mid-1980s) and so as not to obscure results relating to custody, very seldom used in that respect, this figure has been drawn up excluding them.

Comment: The table by category of offence confirms, for 2016 as for the previous years, the general effect of the Act of 14 April 2011 which had been preceded by the decision of the Constitutional Council (30 July 2010) referred a priority preliminary ruling on the issue of the unconstitutionality (QPC) of the articles of the CPP relating to custody. After a maximum recorded in 2009, use of this measure decreased from 2010 for all types of offences but differences still remain between them. For offences showing the highest rate of appeal in custody (the first lines in the table) the reduction in this rate is proportionately smaller. It is also worth remarking, and in compliance with legislative developments, that the decrease in custody, in absolute numbers and by proportion primarily concerns offences relating to foreign nationals staying in the country and the use of drugs which respectively contribute 35% and 12% in the total drop between 2008 and 2016. In the case of foreign nationals' residence, the drop has been extended under the effect of its replacement by detention for verification of identity in 2011 (please see section 3.1).

1.4 Placements in prisons according to criminal category and estimates of placements in detention ("flow")

Source: Quarterly Statistics on the Population Dealt with in Penal Institutions, French Ministry of Justice, Prisons Administration Department, PMJ5 (1970-2017). Series B. Aubusson.

Field: Prison institutions in Mainland France (1970-2000) and then for France and its Overseas territories.

Period	Remand prisoners: immediate hearing	Remand prisoners: preparation of case for trial	Convicted prisoners	Of which imprisoned convicted prisoners placed in detention	Imprisonment for debt(*)	Together
Mainland France						
1970-1974	12,551	44,826	14,181	-	2,778	74,335
1975-1979	11,963	49,360	16,755	-	2,601	80,679
1980-1984	10,406	58,441	14,747	-	1,994	85,587
1985-1989	10,067	55,547	17,828	-	753	84,195
1990-1994	19,153	45,868	18,859	-	319	84,199
1995-1999	19,783	37,102	20,018	-	83	76,986
2000	19,419	28,583	17,192	-	57	65,251
All of France						
2000	20,539	30,424	17,742	n.d.	60	68,765
2001	21,477	24,994	20,802	n.d.	35	67,308
2002	27,078	31,332	23,080	n.d.	43	81,533
2003	28,616	30,732	22,538	n.d.	19	81,905
2004	27,755	30,836	26,108	n.d.	11	84,710
2005	29,951	30,997	24,588	n.d.	4	85,540
2006	27,596	29,156	29,828	24,650	14	86,594
2007	26,927	28,636	34,691	27,436	16	90,270
2008	24,231	27,884	36,909	27,535	30	89,054
2009	22,085	25,976	36,274	24,673	19	84,354
2010	21,310	26,095	35,237	21,718	83	82,725
2011	21,432	25,883	40,627	24,704	116	88,058
2012	21,133	25,543	44,259	26,038	47	90,982
2013	21,250	25,748	42,218	22,747	74	89,290
2014	46,707		43,898	24,847	60	90,665
2015	-		-	-	-	-
2016	55,516		40,842	-	-	96,358

(*) Imprisonment of solvent persons for non-payment of certain fines (contrainte judiciaire) as from 2005

Note: No data is yet available for 2015, due to the many modifications in prison data collection made over the course of that year (adoption of GENESIS management software in prisons and modification of the method for calculating numbers of prison entries). For 2016, figures published by the Prison Administration at the end of the year enabled updating of the table's various headings, except for convicted prisoners placed in detention and imprisonment for debt (see *below*, 1.5).

Reference: Temporary Detention Surveillance Committee, *2015-2016 Report*, Paris, CSDP, 2016.

For the 2014-2016 figures presented, here, the numbers counted are by imprisonment judgement, for this legal placement under the responsibility of a penal institution no longer always involves accommodation. According to an estimate by the Prison Authorities Department (PMJ5) relating to the whole of France, placements in detention (imprisonment without adjustment of sentence *ab initio* or within seven days) represented 78% of imprisonments in 2013. This percentage was still 94% in 2006. Before the introduction, at the start of the 2000s, of electronic surveillance for prisoners (Act of 19 December 1997), it was almost 100%.

Although these figures have not been updated for the last two years, this estimate of placements in detention enables, from 2006 onwards in this table, a series to be offered for those arrested and sentenced, placed in detention, that is, according to the methodology used, not having an adjustment of sentence *ab* initio or within the 7 days following imprisonment (external placement or placement under electronic surveillance).

Comment: The gaps in the 2015-2016 series make it difficult to assesses evolutions for these last two years For preceding years (subject to confirmation for the following years) it can be seen that the new level of placements in detention of those sentenced has not fundamentally changed since the development of sentence adjustment. Even though, from 2014 onwards, we only have the overall statistics for all remand prisoners, the long-term drop in placements in temporary detention in the context of committal proceedings seems to have arrived at a ceiling and those making their appearance in court immediately are also stabilising. The drop in "imprisoned" in police statistics has not been confirmed (but the definition is not the same). Finally, placements in detention of "remand prisoners" (in the context of committal proceedings or immediate appearance in court before final sentencing) are clearly the majority among those detained over the course of this period.

References: These series, as with all those from the prison statistics, have been reconstituted by Bruno Aubusson de Cavarlay (Cesdip/CNRS) for the earliest period, from printed sources. For more recent years – with the exception, as indicated, of figures from 2015 – they are now regularly distributed by the Prison Administration's studies and estimates office (DAP-PMJ5) in a document entitled "Statistical series of persons appearing before the courts" ("Séries statistiques des personnes placées sous main de justice"). For 2016, we have also drawn on the statistics published in *Les Chiffres clés de la Justice 2017*, Paris, Ministry of Justice, 2017.

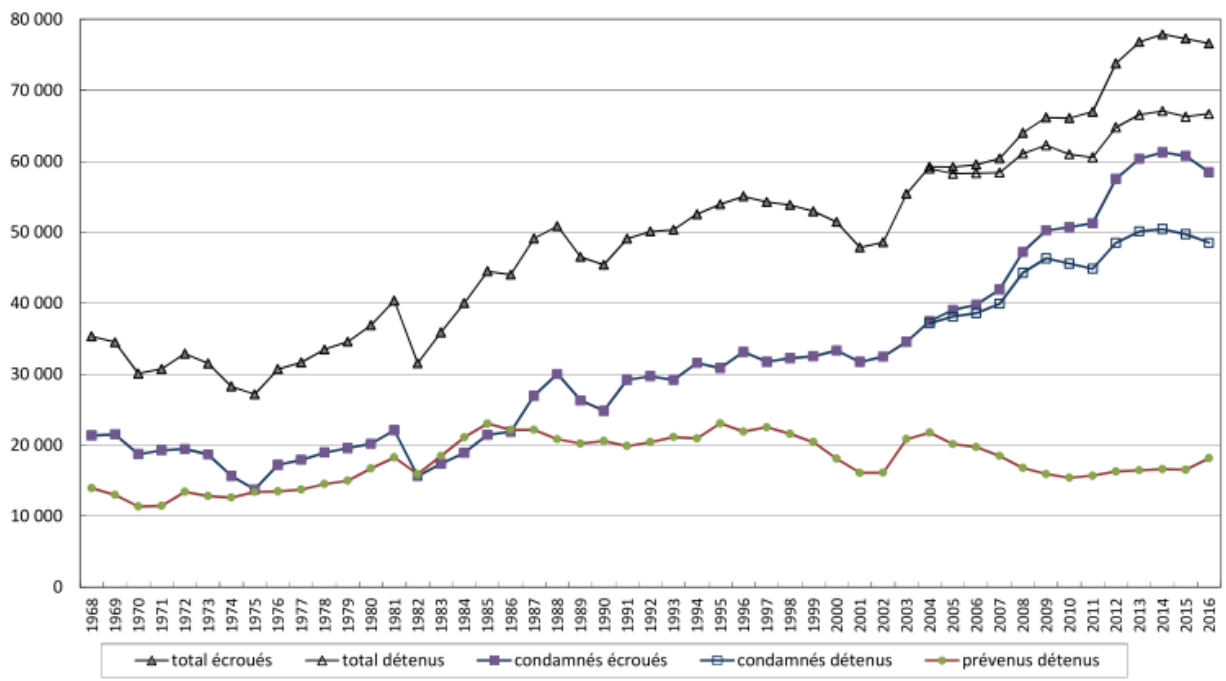
In relation to temporary detention, other series are presented in the 2015-2016 Report by the Temporary Detention Surveillance Committee (December 2016)[75].

[75] *This report is available online: http://www.justice.gouv.fr/le-garde-des-sceaux-10016/rapport-sur-la-detention-provisoire-29547.html*

1.5 Population serving sentences or on remand and prisoners at 1 January of each year ("stocks")

Source: Monthly Statistics of the Population of Persons Serving Sentences or on Remand and Prisoners in France, French Ministry of Justice, Annuaire statistique de la Justice and the Prison Administration Department, PMJ5.

Field: All penal institutions, France and its Overseas territories (progressive inclusion of French Overseas territories as from 1990, completed in 2003).



Note: as of 2004, the gap between the two curves for those sentenced represents all of those sentenced and imprisoned under remission of sentence without accommodation (placement externally or placement under electronic surveillance; this gap will be found for total figures of those imprisoned. Remand prisoners (for immediate committal or court appearance, awaiting sentence or final order) are all included.

Comment: Over the past 40 years, the number of prisoners sentenced has grown steadily. The growth profile of the number of "remand" (untried) prisoners (detained before final judgement) is different: stable between 1985 and 1997, it declined until 2010 (although with a sharp increase again between 2002 and 2004). It then rose slightly before shooting up again through 2016, whereas the number of convicted prisoners is tending to stagnate. Although no immediate explanation is forthcoming for this increase, the 2015-2016 report of the Temporary Detention Surveillance Committee interestingly ties it in with the November 2015 terror attacks and the impact on judicial practice of the state of emergency that was subsequently introduced. The increase observed does not therefore describe an increase in placements in detention for acts of terrorism (these do not exceed more than a few hundred since the state of emergency was established) but the increased reluctance on the part of judges to release the persons concerned who present similar profiles to persons implicated in this type of case. On this point, see the Temporary Detention Surveillance Committee, *2015-2016 Report*, Paris, CSDP, 2016, pp. 27 and after.

1.6 Distribution of Convicted Persons according to Duration of the Sentence being served (including adjusted sentencing without accommodation)

Source: Quarterly Statistics of the Population dealt with in Penal Institutions, French Ministry of Justice, Prisons Administration Department, PMJ5.

Field: all persons imprisoned; 1970-1980, penal institutions in Mainland France, France and its Overseas territories from 1980 (progressive inclusion of French Overseas territories as from 1990, completed in 2003).

Year	Duration of the sentence: number of prisoners					Percentage distribution			
	Less than 1 year	1 to less than 3 years	3 to less than 5 years	5 or more years	All convicted prisoners	Less than 1 year	1 to less than 3 years	3 to less than 5 years	5 years and more
1970	6,239	5,459	1,660	4,616	17,974	***34.7%***	***30.4%***	***9.2%***	***25.7%***
1980	7,210	5,169	1,713	5,324	19,416	***37.1%***	***26.6%***	***8.8%***	***27.4%***
1980	7,427	5,316	1,791	5,662	20,196	***36.8%***	***26.3%***	***8.9%***	***28.0%***
1990	6,992	5,913	3,084	8,642	24,631	***28.4%***	***24.0%***	***12.5%***	***35.1%***
2000	8,365	6,766	4,139	13,856	33,126	***25.3%***	***20.4%***	***12.5%***	***41.8%***
2010	17,445	14,174	5,628	13,442	50,689	***34.4%***	***28.0%***	***11.1%***	***26.5%***
2011	17,535	14,780	5,709	13,248	51,272	***34.2%***	***28.8%***	***11.1%***	***25.8%***
2012	20,641	17,226	6,202	13,428	57,497	***35.9%***	***30.0%***	***10.8%***	***23.4%***
2013	21,961	18,169	6,647	13,563	60,340	***36.4%***	***30.1%***	***11.0%***	***22.5%***
2014	22,213	18,288	6,868	13,902	61,261	36.3%	29.9%	11.2%	22.7%
2015	22,078	17,583	7,122	13,959	60,742	***36.3%***	***28.9%***	***11.7%***	***23%***
	Less than 1 year	Over 1 year to 2 years	Over 2 years to 5 years	5 years and more	All convicted prisoners	Less than 1 year	Over 1 year to 2 years	Over 2 years to 5 years	5 years and more
2016	25,325	9,709	11,066	12,343	58,443	*43.3%*	*16.6%*	*19%*	*21.1%*
2017	26,850	9,445	10,502	12,501	59,298	***45.3%***	***15.9%***	***17.7%***	***21.1%***

Note: This table was not updated in the 2016 edition as no quarterly statistics had been published by the DAP due to the above-mentioned change in statistics software. The document published in 2017 partly makes up for this lack by providing figures for the last two years, but adopts a slightly different calculation method. The reference periods for lengths of sentences have been partly modified, with significant effects on certain figures: for sentences of between one and five years, it makes it difficult to compare figures for 2016 and 2017 with those of previous years. This is why we have chosen to present them in a separate table, taking the new DAP criteria as reference. Comparison is easier for sentences of more than five years.

For the previous years, this analysis of convicted offenders includes those whose sentences were adjusted, without accommodation. On 1 January 2015, out of the 60,742 individuals sentenced to imprisonment, 12,689 were not detained under adjusted sentences and 2,659 were in day parole or placed in external accommodation. Therefore 45,394 of those sentenced were detained without adjustment of sentence: the analysis of this group by the quantum of sentence being carried out is not shown by this statistical source.

Comment: This table shows the trend reversing from 2000. During the last three decades of the 20th century, the growth in the number of prisoners serving long sentences was constant and marked. The proactive policy of developing the adjustment of short sentences (firstly less than one year and then less than two years) follows fresh growth in short sentencing demonstrated by the statistics on sentencing, whilst long sentences have stabilised at a high level. The reconciliation between counting movements and those in stock shows that the average duration of imprisonment doubled between 1970 and 2008 (2009 CGLPL Report, Page 251, note 2 in the French version). Indicators then continued to increase to 10.4 months in 2013. This increase is confirmed for the average duration of detention within its strict meaning, which increased from 8.6 months in 2006 to 11.5 months in 2013, and stabilised in 2015 and 2016 (10 and 9.7 months respectively) (DAP-PMJ5, 2014-2017).

Additional reference: "L'aménagement des peines : compter autrement ? Perspectives de long terme" (Adjustment of sentences: another way of counting? Long-term outlook), *Criminocorpus*, 2013, (online: http://criminocorpus.revues.org/2477).

1.7 Incarceration densities and over-occupation of penal institutions

Statistical data used by the Prison Administration, total number of prisoners at any given time and operational capacity of institutions, enable it to calculate an "incarceration density" defined as the comparison between these two indicators (numbers present per 100 operational places).

The density for all institutions – 117.8 on 1 December 2017 – has no great significance as the indicator varies a great deal according to type of institution: 90 for detention centres and detention centre wings, 75.1 for long-stay prisons and long-stay prison wings, 67.5 for institutions for young offenders, whilst for remand prisons and remand prison wings the average density was 142.1.

In addition, the average by type of institution includes variations within each category:

- of the 95 sentencing institutions, only 12 had a density higher than 100, including 4 detention centre wings in Overseas territories and 5 open prisons (4) and centres for adjusted sentences (1) in Ile-de-France. This over-occupation concerned 815 detainees in Mainland France and 364 in Overseas France.
- of the 130 remand prisons and remand prison wings, 16 had a density lower than or equal to 100 and 114 had a density greater than 100, of which 42 had a density higher than 150. Three remand prisons and remand prison wings exceeded 200, i.e. a population of prisoners more than double the number of operational places (all three in mainland France).

Over-occupation of prison institutions is therefore limited to remand prisons by application of *numerus* clausus to sentencing institutions which are a little below declared operating capacity. For remand prisons, the increase in operational capacity (+2,008 places between 1 January 2005 and 1 January 2015) was less than that of the number of prisoners (+3,742) and density is therefore higher in 2015 than in 2005.

Over-occupation of an institution has consequences for all prisoners in it, even if some cells have normal occupation (new arrivals wing, solitary confinement wing, etc.). It is therefore relevant to note the proportion of prisoners based on the percentage of occupation of the remand prison where they are. At 1 January 2017, the vast majority were affected by this situation of over-occupation (91%); over a third (38%) of detainees in remand prisons or remand prison wings were in institutions where the density was greater than or equal to 38.

Reference: "Statistiques pénitentiaires et parc carcéral, entre désencombrement et sur-occupation (1996-2012)" ("Prison statistics and total incarceration, between clearance and over occupation (1996-2012)"), *Criminocorpus*, 2014 (online: http://criminocorpus.revues.org/2734).

1.8 Distribution of prisoners in remand prisons by institution density

Source: Numbers, monthly statistics of persons imprisoned (DAP-PMJ5), DAP-EMS1, operational places.

Field: France and its Overseas territories, remand prisons and remand prison wings, prisoners.

Remand prisons and remand prison wings at 01/01	Total		Density > 100		Density > 120		Density > 150		Density > 200		Number of operational places
	Number of prisoners	%	Number of prisoners	Share of total %	Number of prisoners	Share of total %	Number of prisoners	Share of total %	Number of prisoners	Share of total %	
2005	41,063	100	38,777	94%	27,907	68%	12,227	30%	3,014	7%	31,768
2006	40,910	100	36,785	90%	23,431	57%	10,303	25%	1,498	4%	32,625
2007	40,653	100	36,337	89%	27,156	67%	10,592	26%	1,769	4%	31,792
2008	42,860	100	40,123	94%	33,966	79%	13,273	31%	2,600	6%	31,582
2009	43,680	100	41,860	96%	35,793	82%	14,324	33%	1,782	4%	32,240
2010	41,401	100	37,321	90%	25,606	62%	8,550	21%	1,268	3%	33,265
2011	40,437	100	32,665	81%	27,137	67%	4,872	12%	549	1%	34,028
2012	43,929	100	38,850	88%	34,412	78%	9,550	22%	1,853	4%	34,228
2013	45,128	100	42,356	94%	35,369	78%	11,216	25%	2,241	5%	33,866
2014	45,580	100	41,579	91%	37,330	82%	16,279	36%	1,714	4%	33,878
2015	44,805	100	41,675	93%	33,915	76%	17,850	40%	1,092	2%	33,776
2016	47,152	100	30,609	65%	26,896	57%	23,667	50%	1,469	3%	33,369
2017	47,656	100	43,213	91%	38,626	81%	18,109	38%	1,321	3%	33,532

2. Compulsory committal to psychiatric hospitalisation

2.1 Trends in measures of involuntary committal to psychiatric hospitalisation from 2006 to 2014

Source: DREES. SAE, ("Annual Statistics on Health Institutions"), table Q9.2.

Field: All institutions, Mainland France and French Overseas *départements*.

Days of hospitalisation according to the type of measure

	Hospitalisation at the request of a third party (HDT) since the Act of 5 July 2011, Committal for psychiatric treatment at the request of a third party (ASPDT)	Hospitalisation by court order (HO) (Article L.3213-1 and L.3213-2) since the Act of 5 July 2011, Committal for psychiatric treatment at the request of a representative of the State (ASPDRE)	Psychiatric care for imminent danger	Hospitalisation by court order / ASPDRE according to Article 122-1 of the CPP and Article L3213-7 of the CSP	Hospitalisation by judicial court order according to Article 706-135 of the CPP	Provisional Committal Order	Hospitalisation according to Art. D.398 of the CPP (prisoners)
2006	1,638,929	756,120		56,477		22,929	19,145
2007	2,167,195	910,127		59,844		31,629	26,689
2008	2,298,410	1,000,859		75,409	6,705	13,214	39,483
2009	2,490,930	1,083,025		104,400	18,256	14,837	48,439
2010	2,684,736	1,177,286		125,114	9,572	13,342	47,492
2011	2,520,930	1,062,486		124,181	21,950	14,772	46,709
2012	2,108,552	964,889	261,119	145,635		20,982	58,655
2013	2,067,990	977,127	480,950	198,222		16,439	85,029
2014	2,003,193	996,282	562,117	138,441		16,322	58,832
2015	2,031,820	1,013,861	617,592	140,831		17,438	69,019
2016	2,049,627	988,982	661,394	133,404		11,635	71,158

Number of patients according to type of measure

	Hospitalisation at the request of a third party (HDT) since the Act dated 5/07/2011, Committal for psychiatric treatment at the request of a third party (ASPDT)	Hospitalisation by court order (HO) (art. L.3213-1 and L.3213-2) since the Act dated 5/07/2011, Committal for psychiatric treatment at the request of a representative of the State (ASPDRE)	Psychiatric care for imminent danger	Hospitalisation by court order / ASPDRE according to Art. 122-1 of the CPP and Article L3213-7 of the CSP	Hospitalisation by judicial court order according to Article 706-135 of the CPP	Provisional Committal Order	Hospitalisation according to Article D.398 of the CPP (prisoners)
2006	43,957	10,578		221		518	830
2007	53,788	13,783		353		654	1,035
2008	55,230	13,430		453	103	396	1,489
2009	62,155	15,570		589	38	371	1,883
2010	63,752	15,451		707	68	370	2,028
2011	63,345	14,967		764	194	289	2,070
2012	58,619	14,594	10,913	1,076		571	4,033
2013	58,778	15,190	17,362	1,015		506	4,368
2014	57,244	15,405	22,489	1,033		496	4,191
2015	59,662	16,781	30,182	1 056		627	5,546
2016	61,074	17,470	23,062	1,206		473	6,520

Note: This year, as in previous years, we have used the data published by the SAE (Annual Statistics of Health Facilities), an annual administrative survey carried out by the DREES among all health institutions, and which has included a specific section on psychiatry since 2006[76]. This survey has the advantage of showing recent data (available every year on the previous year), and being relatively comprehensive. Nevertheless, it has several drawbacks that must be kept in mind: the recording of the number of days of hospitalisation by the SAE only takes account of full days of hospitalisation, excluding preliminary discharges, and does not enable individual monitoring of patients. The same patient, treated in multiple institutions during the year, will therefore be recorded several times. Finally, recording of entries and adopted measures has been subject to several changes in definition and calculation method since 2010, which is why we have only shown the number of days and patients here.

The second limit relates to the redefinition of hospitalisation measures by the Law dated 5 July 2011, the institution of which especially created the category of hospitalisation for imminent danger, which added to hospitalisation on the request of a third party and hospitalisation on court order (which is today known as admission to psychiatric treatment on the request of a State representative, see below). This new category-based classification has therefore made year-to-year comparison difficult.

[76] For a more detailed presentation of these sources, reference will be made to the 2015 report and references given at the end of this section.

Comment: Making its first appearance in 2011, numbers of days of "hospitalisation for imminent danger" continue to increase, cutting into the two pre-existing categories, hospitalisations on the request of a third party (HDT) and hospitalisations on court order (now known as "hospitalisations by decision of a State representative – HSPDRE). The first is slightly up while the second is slightly down, but both measurements remain below figures before the 2011 reform.

Hospitalisations of detainees are continuing the upward trend already noted for previous years. Those for people deemed not to be criminally responsible have levelled off for the first time since 2011, although it is not yet possible to account for this evolution.

Finally, SAE figures confirm the increase in the total number of days taken up in 2015 (3,916,200 days in 2016 and 3,890,561 in 2015, as against 3,775,187 in 2014). Although figures for 2016 are still below those for 2010 (4,057,542), the downward trend observed between 2010 and 2014 would appear to be easing off.

The total number of patients still seems to be increasing over the long term, from 82,376 in 2010 to 100,858 in 2014 and 109,805 in 2016 (slightly down compared with 2015, when there were 113,854 patients). In any event, this figure should be treated with caution, given the previously mentioned possibility of one and the same patient being counted more than once.

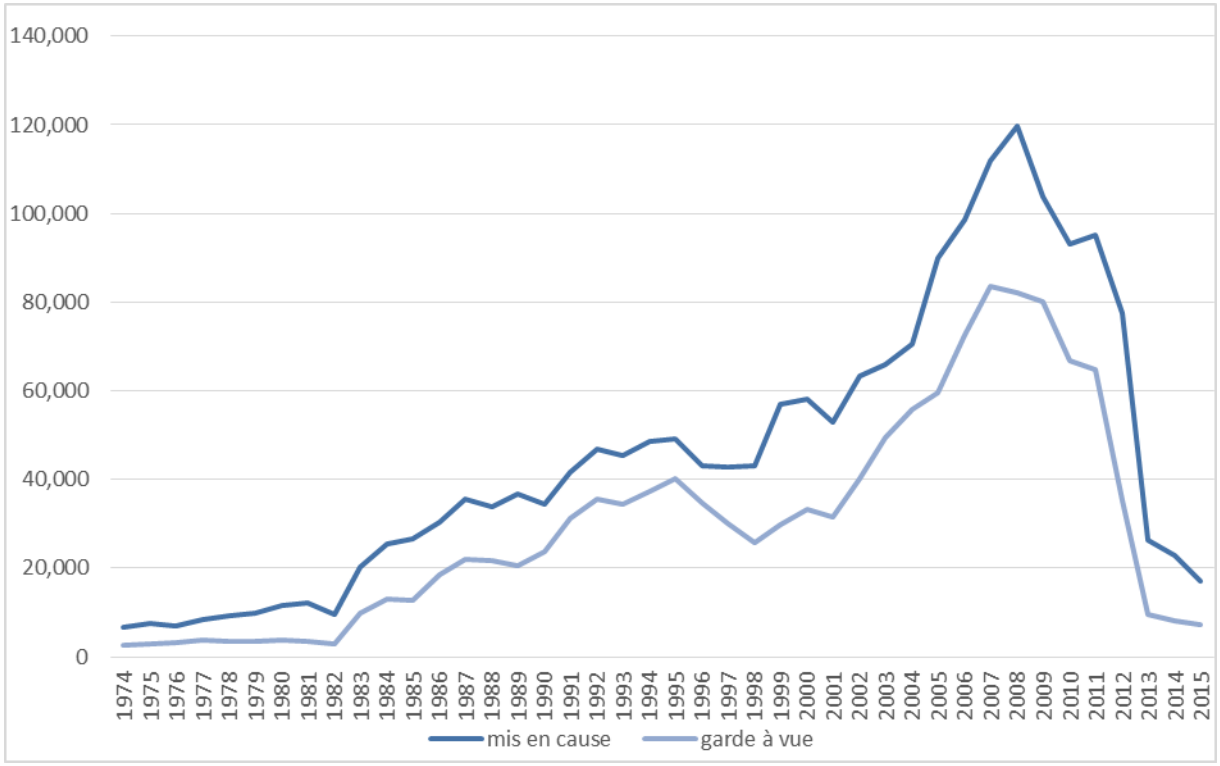
Expressed as the average number of those present on a given day for treatment without consent, data for 2016 (total number of days divided by 365) indicates, as in previous years, a little over 10,000 patients.

Reference: Delphine Moreau, 2015, Contraindre pour soigner ? Les tensions normatives et institutionnelles de l'intervention psychiatrique après l'asile (Forced into treatment? The prescriptive and institutional tensions of psychiatric intervention after granting asylum). Paris: Thesis by the EHESS.

3. Administrative detention

3.1 Number of persons implicated in offences by the immigration department and number of custody measures

Source: État 4001, Ministry of the Interior.



Note: The implementation of Act no. 2012-1560 dated 31 December 2012 relating to the detention for verification of the rights of residence was anticipated in 2012 with a sharp decrease in the number of persons accused and custody measures. In 2013 and 2014, these can no longer simply concern illegal immigration.

Comment: The CGLPL report for 2009 (pp 263-267) described how the treatment of illegal immigrants was derived by stages from the criminal process. At first, the criminal process remained limited to the policing level with massive use of placing people in custody. In 2007- 2008, this way of handling the problem was the basis for one out of seven placements in police custody. After the general decrease in police custody and then the application of the Act of 31 December 2012, following the Court of Cassation Order of 5 June, deeming that simple illegal immigration could not justify placing a person in custody, the restriction of liberty took the form of detention for administrative verifications (approximately 30,000 in 2013 according to a communiqué from the Minister of the Interior dated 31/01/2014). In 2015, police custody measures represented on this graph and indicated in Table 1.3 (7,262 out of 17,008 accused) are related to other violations of foreign nationals' immigration regulations. This rate of custody is close to that observed for all persons accused.

3.2 Implementation of measures for the deportation of foreign nationals (2002-2013)

Source: Annual Reports of the French Interministerial Committee for the Management of Immigration (CICI), Central Directorate of the French border police (DCPAF).

Field: Metropolitan France

Year	Measures	ITF[77]	APRF[78]	OQTF[79]	APRF + OQTF	Deportation order	Readmission	Forced deportations (sub-total)	Voluntary returns (aided)	Total deportations
2002	pronounced	6,198	42,485	-	42,485	441		49,124		49,124
	executed	2,071	7,611	-	7,611	385		10,067		10,067
	% enforcement	*33.4%*	*17.9%*	-	*17.9%*	*87.3%*		*20.5%*		
2003	pronounced	6,536	49,017	-	49,017	385		55,938		55,938
	executed	2,098	9,352	-	9,352	242		11,692		11,692
	% enforcement	*32.1%*	*19.1%*	-	*19.1%*	*62.9%*		*20.9%*		
2004	pronounced	5,089	64,221	-	64,221	292		69,602		69,602
	executed	2,360	13,069	-	13,069	231		15,660		15,660
	% enforcement	*46.4%*	*20.4%*	-	*20.4%*	*79.1%*		*22.5%*		
2005	pronounced	5,278	61,595	-	61,595	285	6,547	73,705		73,705
	executed	2,250	14,897	-	14,897	252	2,442	19,841		19,841
	% enforcement	*42.6%*	*24.2%*	-	*24.2%*	*88.4%*		*26.9%*		
2006	pronounced	4,697	64,609	-	64,609	292	11,348	80,946		80,946
	executed	1,892	16,616	-	16,616	223	3,681	22,412	1,419	23,831
	% enforcement	*40.3%*	*25.7%*	-	*25.7%*	*76.4%*		*27.7%*		
2007	pronounced	3,580	50,771	46,263	97,034	258	11,138	112,010		112,010
	executed	1,544	11,891	1,816	13,707	206	4,428	19,885	3,311	23,196
	% enforcement	*43.1%*	*23.4%*	*3.9%*	*14.1%*	*79.8%*		*17.8%*		
2008	pronounced	2,611	43,739	42,130	85,869	237	12,822	101,539		101,539
	executed	1,386	9,844	3,050	12,894	168	5,276	19,724	10,072	29,796
	% enforcement	*53.1%*	*22.5%*	*7.2%*	*15.0%*	*70.9%*		*19.4%*		
2009	pronounced	2,009	40,116	40,191	80,307	215	12,162	94,693		94,693
	executed	1,330	10,424	4,946	15,370	198	4,156	21,054	8,278	29,332
	% enforcement	*66.2%*	*26.0%*	*12.2%*	*19.1%*	*92.1%*		*22.2%*		
2010	pronounced	1,683	32,519	39,083	71,602	212	10,849	84,346		84,346
	executed	1,201	9,370	5,383	14,753	164	3,504	19,622	8,404	28,026
	% enforcement	*71.4%*	*28.8%*	*13.8%*	*20.6%*	*77.4%*		*23.3%*		
2011	pronounced	1,500	24,441	59,998	84,439	195	7,970	94,104		94,104
	executed	1,033	5,980	10,016	15,996	170	5,728	22,927	9,985	32,912
	% enforcement	*68.9%*	*24.5%*	*16.7%*	*18.9%*	*87.2%*		*24.4%*		

[77] ***ITF:*** *banishment from French territory (interdiction du territoire français, principal or additional measure pronounced by criminal courts)*

[78] ***APRF:*** *prefectural order to take back to the border (arrêté préfectoral de reconduite à la frontière)*

[79] ***OQTF:*** *order to leave French territory (ordre de quitter le territoire français, administrative measure)*

2012	pronounced	1,578	365	82,441	82,806	186	6,204	90,774	10,021	90,774
	executed	1,043	850	18,434	19,184	155	6,319	26,801		36,822
	% enforcement	*66.1%*	*205.5%*	*22.4%*	*23.2%*	*83.3%*		*29.5%*		
2013	pronounced	n.d.					6,178	96,229	4,318	96,229
	executed						5,314	22,753		27,081
	% enforcement							*23.6%*		
2014	pronounced	n.d.					7,135	88,991	2,930	88,991
	executed						5,014	24,676		27,606
	% enforcement							*27.7%*		

Note: The measures implemented during one year may have been pronounced during an earlier year. This explains the enforcement rate of 205.5% for APRFs in 2012.

This table has been drawn up from CICI reports for 2003 to 2016. Their official presentation emphasises the rates of enforcement of deportation measures and any changes in them. From the 4th report for 2006, this information was included in the general context of a policy of recording numbers in relation to deportations. The total number of deportations indicated in the annual report for 2006 (23,831) therefore includes, in addition to 22,412 measures of various types pronounced and executed, 1,419 voluntary returns. Then these "voluntary returns" were counted as being "aided returns", and the annual report was not very clear on the contents of this section. This method of counting, for 2008 and the following years, showed a "result" meeting the objective of 30,000 deportations. For these years, the table shown here contains an additional column ("forced deportations", which is in bold), which excludes voluntary or aided returns.

At a press conference (31 January 2014), the Minister of the Interior provided another set of data entitled "forced departures", stating that some deportation measures that had been executed had been counted in the past as forced deportations when in fact they were aided departures. The three latest reports drafted under the provisions of Article L.111-10 of the Code for Entry and Residence of Foreigners and Right of Asylum (10th report for 2012 and published in April 2014, 11th report for 2013 and published in April 2015, and lastly the 12th report on 2014, published in April 2016) have included this distinction. For 2012 it was therefore identified that out of the 19,184 APRF and OQTF implemented, 4,954 cases related to "aided returns". This resulted in 21,847 "forced returns" being counted for 2012 instead of 26,801 as in the above table for the forced deportations column. According to this presentation, "forced returns" decreased significantly between 2009 (17,422) and 2010 (16,197) contrary to that previously shown (above table) and therefore growth for 2011 is lower (19,328). For 2014, the records also included "forced returns" and "aided returns" under forced deportations, which allowed obtaining the figure of 21,489.

It should be noted that the 12th report disseminated in 2016 includes updated figures for 2015 regarding administrative detention (see next section) but only presents incomplete series for the same year regarding deportations (the total number of deportation measures pronounced is still unknown). Series from previous years have also been recalculated, without the reason and principle behind the recount being specified. Finally, we have decided to only present figures on deportation measures up to 2014, presenting the recalculated series for 2013 and 2014 as they are the most recent, although different from those presented in previous reports.

Finally, and like the year before, the 12th report showing the figures for 2014 no longer differentiates the deportation measures according to the type of measure (OQTF, APRF, ITF or deportation order), and instead shows a general presentation that only differentiates between "unaided" and "aided" deportations. Only readmission measures and aided voluntary returns are still shown separately.

Comment: For the years for which figures are available, the absolute level of APRFs and OQTFs enforced (15,684 in 2013) seems not to have sustainably exceeded 16,000 per annum and the

enforcement rate varies according to the greater or lesser number of measures pronounced. Although the overall number of deportation measures carried out has slightly increased over the last ten years or so, it appears to have stabilised at around 25 to 27% of deportations pronounced. This relatively low stable rate is largely due to structural obstacles (material and administrative alike) that have long hampered implementation of forced deportations.

Reference: Nicolas Fischer, (2017), *Le territoire de l'expulsion. La rétention administrative des étrangers et l'État de droit en France*, Lyon, ENS Éditions.

3.3 Detention centres for illegal immigrants (Metropolitan France). Theoretical capacity, number of committals, average duration of detention, outcome of detention

Source: CICI annual reports, Senate (in italics, please see note).

Field: Metropolitan France

Year	Theoretical capacity	Number of committals	Accompanying young offenders committed to CRAs	Average occupancy rate	Average duration of detention (in days)	Prisoners removed, excluding voluntary returns	% removals/committals
2002		25,131					
2003	775	28,155		64%	5.6		
2004	944	30,043		73%	8.5		
2005	1,016	29,257		83%	10.2		
2006	1,380	32,817		74%	9.9	*16,909*	*52%*
2007	1,691	35,246		76%	10.5	*15,170*	*43%*
2008	1,515	34,592		68%	10.3	*14,411*	*42%*
2009	1,574	30,270		60%	10.2		40%
2010	1,566	27,401		55%	10.0		*36%*
2011	1,726	24,544	478	46.7%	8.7		*40%*
2012	1,672	23,394	98	50.5%	11		*47%*
2013	1,571	24,176	41	48.3%	11.9		41%
2014	1,571	25,018	42	52.7%	12.1		-
2015	1,554	26,267	112	54.1%	11.6	-	-

Note: the annual reports of the CICI from 2003 to 2015 allow the first five columns of the table to be presented. The column for accompanying minors was not present before 2011. The last two columns relating to the result of placing and holding in administrative detention centres do not come from the same source. A report by the Senate Finance Committee published on 3 July 2009 and following up on a mission carried out by the Court of Auditors, provided numbers for 2006-2008 with regard to detainees who were finally sent back, excluding voluntary returns. The proportion compared with number of committals can therefore be calculated (last column). The 7th CICI report, published in March 2011, provided the proportion for 2009 (page 77). The following report gave a rate of 42% for CRAs possessing interservice deportation centres (pôle interservices éloignement) and 37% for the rest, but no overall rate. The items set out in the last column of the table for 2010- 2013 are from an informational report from the Senate on CRAs (no. 775 of 23 July 2014). This report also sets out the number of placements in 2013. These figures nevertheless remain linked to sporadic assessments of detention, and have unfortunately not been updated for 2014 and 2015.

The number of placements in 2009 has been corrected here compared with previous editions: the new statement of 30,270 placements given initially as the total for France and its Overseas territories (CICI reports for 2009, 2010 and 2011) became in later editions (2011 and 2012) that for Mainland France, whilst the previous edition (27,699 placements) became that for French Overseas *départements*.

Comment: The CICI annual reports do not show how the average rate of occupation is defined and assessed. By applying this rate to capacity, an estimate of the average numbers of persons present in CRAs should be obtained. However this estimate is unreliable as the capacity may have been given for a fixed date (it would not then be the average capacity for the year). Another estimate of numbers would be possible from this table as placements correspond to entries and average duration of stays has been supplied. A lower estimate is arrived at. For 2015, calculating the occupancy rate gives an average total number of 840 prisoners, and a calculation by average stay in detention gives a total number of 835 prisoners. These two methods of calculation show an increase in these prisoner numbers from 2003 (496 or 432 dependent upon the method of estimating) to 2007 (1,285/1,014) and then a drop to 2011 (811/585). The same calculation showed an uncertain result for 2013 (754/795), the first indicating a fall and the second a rise, but the 2015 data showed an increase whatever the calculation method chosen.

Relatively little use continues to be made of house arrest, an alternative to detention introduced in 2011: 668 measures in 2012 and 1,258 in 2013 (source: French National Assembly, impact study of the bill dated 23 July 2014).

Appendix 1

Map of institutions and *départements* inspected in 2017

Insert the map entitled "CARTE_dptmts visités en 2017_SIG" here.

Appendix 2

List of institutions visited in 2017

Penal institutions

- Uzerche detention centre
- Gagny open prison
- Beauvais prison
- Caen prison
- Ducos prison
- Rennes-Vezin prison
- Riom prison
- Toulouse Seysses prison
- Valence prison
- Vendin-le-Vieil prison
- Porcheville prison for minors
- Agen remand prison
- Amiens remand prison
- Bayonne remand prison
- Rochefort remand prison
- Saintes remand prison
- Strasbourg remand prison
- Troyes remand prison
- Villepinte remand prison
- Fresnes women's remand prison
- Saint-Martin de Ré long-stay prison

Healthcare institutions

- Amilly-Montargis hospital centre
- Béziers hospital centre
- Dax-Côte d'argent hospital centre
- Douai hospital centre
- Hénin-Beaumont hospital centre
- Moulins-Yzeure hospital centre (Yzeure site)
- Vendôme hospital centre
- Vire hospital centre
- Forez hospital centre in Montbrison
- Haut-Anjou hospital centre in Château-Gontier
- Henri Guérin hospital centre in Pierrefeu-du-Var
- Meulan-les-Mureaux intermunicipal hospital centre
- Regional university hospital centre in Tours
- Bégard specialist hospital centre
- Cadillac specialist hospital centre
- Castellucio specialist hospital centre
- Lorquin specialist hospital centre
- Saint-Cyr-au-Mont-d'Or specialist hospital centre
- Sevrey specialist hospital centre
- Yonne specialist hospital centre in Auxerre
- Le Vinatier specialist hospital centre in Lyon
- Georges Daumezon specialist hospital centre in Orléans
- Maurice Despinoy specialist hospital centre in Fort-de-France
- Paul Guiraud specialist hospital centre, Clamart site.
-
- Clermont-Ferrand teaching hospital
- Nice teaching hospital
- Reims teaching hospital
- Issy-les-Moulineaux teaching hospital
- Beaupuy Psychiatric Clinic
- Nancy psychotherapy centre

Secure rooms at hospital centres in Agen, Amiens, Aulnay-sous-Bois, Beauvais, Chalon-sur-Saône, Fort-de-France, La Rochelle, Reims, Riom, Strasbourg, Tulle, Tours and Valence.

Juvenile detention centres

- Bruay-la-Bussière juvenile detention centre
- Lusigny-sur-Barse juvenile detention centre
- Pionsat juvenile detention centre
- Sainte-Menehould juvenile detention centre
- Saint-Paul-d'Espis juvenile detention centre

Detention centres and facilities for illegal immigrants, waiting areas

- Lille-Lesquin detention centre for illegal immigrants
- Metz-Queuleu detention centre for illegal immigrants
- Nice detention centre for illegal immigrants
- Oissel detention centre for illegal immigrants
- Saint-Jacques-de-la-Lande administrative detention centre
- Paris-Vincennes detention centre for illegal immigrants
- Ajaccio detention facility for illegal immigrants
- Dunkirk border police waiting area and premises
- Lyon-Saint-Exupéry border police waiting area and premises
- Mulhouse border police waiting area and premises
- Nice waiting area

Custody and customs detention facilities

Police stations: Ajaccio (Border police), Bayonne, Béziers, Caen (mobile search squad), Charenton-le-Pont, Dax, Issy-les-Moulineaux, Lannion, Laxou, Le Creusot, Lens, Les Lilas, Mâcon, Maisons-Alfort, Menton (Border police), Nantes, Nogent-sur-Marne, Orléans, Paris 19th arrondissement, Rouen, Saint-Cloud, Saint-Denis, Vanves and Vendôme.

Gendarmerie brigades: Auxerre, Bayonne (motorway patrol), Carbon-Blanc, Charolles, Château-Gontier, Craon, Ecquevilly, Guingamp, Langon, Limonest, Loriol-sur-Drôme, L'Union, Moissac, Pierrefeu-du-Var, Pionsat, Saint-Eloy-les-Mines, Sainte-Lucie-de-Tallano, Saint-Lys, Saint-Martin-de-Ré, Saint-Maximin, Savenay, Seysses, Uzerche and Vire.

Customs: Aulnay-sous-Bois and Nancy internal surveillance services and Ajaccio external surveillance service.

Court cells and jails

Amiens, Auxerre, Béziers, Caen, Châlons-en-Champagne, Lisieux, Orléans, Reims, Tarascon and Tours Courts of first instance in civil and criminal matters.

Riom Court of Appeal.

Appendix 3

Summary table of the CGLPL's principal recommendations for the year 2017[80]

(see table on following pages)

[80] *The following recommendations are from this report and the two thematic reports published by the CGLPL in 2017. They are in no way exclusive of other recommendations set out by the CGLPL in its visit reports, opinions and recommendations during 2017, the contents of which are accessible on the institution's website www.cglpl.fr.*

Place concerned	Topic	Sub-topic	Recommendation	Chapter
All places of deprivation of liberty	Monitoring of the CGLPL's general recommendations		Each Minister is asked to inform the CGLPL of his/her agreement or disagreement concerning each of the recommendations or observations received and, in the former case, to implement the necessary internal monitoring and follow-up procedures for guaranteeing that the agreement expressed is acted upon as well as, where applicable, initiate the necessary interministerial work.	**3**
	Staff (thematic report)	Staffing	Institutions' baseline staffing levels must be established with reference to staffs' real workload, taking account of facilities' actual occupation rather than their theoretical capacities and incorporating numbers of tasks relating to management of prisoners, their simultaneity in particular.	**2**
			Determination of baseline staffing levels in places of deprivation of liberty must take account of the human aspects of prisoner management, even in cases where technology enables gains in productivity.	**2**
			A high rate of absenteeism seems inevitable in places of deprivation of liberty. It has an immediate negative impact on respect of fundamental rights and preventive measures must be taken to decrease it, including psychosocial assistance in cases of worrying changes, availability of replacements identified in advance or constitution of reserve forces.	**2**
		Professional experience	The risk of less mobile staff falling into routine must be prevented by organising operational mobilities within institutions or in labour pools of appropriate size, organising systematic supervision of isolated services, and ensuring appropriate maintenance and renewal of professional knowledge, ethics and quality of practices.	**2**
		Training	All professionals taking part in management of individuals who have been deprived of their liberty must receive information on such individuals' status and rights.	**2**
			Professionals whose activities include security missions vis-à-vis individuals deprived of their liberty must undergo (compulsory and regularly updated) training on prevention of violence and management of violence acts.	**2**
		Ethics	Appropriation of ethical rules must be reinforced, in particular during continuing training and through simulations of situations involving professional ethics. Each administration should set up an inclusive forum enabling appropriation, updating and adaptation of its ethical rules.	**2**
			Administrations should implement the educational and organisational measures required to ensure that professionals taking part in management of individuals who have been deprived of their liberty fully understand their obligation to report any lack of respect for fundamental rights they observe, are able to make such reports and receive appropriate protection.	**2**

All places of deprivation of liberty	Staff (thematic report)	Officers' responsibility (discipline)	Administrations must ensure that their disciplinary policies do not systematically prioritise security measures over respect for fundamental rights. The CGLPL recommends not making surveillance an obligation of result but rather an obligation of means, which officers will have carried out satisfactorily once they have made a reasonable assessment of the risks connected with an individual's behaviour and taken appropriate measures, even if an incident occurs.	**2**
		"fundamental rights contact officer"	Specially trained "fundamental rights contact officers" should be appointed in all places of deprivation of liberty, tasked with answering professionals' questions and helping them assess situations, advising the head of the institution and making sure that the necessary measures are carried out.	**2**
		Mediation	The possibility of implementing a mediation function, organised to adapt to each situation, should be studied by each administration.	**2**
		Multidisciplinarity	The multidisciplinary nature of treatment of individuals deprived of their liberty must be stressed in the initial and continuing training of all professionals concerned.	**2**
			It is desirable that professional associations and orders exercise vigilance regarding compliance with the fields of competence of each profession involved in places of deprivation of liberty in order to avoid any ambiguity in respecting its own code of ethics. Nonetheless, operational procedures in places of deprivation of liberty must be systematically organised so as to ensure multidisciplinary cooperation.	**2**
		Collective training	Institutions accommodating individuals deprived of their liberty may not suspend their activities in order to hold collective training sessions. It would be possible, however, to develop a system for collective learning of individual knowledge and procedures by having trainers operate within teams.	**2**
		Analysis of practices	Procedures for analysis of professional practices (failures and successes alike) should be implemented in all categories of places of deprivation of liberty. Ethics committees must be set up for all categories of institutions as well as in hospitals.	**2**
		Material working conditions	The chronic lack of resources allocated to upkeep and maintenance of premises puts professionals and inmates alike in situations that are often far from meeting even the most modest current standards.	**2**
		Working patterns	Rest periods in appropriately fitted-out premises must be organised systematically, and tasks assigned to officers must be reasonably diversified. Special vigilance must be paid to night services in order to ensure cohesion of teams, maintenance of individual competences and compliance with the rules on treating persons deprived of their liberty during this particularly sensitive period.	**2**

All places of deprivation of liberty	Staff (thematic report)	Cohesion and involvement	Respect of the fundamental rights of individuals deprived of their liberty requires involvement and a capacity for initiative on the part of the professionals who come into direct contact with them. In order to foster these qualities, all possible measures must be taken to increase senses of professional satisfaction: empowerment, establishment of personal relationships with inmates, teambuilding and awareness of taking part in a clearly defined strategic plan.	**2**
		Prevention of physical risks	The appropriate response to violence is above all human in nature. The physical risk inseparable from deprivation of liberty must be clearly and systematically handled from the angle of prevention, with the active help of the officers concerned and in full compliance with their professional ethics and the main purpose of the committal. It is necessary to combine measures designed to prevent professional overload and passive security systems while having enough officers available trained in psychological prevention of violence and, if required, physical restraint techniques. Team mixity is of key importance in preventing violence.	**2**
		Prevention of psychosocial risks	Implementation of means of supervision, i.e. freely accessible provision of psychological support, independent of the hierarchy and confidential, to help staff who feel they need help. Staff must be better informed of the existence of such a possibility, how to access it and its confidentiality.	**2**
Healthcare institutions	Educational action by the Ministry of Health		It is much to be hoped that the Ministry for Solidarity and Health undertakes educational action combining instructions, technical guides and dissemination of best practices on the rights of involuntarily committed patients and organisation of their daily lives.	**1**
			A good many institutions have been giving thought to freedom of movement and, more generally, the freedoms of everyday life. There is, however, a lack of references: if patients' rights are not respected it is because overworked teams are simply not up to questioning their own practices enough, either because they have not been trained (on legal questions in particular) or because they have no knowledge of the best practices that may well exist in their own institutions. It is therefore paramount that the Ministry of Health take the necessary measures to promote the rights and freedoms of psychiatric inpatients and ensure they are respected.	**1**
	Short-term release authorisations		The CGPL's attention was repeatedly drawn to various prefectures' automatic refusal to grant patients short-term release authorisations. The CGLPL believes that cross-government discussions between the Ministers of the Interior and Health should be held with a view to defining a common doctrine on this point.	**1**

Healthcare institutions	Solitary confinement and restraint	Right of appeal	Article L 3222-5-1 of the Public Health Code does not qualify solitary confinement and restraint as "prescription" but as "decision". Where the measure is described as a "decision", it must be able to give rise to a use, the nature of which the law has not clarified. In connection with this use, it must naturally be possible for a judicial administrative authority to ensure that all of the conditions governing the use of solitary confinement and restraint, as stipulated by the law, are met. The CGLPL invites the public authorities and professionals concerned to give thought to this issue.	**1**
		Control	Step up communication, training and monitoring measures bearing on solitary confinement and restraint in mental health institutions (see Article L.3 222-5-1 of the Public Health Code).	**3**
	Staff (thematic report)	Training	Nurses assigned to psychiatric wards must receive training enabling them to extend their clinical knowledge, acquire knowhow in treatment of patients, and update their knowledge of legal provisions applicable to patients who have been involuntarily committed.	**2**
	Hospitalised minors (thematic report)	General recommendations	The public authorities must ensure that any child whose state requires treatment is taken in by an appropriate institution as close as possible to his/her home in order to guarantee maintenance of family ties.	**2**
			The public authorities must ensure better coordination between the various social, medicosocial, health and judicial services active in caring for young people.	**2**
			The public authorities must ensure that all minors benefit fully from the rights conferred upon them by law.	**2**
		Admission conditions	Juvenile patients should not be put with adults over 25 y/o. Children between 13 and 16 y/o and young people between 16 and 25 y/o should be placed in separate units.	**2**
			Article R 1112-34 Paragraph 2 of the Public Health Code, which stipulates that "admission of a minor whom the judicial authority, ruling on educational assistance or in application of the texts governing juvenile delinquency, has placed in an educational institution or entrusted to the care of a private individual, is pronounced at the request of the director of the institution or that of the guardian", should be amended.	**2**
			Admission of a minor to a psychiatric care institution on the basis of the Ordinance of 2 February 1945 must remain the exception. Admission should be under the same conditions as those provided for on the context of the educational assistance procedure (limited duration and medical certificate).	**2**
		Rights of children and their legal representatives	In cases of admission at the request of legal representatives, both parents' agreement should be formally obtained when they share exercise of parental authority. If only one parent has such authority, the other must be informed as soon as possible.	**2**

Healthcare institutions	Hospitalised minors (thematic report)	Rights of children and their legal representatives	Children who are hospitalised at the request of their legal representatives must be able to refer to the *Département-level* Commission for Psychiatric Care. When they dispute the need for hospitalisation, children must also be able to refer to the juge des libertés et de la détention (JLD – liberty and custody judge). They must be informed of such possibilities by the hospital, as soon as possible once their state of health allows it.	**2**
			Decisions of involuntary placement under psychiatric care pronounced by the State representative must be notified to juvenile patients when their age or maturity allows it; notification must be systematic from 13 y/o onwards. It must be accompanied by explanations provided by a specially trained hospital staff member. Information provided must bear on means of redress, patients' legal situation and the rights relating to it, and the possibility of making their views known. Patients must be given a copy of the decision along with a form explaining their rights, worded in clear, educational terms.	**2**
			The authorities must ensure that legal representatives of children admitted on the decision of a State representative are notified of all decisions, convocations and information concerning their children. They must give them and their children the opportunity to exercise their rights to the full.	**2**
			Whatever the mode of admission, information must be provided to legal representatives and to the children themselves, in accordance with their capacities to understand and level of maturity. Such information must bear on the illness, the various medical treatments possible, all the component parts of the treatment provided, the way the unit operates and rules of daily life, the existence of a seclusion room and its use, and possibilities of support to the whole family during and following hospitalisation. Mediums and methods for delivery of such information must be appropriate to the age, capacities and state of its recipients.	**2**
		Intervention by the liberty and custody judge	The request sent to JLD by the State representative should be accompanied by social information. If required, the JLD should order a rapid social investigation to be carried out before ruling.	**2**
			When a juvenile patient hospitalised by decision of a State representative is being monitored in the context of an educational assistance procedure, the JLD must be informed of the fact. The JLD should seek the juvenile court judge's opinion before ruling. Provision of the educational assistance file to the JLD should be considered, under the auspices of the juvenile court judge.	**2**
			If it appears that the child's interests are opposed to those of his/her legal representatives, or that the child's rights are insufficiently guaranteed by them, the JLD must appoint an ad hoc administrator to the juvenile patient.	**2**
			Monitoring of juvenile patients must be carried out under the close supervision of a physician trained in child psychiatry.	**2**

Healthcare institutions	Hospitalised minors (thematic report)	Care arrangements	Special attention must be paid to the design and layout of care units for children. They must be spacious and include access to the open air. Fittings must comply with patient security standards while maintaining their dignity and privacy.	**2**
			Units taking in children should include a seclusion room enabling patients to be separated from their fellows without being locked up and in comfortable conditions. Any need to make use of a seclusion room should be carefully considered by the team as a whole, in the context of a medical project. There should be no seclusion rooms in units taking in children under 13 y/o. Child/adolescent psychiatric teams must be provided with detailed information intended to prevent crises and help them deal with them in other ways than confinement of patients concerned in seclusion rooms. Legal representatives must be informed of the existence of seclusion rooms and how they are used; when their child has been put in solitary confinement, they must be informed as soon as possible.	**2**
			Therapeutic activities must be closely correlated to the unit's medical project and must be facilitated by trained nurses; pertinence of aims and methods must be examined on a regular basis; each activity should lead to an a posteriori analysis for each patient.	**2**
			Hospital staff must be made aware of legal questions.	**2**
			In cases of admission of a child legally entrusted to a third party (service, institution or physical person), the hospital must obtain a copy of the placement decision and make sure of the parents' position with regard to exercise of parental authority. If a problem arises, they must refer to the judge.	**2**
			Apart from cases where a legal ruling has deprived them of all or part of their right to exercise parental authority, parents must be informed and consulted about treatment provided and involved in it. They should also be provided with support for themselves and their family or directed to such support.	**2**
			Patients' autonomy should be fostered; restrictions to rights and freedoms must be individualised and modulated in accordance with the patient's clinical state, age, maturity and duration of stay.	**2**
			Making patients wear pyjamas and prohibiting them from wearing shoes must always be exceptional measures implemented for specific individual reasons, brought to the knowledge of legal representatives.	**2**
			Restrictions on visiting must be ordered by the physician; they must be individualised and in line with therapeutic necessities.	**2**
			Conditions should be provided under which young children can go back to their families at weekends. Institutions that close at weekends or during the summer must provide for replacement solutions that meet children's needs.	**2**

Healthcare institutions	Hospitalised minors (thematic report)	Care arrangements	Confidentiality of telephone conversations must not be violated except for reasons to do with a patient's state of health, which must be regularly reassessed.	**2**
			Due to concern for future integration, any institution taking in children must be in a position to deliver schooling to patients in a form and at a pace appropriate to their state and duration of stay.	**2**
			It would appear necessary that teams working with adolescents of various ages should give thought on how to approach sexuality.	**2**
	Patients' rights		Consult the CGLPL on draft information documents intended to be given to patients committed involuntarily.	**3**
			Develop healthcare access centres for disadvantaged people (PASSs) in psychiatry and citizen's advice centres (PADs) so as to help people with mental health problems and their families to access information about their rights. Monitor this development by setting a target figure.	**3**
	Private and family life	autonomy	Develop an action plan on the rights and freedoms of involuntary patients going beyond merely the freedom to come and go, to encompass all aspects of their social relationships and daily life.	**3**
		Information to families	Assess the measures taken with respect to information for people with mental health problems and their family and to involving families in their treatment.	**3**
Penal institutions	Architecture	Size and design of institutions	Limit the size of new institutions under construction, extend "quartiers de confiance" (trustee wings) including communal living areas and an open-door detention system, to existing institutions.	**3**
	Access to healthcare	Report on the visit to Château-Thierry prison complex	Illness and dependency throw into sharp focus the question of the purpose of sentences, and must therefore lead to the arrangements, and even the principle, being revised in this regard. On this point, the persisting lack of knowledge about the mental health of the prison population - which has not been addressed by any epidemiological study since 2004 - is regrettable. Finally, the need to maintain a clear separation between the care-based approach, which must guide hospitals, and the punishment-based approach which underpins prisons, must be stressed.	**1**
		Medical emergences	Take advantage of the plans bearing on telephone systems or digital technology in prison to enable systematic direct communication between prisoners and the emergency medical dispatchers when the institution's medical staff were absent and they have asked for an emergency consultation.	**3**
		Dignity	The CGLPL recommends that a joint Ministry of Justice-Ministry of Health circular bear on measures conducive to ensuring respect for detainees' dignity during external movements for medical reasons and respect for medical confidentiality during medical consultations.	**4**
	Access to healthcare	Dependent elderly people	Provide for elderly or dependent people under similar conditions to those they would experience in open environments.	**3**

Penal institutions	Work and training in detention		Work in detention needs to be provided with a legal framework and re-evaluated. The development and opening up of vocational training towards the outside world must continue. Innovative schemes providing inmates with a diversified offer of professional activities should be encouraged.	**2**
	Staff (thematic report)	Professional experience /mobility	In order to compensate for high turnover among prison warders and concentrations of inexperienced staff in the most sensitive institutions, it is necessary to deconcentrate recruitment, increase numbers of staff recruited following initial professional experience, adapt management of transfers and reinforce management and workforce numbers in institutions that take in large numbers of school-leavers.	**2**
		Identification of staff	The possibility of unequivocally identifying each and every professional involved in management of individuals who have been deprived of their liberty must be systematically guaranteed. For staff working in uniform and whose anonymity has to be preserved, wearing of a clearly readable ID number at all times must be systematic.	**2**
	Autonomy	Canteens	Try out a canteen system in selected institutions, based on "in-store" purchases and electronic payment by internal card.	**3**
		Personal property	Enable prisoners to sell on, donate or lend all of their belongings, including their computer equipment, once this equipment has been inspected and the reasons checked for such a gesture.	**3**
			Take every appropriate measure to ensure prisoners who buy a product in the canteen can avail, with regard to this product and its supplier, of all the rights coming under civil law and consumer law (proof of title, guarantee, right of assignment, etc.).	**3**
		Money (permission to go outside)	Regulate the expenses incurred during permissions to leave in the context of talks between the Judge responsible for the enforcement of sentences, prison rehabilitation and probation service and the prisoner in question, to enable the latter to express his/her needs and associated reasons.	**3**
	Poverty	Cash assistance	Reassess cash assistance (total and resources ceiling taken into account) to individuals without sufficient financial resources.	**3**

	Maintaining family ties	UVFs	Push on with building family living units and family visiting rooms to ensure they are rolled out on a broad-scale.	**3**
		Parental authority	Foster exercise of parental authority on the part of parents in prison by providing special assistance giving access to the digital tools required to monitor their children's social and academic situations and stay in contact with them.	**3**
		Telephone	The CGLPL takes note of perspectives for installing landline telephones in cells but will keep a close watch on the cost of telephone use payable by inmates, and	**3**

Penal institutions			on respect for privacy of exchanges in a context of prison overpopulation.	
		Isolated individuals	On an accreditation basis, permit the French Red Cross to meet with all prisoners who are unable to contact their families or are, in reality, completely on their own.	**3**
		The Internet	Provide for inmates' supervised access to the Internet and use of messaging in the context of the "Digital in Detention" plan.	**3**
	Freedom of expression	Collective expression	Take all possible measures to encourage application of Article 29 of the Prison Act which provides for consultation of prisoners about the activities available to them and, beyond that, to encourage all forms of collective expression and interaction about life in prisons, especially in institutions receiving children.	**3**
	Security	Intercoms	Continue with the systematic installation of interphone devices or call buttons which can also be used at night and guarantee the maintenance of existing systems.	**3**
	Legal information and advice		Organise a form of legal aid in institutions that are not equipped with citizen's advice centres and enhance legal training of prison staff.	**3**
	Activities	Access to the library	Ensure that the provisions of internal regulations are compatible with all inmates' access to the library, in particular inmates who work and those in solitary confinement or the disciplinary wing.	**3**
	Minors	The Internet	Authorise young prisoners to access the Internet, within an educational framework, in a controlled manner and with an adult in attendance.	**3**
	Women	Medically assisted procreation (MAP)	Adapt the management of assignments in prison and external movements to the situation of female prisoners wishing to have a baby and who require assistance meeting the ordinary law conditions.	**3**
	Requests	GENESIS	Universalise the use of GENESIS for appeal management and make use of the "Digital in Detention" programme in order to implement appeal tools adapted to inmates with language difficulties.	**3**
		Photocopies	Look into the possibility of a prepaid account enabling prisoners to photocopy documents independently.	**3**
	Foreign prisoners	Aid in kind	Extend access to the cash aids and aids in kind stipulated by the law to the benefit of indigent prisoners as required by the foreign prisoner's situation, and allowing, in the decree provided in Article 31 of the Prison Act, for an adaptation of the amount of this aid in line with needs.	**3**
		Language	Increase the practical possibilities for prisoners to speak their own language (assignment based on the language spoken, access to material in prisoners' native language, etc.) and allowing foreign nationals to uphold the customary practices of their countries of origin, provided they are compatible with maintaining order and security within institutions.	**3**
		Interpreter services	Avoid reliance on fellow prisoners as interpreters in all circumstances and	**3**

Penal institutions			prohibit this outright for interviews bearing on medical or criminal matters and any administrative measure subject to an adversarial procedure beforehand, with the sole exception of emergency medical care.	
		Delivery and renewal of residence permits	Protect the regular nature of imprisoned foreigners' residence, if such is their situation, and of those who may be eligible for such residence, by local imposition and monitoring of active application of the Interministerial Circular of 25 March 2013 bearing on procedures for initial delivery and renewal of residence permits to persons of foreign nationality deprived of their liberty (adapting times of access to prefectures and the series of formalities to inmates' situations; maintain "person in regular situation" status for all foreigners with residence permits except in cases of judicial prohibition to enter French territory or administrative deportation measures; not systematically refusing provisional residence to foreigners in detention).	**3**
			Ensure that prison rehabilitation and probation counsellors, with the help of the appropriate associations and the citizen's advice centres, be sufficiently versed in the legislation concerning foreign nationals to be able to advise the magistrates on the likelihood of a particular detained foreigner being granted a residence permit.	**3**
		Release on parole	Take every appropriate measure to promote conditional release subject to voluntary return in practice and allow for sentences to be served abroad on the basis of a multilateral agreement, as has been done at European level on the subject of extradition.	**3**
		Ways of carrying out sentences	Amend the circular of 27 March 2012 on prisoners' relations with their defence lawyer since it excludes foreign lawyers who are not nationals of the EU, a State that is party to the Agreement on the European Economic Area or the Swiss Confederation from the principle of free communication with their clients.	**3**

Custody facilities	Night surveillance (gendarmerie)		It would seem necessary for the gendarmerie to stop locking people up for the night in its units with no direct surveillance, and to identify those able to take on such responsibility or, failing this, draw on national police resources	**1**
	Duration of police custody	Île-de-France police stations (inner suburbs)	A great many people find themselves locked up for as much as 15 hours, simply due to poor organisation of services. Neither lawyers nor public prosecutors' offices seem to have anything to say on this situation, which is simply regarded as inevitable. The CGLPL therefore asks the Ministers of the Interior and Justice to review organisation of judicial police services in *départements* in Paris' inner suburbs in order to avoid people being deprived of their liberty for several hours for minor offences without any investigation being carried out.	**1**

Juvenile detention centres	Staff	Recruitment	Implementation of a status enabling recruitment of a stable workforce is required: it is unreasonable to entrust children in difficulty to youth workers who are scarcely older than they are and whose professional pathways consist of a series of six-month contracts. If amendment to current legislation is required to stabilise their situation, then it must be made.	**1**
		Training	Training should lead to a qualification without which applicants cannot be employed as youth workers: such training must guarantee staff members' professional quality as well as provide them with the knowhow required to work in prisons (control of violence, exercise of discipline, and knowledge of the legal situation of children under their care).	**1**
		Training	Procedures for recruitment of non-permanent staff must be organised so as to guarantee their professional qualification, and initial training of permanent staff must cover all aspects required for assignment to juvenile detention centres.	**2**
		Management staff	There must be adequate numbers of stable qualified management staff.	**1**
	Institutional inspections		Inspections should not content themselves with a distant or limited vision of relations between juvenile detention centre management and the courts: via its internal rules or conventions binding them to associations, judicial youth protection service managements must ensure that frequent inspections involving the long-term presence of third parties within centres are carried out.	**1**
	Discipline	Prevention of incidents	Assess and, where applicable, more widely apply the practice of calming periods put in place in Savigny-sur-Orge juvenile detention centre so as to prevent excessive behaviours on the part of young offenders and so limit punishment.	**3**
		Adaptation of sanctions	Set up national objective indicators for assessing disobedience in juvenile detention centres and tools for applying personal punishments on a case-by-case basis.	**3**
			Set up measures to raise the awareness of juvenile detention centre staff on the need for objective and predictable application of disciplinary rules.	**3**
	Private and family life	Mail	Go ahead with the plans for a mail register, keeping a record of all times mail is opened in juvenile detention centres and the findings. Submit this register for periodic inspection by the judicial authority.	**3**
		Parents	Plan for statutory minimum conditions regulating the involvement of holders of parental responsibility in young offenders' care provision.	**3**
	Access to healthcare	Psychiatry	Organise psychiatric care for young offenders placed in juvenile detention centres at regional (local judicial youth protection service directorate-regional health agency) or national level.	**3**
	Monitoring recommendations	Chapelle Saint-Mesmin juvenile detention centre (CEF)	Guarantee the presence of a teacher at the La Chapelle-Saint-Mesmin Juvenile Detention Centre by monitoring his or her assignment at ministerial level.	**3**

Waiting areas	Swift return procedure		Stipulate in the CESEDA the procedure whereby foreigners denied entry at the French borders are swiftly returned (without being placed in a waiting area), with indication of the time-limit within which this can take place.	**3**
Forced deportations	Granting sums of money to individuals without resources		According to information collected by the CGLPL, European States provide deported individuals with a sum enabling them to cover the cost of food for one day and transport to a specific place. France should be less ready to adopt this practice.	**1**
Detention centres for illegal immigrants	Duration of detention		The 45-day detention period is pointlessly long, because if forced deportation proves impossible over the course of the first weeks, it will be almost impossible unless the country of origin recognises the national concerned. Doubling the duration, as the Government is considering, would not only be a violation of fundamental rights, it would also be useless. In the vast majority of cases, the 32-day detention time-limit, however, which applied prior to the 2011 law, is amply sufficient.	**1**
	Legal information and advice	Right to information	Set up the necessary resources (extra staff, agreements, inspections, training, educational tools, good practice guides, standard documents, etc.) to guarantee complete, accessible information, given in writing and orally, in a language the recipient can understand, and the free exercise of duties by lawyers, the OFII and legal aid associations in detention centres for illegal immigrants - including during peaks in activity.	**3**
		Obligation to leave French territory (OQTF) in prison	Orders to leave French territory issued to prisoners must be notified under conditions that enable them to properly exercise their rights of appeal, i.e. when they can immediately benefit from the services of an interpreter and a legal aid association.	**3**
		List of lawyers	The list of lawyers of the territorially competent bar must systematically be displayed in the living spaces of detention centres for illegal immigrants. In courts of first instance in civil and criminal matters, before the hearing with the liberty and custody judge, spaces must be provided to enable a confidential interview between the detained migrant and his/her lawyer.	**3**
	Intervention by the liberty and custody judge (JLD)	Overseas France	The CGLPL stresses that it is necessary to maintain a 48-hour time limit throughout national territory – including in Mayotte – on presentation of people placed in administrative detention to the liberty and custody judge.	**4**
	Private and family life	Personal property	Take the necessary legal and physical measures for guaranteeing that detained migrants can freely access their personal belongings and procedural documents concerning them at all times.	**3**
Detention		Visits	Take the necessary measures in terms of police numbers and facilities to ensure that there are no restrictions on detained migrants' visiting rights.	**3**

centres for illegal immigrants		Mobile phone	Enable detained migrants to freely access their own mobile telephone by informing them of the restrictions concerning the camera feature and of the penalties should such rules fail to be followed. Define "security problems" that might be connected with internet use in detention centres for illegal immigrants, and authorise such use with limitations in strict proportion to the risks identified.	**3**
	Activities		See to the systematic and controlled setup of the necessary amenities for providing migrants held in detention centres with activities.	**3**
	Access to healthcare		Revive the interministerial working group formed to develop the health system in detention centres for illegal immigrants, particularly the need for direct and confidential contact between detained migrants and medical teams, the screening for contagious diseases and the need for personalised medical surveillance.	**3**
	Staff		Set up a deportation assistance and support unit in all detention centres for illegal immigrants.	**3**

Appendix 4

Follow-up on CGLPL recommendations for the year 2014[81]

1. General recommendations concerning mental health institutions

1.1 Right to dignity and physical integrity

1.1.1 Solitary confinement and restraint

> - Introduce protocols and traceability of use of restraint and solitary confinement via a special ad hoc record and observations in patients' medical files, including information on the beginning and end of such measures, the circumstances in which they were carried out, the reasons they were carried out, and the names of the physicians who ordered or approved them.
>
> - Submit the record of uses of restraint and solitary confinement to inspection by the *Département*-level Commission for Psychiatric Care.

The Minister of Health's reply: "Instruction no. DGOS/R4/DGS/SP4/2017/109 of 29 March 2017, bearing on the policy on reduction of solitary confinement and restraint practices in authorised psychiatric health institutions designated by the Director General of the Regional Health Agency to ensure involuntary psychiatric treatment, specifies the conditions for implementation of the record and sets out methods for monitoring practices at institutional, regional and national level.

Article L.3222-5-1 of the Public Health Code, introduced by the Act of 26 January 2016, stipulates that the record must be presented to the *Département*-level Commission for Psychiatric Care upon demand."

> Ensure that placement in a seclusion room goes hand-in-hand with proper surveillance and systematic interviews at the start, end and throughout the individual's stay.

The Minister of Health's reply: "The recommendations on clinical practice disseminated by the National Authority for Health on 20 March 2017 specify methods for monitoring and carrying out systematic interviews that must be implemented when an individual is put in solitary confinement."

1.1.2 Hygiene

> Increase admission times to showers and adapting them to patients' states.
>
> Provide for sanitary facilities (washbasin and toilet at minimum) in each room for involuntarily committed patients.

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[81] *This Appendix contains details of follow-up on general recommendations issued by the CGLPL in 2014 as well as follow-up on special recommendations made after visits paid to institutions in 2014.*

The Minister of Health's reply: "This recommendation was also included in the work of the Psychiatry Steering Committee concerning technical operating conditions of authorised institutions. It stresses that new buildings and renovated facilities alike must now provide for sanitary facilities including showers in each room.

The Committee met three times in 2017, rapporteur advisors were appointed for subjects it prioritised, including hospitalisation. Among the items on their work programme, the advisors on this subject identified the question of architecture in psychiatry and expressed the wish to provide institutions with a guide on the architecture of psychiatric units for full hospitalisation."

1.2 Rights of defence

1.2.1 Access to information

> Publish welcome booklets specific to psychiatry in general hospitals.
>
> Display internal rules in each room.
>
> Draft a standard document in simple terms, explaining the various types of hospitalisation under restraint and means of appeal available to patients, with each institution being responsible for completing it and adapting it to local specificities, including addition of the addresses of competent authorities.

The Minister of Health's reply: "Among items on their work programme, rapporteur advisors for the Hospitalisation theme appointed in the Psychiatry Steering Committee identified the question of information to individuals and their circles. They expressed the wish to produce recommendations intended for professionals concerning information to patients and their families and relatives during fulltime hospitalisation, as well as a document on fulltime hospitalisation for patients and their families and relatives. In addition, the National Conference of Presidents of Psychiatric Hospital Medical Committees is currently working on an information document to be displayed in each room as a reminder of internal rules and patients' rights."

1.2.2 Legal information and advice

> Set up legal access points in mental health institutions.

The Minister of Health's reply: "Creation of permanences d'accès aux soins de santé (PASSs – Healthcare access centres for disadvantaged people) in psychiatry has a threefold objective:

- improving the speed of provision of care via rapid activation of an initiative opening patients' social rights;
- increasing institutions' social services' knowledge of sectors of the public in situations of major precarity and their rights;
- consolidating links between psychiatric institutions and medicine, surgery and obstetrics institutions in order to foster comprehensive treatment of disorders in patients in situations of precarity.

A survey carried out in 2013 listed 40 psychiatric PASSs, 2/3 of which were located in institutions authorised to provide psychiatric care alone.

The Decree of 27 July 2017 bearing on the territorial mental health project prioritises organisation of conditions for respect and promotion of the rights of individuals with psychological disorders. "In order to achieve these goals, the territorial mental health project aims to develop [...]2

Information provided to individuals with psychological disorders and their circles on their rights in order to encourage their access to them".

In addition, points d'accès au droit (PADs – citizen's advice centres) organised by the Ministry of Justice provide free anonymous consultations for individuals with legal and/or administrative problems."

1.3 Right to privacy and family life - relations with the outside world

1.3.1 Private life

> 1 - Privacy
>
> Lift the absolute blanket ban on sexual relations and work on obtaining the consent of the people concerned as well as on the means that may be made available to them for managing their affective and sexual lives.

The Minister of Health's reply: "There is no absolute blanket ban on sexual relations for individuals under involuntary psychiatric care. Pursuant to Article L. 3211-3 of the Public Health Code, restrictions on the exercise of individual freedoms must be appropriate, necessary and proportional to their mental state and implementation of the required treatment."

> 2 – Personal property
>
> Allow patients access to their financial resources, enabling them to live decently. Extend the "patients' bank" scheme.

The Minister of Health's reply: "Pursuant to Article L. 3211-3 of the Public Health Code, restrictions on the exercise of individual freedoms of persons under involuntary psychiatric care must be appropriate, necessary and proportional to their mental state and implementation of the required treatment."

1.3.2 Family life and relations with the outside world

> 1 - Visits
>
> Only reduce conditions for visits (prohibition of objects, presence of a third party, and cumbersome visit authorisation procedures) on a case-by-case basis and upon reasoned decision of the medical staff.

The Minister of Health's reply: "Pursuant to Article L. 3211-3 of the Public Health Code, restrictions on the exercise of individual freedoms of persons under involuntary psychiatric care must be appropriate, necessary and proportional to their mental state and implementation of the required treatment." Restrictions on receiving visits may only be applied in this context, i.e. depending on a patient's state of mental health and implementation of treatment."

> 2 - Telephone
>
> Individualise and provide reasons for prohibition of visits and telephone access by patients, depending on their pathologies and without such prohibitions being absolute.

The Minister of Health's reply: "Pursuant to Article L. 3211-3 of the Public Health Code, restrictions on the exercise of individual freedoms of persons under psychiatric care without their consent must be appropriate, necessary and proportional to their mental state and implementation of the required treatment." Restrictions on receiving visits or telephone access may only be applied in this context, i.e. depending on a patient's state of mental health and implementation of treatment."

> Information to families
>
> Organise family discussion and training groups by medical teams in order to facilitate communication and collaboration between practitioners, patients and their relatives and explain healthcare pathways.

The Minister of Health's reply: "The Decree of 27 July 2017 bearing on the concerted territorial mental health project in the context of the Conseil National de la Santé Mentale (CNSM – National Council for Mental Health) prioritises organisation of conditions for respect and promotion of the rights of individuals with psychological disorders, and reinforcement of their power to decide and act, and of the fight against stigmatisation of such disorders. To this end, the territorial mental health project aims to promote the involvement of such individuals, their families and relatives in development and implementation of care pathways and social or medicosocial assistance, in particular as regards therapeutic education, support to caregivers and peer counselling initiatives. In order to achieve these goals, the territorial health project aims to develop:

"1° Local consultation and coordination entities, including local mental health councils and mental health committees set up by territorial authorities;

"2° Information to people with psychological disorders and their circles on their rights, in order to encourage their access to them;

"3° Responses to individuals under care without their consent mentioned in Articles L. 3211-2-1;

"4° The fight against stigmatisation of psychological disorders and to improve information to the general public on mental health.

For example, the draft instruction bearing the territorial mental health project promotes the Pro Familles family training programme."

> 4 - The Internet
>
> Make monitored use of the Internet available with access to messaging (monitoring of which need only concern risks to patients' health and safety and prevention of criminal offences).
>
> Foster access to computing and the Internet.

The Minister of Health's reply: "Article L 3211-3 of the Public Health Code specifies that people undergoing involuntary psychiatric treatment have the right to send and receive letters. This right may be taken extend to the sending and reception of emails. Restrictions on the exercise of these individual freedoms must be appropriate, necessary and proportional to the patient's mental state and implementation of the required treatment."

1.4 Activities

> Encourage activities enabling social rehabilitation in line with patients' choices.

The Minister of Health's reply: "The Decree of 27 July 2017 bearing on the concerted territorial mental health project in the context of the National Council for Mental Health (CNSM) prioritises organisation of uninterrupted quality health and life pathways, in particular for individuals suffering from serious long-term psychological disorders, in situations of or risking mental disability, with a view to ensuring their recovery and social integration. To this end, it provides for:

1° Actions designed to prevent the onset or aggravation of the disability, by early as possible access to treatment, rehabilitation in particular, and social and medicosocial assistance;

2° Development of appropriate diversified services designed to facilitate access to housing, employment, schooling, studies and social life, by aiming at maximum possible integration and maintenance in ordinary environments.

The draft instruction bearing on implementation of the decree specifies the services to be developed in order to enable social integration in line with individual choices."

1.5 Right to health

> Give patients freedom to choose their psychiatrist in the event of there being several psychiatrists practicing in the same unit.

The Minister of Health's reply: "The law as it currently stands complies with this recommendation. However, it can prove difficult to implement in practice. This subject might well be given consideration in the context of the work carried out by the Psychiatry Steering Committee."

2. General recommendations concerning prisons

2.1 Autonomy, dignity and integrity

2.1.1 Right to autonomy

> Build prisons of limited size fostering inmates' autonomy.
>
> Fit out and facilitate access to collective living areas in all prisons.

The Minister of Justice's reply: "The new real-estate programme will be taking account of the White Paper's recommendations, in particular construction of quartiers de préparations à la sortie (QPSs –preparation for release wings). These facilities focus on the outside world and encourage autonomy and reintegration along with community life and positive socialisation on the part of inmates. QPSs will have low intake capacities (90 to 120 places in general) and be based on an integration and release-preparation platform bringing together and coordinating professionals from various State departments, local authorities and competent bodies under public and private law: inside/outside interface facilities, hearing and interview facilities, vocational training and group-project facilities, rooms for classes and cultural and sociocultural activities, and sports facilities. Accommodation units are made up of a group of shared premises including a communal dining room with pantry. Sixteen new QPSs are provided for in Programme 15000

In addition, the Programme 15000 framework for construction of institutions provides for incorporation of "quartiers de confiance" (trustee wings), including in remand prisons, enabling inmates soon to go back into society to experience conditions for autonomy of movement and personal management in time and space. These accommodation units are made up of shared premises including a communal dining room with pantry. Movements outside the wings are not systematically accompanied. Inmates accommodated in them are provided with advanced keys to manage the opening/closing of their cells during authorised time slots. The accommodation unit's corridor is designed as a living area.

Finally, the Pôle d'insertion et de prévention de la récidive (PIPR – Centre for Rehabilitation and Preventing Reoffending) is a key feature of the programming framework as it plays a major role in the collecting living system and process of individual and social reintegration."

> Set the rules for internal allocation of the prison population, based on assessment of each inmate's capacity for successful autonomy.

The Minister of Justice's reply: "A prisoner's autonomy and the layout of the institution are given as much consideration as possible to ensure normal detention for the person. Access to the personal care allowance (APA) and disability compensation benefit (PCH) helps fund the work of a home-based assistance service (SAAD) and so provide assistance to dependent prisoners. Partnerships must be developed with *Département*-level councils, *Département*-level centres for disabled people (MDPHs) and SAADs.

A crosscutting "disability/loss of autonomy" workgroup was set up in the context of implementation of the offenders' health strategy published in April 2017 by the Ministry for Solidarity and Health, overseen by the General Directorate for Social Cohesion (DGCS), the National Solidarity Fund for Autonomy (CNSA) and the DAP.

In this context, tools fostering conclusion of local partnerships between prisons, MDPHs, *Département*-level councils and home-based assistance services will be developed and disseminated to stakeholders over the course of 2018.

The DAP is currently testing out so-called "respect" modules fostering inmates' autonomy. Assessment of these experiments will help guide wider thought on detention systems."

> Extend the "prisoner-facilitators" initiative for reception of new arrivals, "relational mediations", and common training programmes for staff and prisoners.

The Minister of Justice's reply: "According to a census drawn up on 7 September 2015, thirty-eight penal institutions were covered by an agreement with a SAAD. However, agreements with *Département*-level councils and MDPHs – which have to define prisoners' eligibility for and access to the APA and PCH – are not as common. It is also possible to access a service for home-based nursing care (SSIAD). On 7 September 2015, fifteen penal institutions were covered by agreements.

The 2015 census has not been updated. Updated data will have to be collected in the context of the crosscutting disability/loss of autonomy workgroup (see above).

Assessment of the "prisoner-facilitators" scheme is currently underway, in order to decide upon its possible universalisation."

> Prisons should include facilities enabling inmates to go to a shop or superette in order to choose and order their purchases directly, pay for them via a magnetic stripe card or similar system, and have them delivered immediately.

The Minister of Justice's reply: "As regards layout, implementation of such a provision would require locating the shop in the heart of the prison and lead to significant evolutions in terms of prison functionality and security, as the canteen is located alongside other human service units for reasons of delivery access from the service yard and storage conditions in general warehouses and the general kitchen's cold storage facilities. A modification of this kind to prison organisation would generate extra construction costs, and impacts in terms of management of movements and professional practices. Such reorganisation would also be exceedingly complex to implement in existing prisons, given building layout constraints. Lastly, the feasibility of such a recommendation is connected with the detention system and cannot therefore be universally applied anyway. The DAP prefers to approach this question from the angle of the "Digital in Detention" programme."

2.1.2 Right to dignity

> Fitting out areas for reception of people with reduced mobility.

The Minister of Justice's reply: "According to a census drawn up on 1 January 2013, few prisoners are considered to be dependent: there are 115 dependent elderly prisoners and 329 disabled prisoners. How they are managed is important, because prisons and living conditions in detention are

hardly appropriate in their regard. Penal institutions can be made more accessible by building cells specifically for people with reduced mobility (PRMs) and laying out communal areas (approach ramps, benches in exercise yards, etc.). These measures are stipulated in the Order of 4 October 2010 on accessibility by disabled persons in prisons during their construction, and in particular provide for a minimum ratio of PRM cells.

As well taking account of regulations on disabled people in construction of new prisons, bringing existing institutions up to current standards is now underway with an Accessibility Agenda (Ad'ap) going into operation in 2018 for completion in 2025; the cost is estimated at around €55M."

> Provide for elderly or dependent people under similar conditions to those they would experience in open environments.

The Minister of Justice's reply: "Management of dependent prisoners is carried out via access to appropriate care, the organisation of which is the responsibility of the Ministry of Social Affairs and Health (physiotherapy in particular). In order to help prison staff carry out these initiatives, a kit on management of dependent prisoners was set to be disseminated in 2017.

Its dissemination had to be postponed, however, and will be carried out in early 2018.

In order to better identify dependent prisoners and implement detention conditions and provide assistance appropriate to their state of health, the DAP and the Correctional Service of Canada (CSC) have developed a grid for identification of people risking loss of autonomy, intended for use by warders and currently being tested out.

In addition, as part of the offenders' health strategy published in April, a "disability/loss of autonomy" workgroup has been set up jointly overseen by the DAP/DGCS/CNSA/DGS."

> Allow practices in line with the customs of foreign prisoners' countries of origin, when they are compatible with institutions' good order and security (provision of hotplates and foodstuffs in compliance with local practices).
>
> Provide discount coupons on a regular basis, enabling prisoners to look after their own hygiene needs and order what they have genuine need of.
>
> Implement systems enabling prisoners to wash their clothes themselves.

The Minister of Justice's reply: "The measures taken in ageing institutions to partition off washing areas within cells pose technical spatial difficulties on some sites. All new buildings are now equipped with in-cell showers and incorporate washbasin areas outside shower/toilet areas.

Each new prisoner arriving in a prison is provided with a hygiene kit which contains toiletry staples; further products are handed out free of charge to prisoners who are acknowledged to have insufficient resources. All such products may also be purchased from the canteen.

The programming framework for new prisons provides for a laundry room per accommodation unit in each wing."

> Authorising greater freedom of movement to exercise yards and activities.

The Minister of Justice's reply: "The question of access to exercise yards and activities does not arise in general or statistical fashion (increase in a rate) but rather through thought being given to detention systems. Access to exercise yards and activities is usually open to prisoners in detention centres' "responsibility" systems (open cell doors), as well as in many long-stay prisons and semi-open centres. Conversely, such access is more closely supervised in monitored systems in detention centres and should remain so. This recommendation is also implemented in "respect" modules, whatever the status of the prison concerned (remand prisons or detention centres). The more autonomy prisoners have, the more freedom of movement they may be allowed. Nonetheless, such autonomy cannot be presumed and more restrictive detention systems must exist in prisons, as they are essential to

regulation of detention. In addition, in remand prisons, major flows and numbers of movements requiring supervision, a fortiori given current overpopulation of prisons, often hamper open access to activities and exercise."

> Preventive detention system (Recommendations made in 2014 are obsolete following the opinion delivered by the CGLPL in 2015).

2.1.3 Right to free management of one's own belongings

> Enable prisoners to sell on, donate or lend all of their belongings, including their computer equipment, once this equipment has been inspected and the reasons checked for such a gesture.

The Minister of Justice's reply: "Prisoners' management of their own belongings must be assessed with account taken of requirements concerning personal safety, security within institutions and space constraints (possible risk of obstructing areas). The instructions remind staff that they must comply with inventory procedures concerning property deposited in the prisoners' cloakroom as well as use of equipment (cardboard boxes, shelving) designed to store such property safely."

> Provide purchasers with estimates in their name or with valid invoices, at the latest when the products are delivered.

The Minister of Justice's reply: "The "Digital in Detention" programme should lead to dematerialisation of canteen orders. Order content and totals will be available on the interface."

> Extend access to the assistance in cash or in kind provided for by law as foreign prisoners' situations may require. The Decree provided for in Article 31 of the Prison Act should usefully provide for adaptation of the volume of such assistance to needs observed.

The Minister of Justice's reply: "For foreign individuals, legal residence is a prerequisite as far as access to social rights is concerned."

> Adopt a new circular bearing on the fight against poverty in detention, in order to reassess provisions governing granting of assistance in cash to individuals deemed to be lacking adequate financial resources.

The Minister of Justice's reply: "The circular "Fighting against poverty in prisons" of 17 May 2013, pursuant to Article 31 of the Prison Act, aims at harmonising the practices of penal institutions and bringing them into line with budgets allocated, while factoring in the specific features of penal institutions under delegated management. The text focuses on three stages in a prisoner's pathway: arrival at a penal institution, time in detention, and preparation for release. To fight against poverty in prisons, it must be possible to access remuneration by work or by training, which is a part and parcel of an overall rehabilitation process. When access to paid activities is not possible, satisfactory material detention conditions must be ensured by providing monthly assistance to prisoners acknowledged as not having sufficient means of their own.

If the prison administration, in its dual role as institution head and prison rehabilitation and probation service (SPIP) director, is fully committed to the fight against poverty, efforts on the part of partner associations and other public services must enable reinforcement of resources implemented.

Article 24 of the standard internal regulations of penal institutions (Decree no. 2013-368 of 30 April 2013 bearing on standard internal regulations of penal institutions) stipulates that transactions (material only) between prisoners are only authorised at the time of a transfer. Hence, when prisoners are transferred, items belonging to them are handed to the transfer officer against receipts as long as they are not too heavy or bulky. If they are, and if the prisoners concerned do not wish to have their belongings sent to their new institution at their own expense, they may have them given to a third

party they designate following the institution head's agreement. Authorisation is above all required for computer equipment, given the specificity of such material and the obligation to reference computer hardware.

This possibility is not applicable to final releases, at which all jewellery and other items are returned to the prisoners concerned. If the latter refuse them, they are sent to the Administration des Domaines (Land Office).

The only exchange of items between prisoners for which the institution head's authorisation is not required and at whatever point of sentence it is carried out, is of books."

> Let prisoners choose the type of savings account they wish to open.
>
> Provide prisoners with duplicates of their savings account statements.
>
> Set up financial offices staffed by banking sector professionals.

The Minister of Justice's reply: "Prisoners are authorised to open a savings account or to keep the one they have already opened and to pay into it the sums of the disposable part of their personal account via the institution's administrator. Prisoners may also authorise family members to carry out banking operations on the outside, or continue to manage their bank accounts on the outside personally (unless a judicial decision is issued removing such right)."

> Pay funds into savings accounts as quickly as possible in order to enable their holders to receive the interest therefrom.

The Minister of Justice's reply: "Discussions with the Post Office Bank are underway with a view to improving the agreement and even make it possible to use other banks."

> Regulate the expenses incurred during permissions to leave in the context of talks between the Judge responsible for the enforcement of sentences, prison rehabilitation and probation service and the prisoner in question, to enable the latter to express his/her needs and associated reasons.

2.2 Private and family life, relations with the outside world

2.2.1 Right to privacy

> Construct and universalise family living units.

The Minister of Justice's reply: "Trials of family living units (UVFs) began back in September 2003. Since 2006, provision of UVFs in each new institution has been included in real-estate programmes. The UVF is designed as a furnished one- or two-bedroom apartment, on the prison premises but outside the detention area, so that occupants can live independently while staying there. Visits in such units can last from 6 to 72 hours. Pursuant to the Prison Act of 24 November 2009 (Article 36), an ambitious universalisation programme was launched in 2012 and is currently ongoing. As at 15 July 2016, 99 UVFs were up and running, across 31 institutions.

Providing institutions with UVFs/PFs continued in 2017. Between 2015 and 2017, 49 institutions were provided with UVF/PF (Family visiting-room) facilities. Programme development prioritised sentencing institutions without such facilities, so enabling their inmates to make use of them. It is now a matter of constructing UVFs and PFs in sentencing institutions not yet provided with them.

The 2018 Finance Bill provides for funding of the end of the first wave of UVFs/PFs (a few 1st-wave institutions will need to be equipped in 2019). In financial terms, this comes to €5.9 M in payment accreditations. In order to ensure territorial balancing of UVF/PF locations, it will be

possible to make minor adjustments to the provisional implementation programme. As at 4 August 2017, 139 UVFs were up and running in 42 institutions and 91 PFs in 24 institutions 51 sentencing institutions were equipped with UVFs and 34 with PFs. Between 2018 and 2022, 6 existing sentencing institutions and 3 remand prisons, along with 14 new institutions, will be equipped with UVFs and PFs."

> Guarantee open access to condoms in health units, UVFs and family visiting rooms.

The Minister of Justice's reply: "Availability of condoms from health units falls within their competence and that of assigned healthcare institutions.

In additions, as the methodological guide on prisoner healthcare points out, prison administrations make EC-standard condoms and lubricants available to prisoners. Access points are chosen and diversified so as to ensure maxim confidentiality (association premises, family visiting rooms, family living units, etc.). The DAP note of 4 December 2014 bearing on UVF and PF operation also provides for condoms being made available to prisoners and their visitors in such meeting facilities."

> Organise educational information actions on sexuality at prisons for minors.

The Minister of Justice's reply: "Organisation of health promotion actions in prisons falls under the competence of the public health institution, as is stated in Article R6112-20 of the Public health Code. It "coordinates preventive and health educational actions organised in prisons. In this respect, it develops a programme in liaison with the institution, regional and *département*-level prefects and the President of the *Département*-level Council for actions and services, for which the State and the *département* are respectively responsible. Health insurance bodies and other local authorities and associations concerned are also involved in the programme, on which the Regional Health Agency's Director-General gives his/her opinion. In prisons for minors, such actions are implemented in the context of local partnerial work on the part of Health authorities, the Judicial Youth Protection Service and the National Education Authority."

> Increase dress tolerance and align it with the usual criteria in the outside world.

The Minister of Justice's reply: "The question of personal belongings and clothing must also be considered in light of security criteria, which may call for restrictions on certain types of clothing.

There is a long list of personal belongings that can be handed over during prison visits. Existing limitations are for security reasons (e.g. prohibition of clothing that might be confused with staff uniforms), both as regards security in the institution and of the prisoners themselves. The necessary maintenance of order and security also justifies the prohibition of other garments. Hence, items of clothing with hoods and any garment that prevents its wearer from being easily recognisable have been prohibited since 2008. Before that year, such garments could make it hard to identify prisoners responsible for assaults, racketeering and acts of violence, when the prison administration's role, as far as maintenance of order and security is concerned, is to avoid violence to other prisoners and to staff."

2.2.2 Right to maintain family ties

> Inform newly imprisoned parents of their rights and duties vis-à-vis their children and assist them in carrying out the procedures necessary to ongoing exercise of such rights and duties.
>
> Enable access to digital assignment books via a secure internet connection and develop partnerships with schools (so that they can send children's school

> reports to their parents in prison and inform them of how they are getting on at school).
>
> Provide imprisoned parents with easy access to catalogues of toys and other merchandise so that they can give their children presents and take part in their self-fulfilment while re-establishing or maintaining close parental ties.
>
> Adapt frequency, places and durations of meetings between parents and children, in consultation with adults accompanying children.

The Minister of Justice's reply: "Efforts are being made in the construction of all new prisons to guarantee quality meeting areas for prisoners and their relatives – particularly with regard to parent-child visiting rooms. Lastly, the prison rehabilitation and probation services provide training and guidance for prisoners supervised in their parenting-related procedures.

A DAP note of 3 December 2003 provided for location of special canteens in visiting-rooms. Pursuant to this provision, "gift" canteens for prisoners' children were introduced locally. Special efforts are also made over end-of-year festivities, in liaison with partner associations. As regards adaptation of times for meetings between imprisoned parents and their children, institutions take care to facilitate them by developing their offer to include dedicated rooms, family visiting rooms, and family living units. This provides greater flexibility than classical visiting-rooms (longer time slots: up to 6 hours for PFs and 72 hours for UVFs). Longer visiting-room times may also be granted. Are more specific measures envisaged? The Centre National d'Enseignement à Distance (CNED – National Centre for Distance Learning) will enable development of correspondence learning and digitisation of learning materials. Workstations already enable supervised limited access to websites."

> Take account of the parenthood criterion when granting work posts.

The Minister of Justice's reply: "This recommendation has already been partly implemented, in particular by individualisation of selection decisions made by the Single Multidisciplinary Committee (CPU) on the basis of multidisciplinary discussion. Work selections are decided by the CPU. When it meets, a general review is made of work candidates. The fact of being a parent is taken into consideration in their decisions. Nonetheless, there is no question of giving imprisoned parents' preferential treatment in selection for work. Such a measure would be discriminatory as regards other prisoners (all the more so as not all imprisoned parents necessarily use their earnings to contribute to their children's education, and a prisoner may be a family breadwinner without being a parent)."

> Provide holders of parental authority with a special information booklet.
>
> Extend family visits inside institutions and create facilities that are conducive to confidential, convivial encounters.

The Minister of Justice's reply: "A close working partnership between the prison administration and judicial youth protection service is part of the objective of providing clear information and making contact with holders of parental responsibility.

Exercise of parental authority, as defined in Article 371-1 of the Civil Code, is not interrupted by a child's imprisonment. The head of the institution and the judicial youth protection services provide information to and collect opinions from holders of such authority. The family must be told of a child's imprisonment and informed of the various steps to take in order to visit and provide him/her with clothing. Holders of parental authority must be systematically involved in all major decisions taken during detention: education, religion, disciplinary sanctions, etc. Each professional involved in the prison environment helps maintain family ties in line with his/her field of competence. Factsheets detailing situations in which parental authority holders' opinion, consent or authorisation must be given are appended to the DAP-DPJJ Circular of 24 May 2013 bearing on the system for detention of young offenders.

As regards improvement of meeting facilities, development of (1- and 2-bedroom) UVFs and (1-room) PFs meets the requirement to give meetings greater privacy. Improvements are also being made to visiting-rooms with direct surveillance, which are the traditional everyday visit facilities (removal of separation walls, new institutions equipped with cubicles rather than a communal room, etc.). The programming framework for new institutions provides for cubicles being squarer in shape, encouraging designers to avoid a "corridor" effect in such areas in order to make them more convivial and enable inclusion of more comfortable furniture. Hence, whereas the New Real-Estate Programme (NPI) provided for cubicles with 6m² surface areas, they have now been increased to 7m². Family visiting-rooms are now located around a wide patio whose vegetable and mineral layout must be paid special attention to. The facility also includes a spacious meeting area large enough for use by several families with children and incorporating a play area for children and an outdoor patio that also accommodates children's games."

> Adapt the sum credited to new arrivals' telephone and postage stamp accounts in order to enable them to inform their relatives of their imprisonment.
>
> Reorganise and extend telephone access times, in particular in order to take account of any time differences.
>
> Supervise access to mobile phones and the internet (electronic messaging and Skype).

The Minister of Justice's reply: "Institutions are giving thought to calling time slots so as to foster telephone accessibility to as many prisoners as possible as often as possible. This is why it had been planned to install the first telephone booths in exercise yards, though not exclusively. New programmes now provide for telephone booths to be installed in each accommodation unit as well as possibilities of installing them in exercise yards.

Restrictions on telephone time slots are due to detention organisation constraints (closed-door system and consequent accompaniment of movements in remand prisons and long-stay prisons, and closing of doors in long-term detention centres at the end of the dayshift). An experiment with in-cell telephone booths is nonetheless being carried out at the Montmédy long-term detention centre, lengthening telephone access time slots and improving confidentiality of conversations in comparison with current phone points. The experiment aims to see whether or not proximity of telephones and extension of calling times leads to a significant increase in numbers of calls made, so fostering upkeep of social and family ties. It also seeks to find out if availability of more accessible legal telephones has a significant impact on introduction of illegal means of communication. There is no plan to authorise mobile phones or the Internet in detention, for reasons to do with maintenance of good order and security in institutions and the safety of third parties (possible pressure on victims, witnesses, fellow prisoners' families, etc.).

As regards telephone access, the public service concession will be renewed in 2018.

As regards supervision of access to mobile phones and the Internet, the prison administration will award a contract dedicated to detection and neutralisation of illegal communications in November 2017. This will enable prisons to be progressively equipped with systems for jamming telephone communications (voice and data alike)."

> Integrate the technical possibility of accessing servers with voice menus in the telephone system.

The Minister of Justice's reply: "This option will be studied in the context of renewal of the CSP telephony concession."

> Provide special facilities to families living abroad who come to visit their relatives in prison, as regards: making appointments (via internet for example); flexibility over possible late arrivals; duration of visits authorised. Enable access to the

> relevant information (procedures for obtaining a visit permit, how to reserve a visiting room and a safe place for their personal effects) in a language that they understand. Inform families (in the same way) in the event of hospitalisation, transfer or any other cause that makes a meeting impossible.

The Minister of Justice's reply: "The rules for delivering visit permits apply in a similar way and in line with the provisions of the CPP. Distance of families or visitors justifies adjustments to organisation of visiting slots to take account of this situation (early consent to two consecutive visiting slots for example).

The rules for delivering visit permits apply in a similar way to all prisoners and their loved ones and in line with the provisions of the CPP. However, the distance of families or visitors justifies occasional adjustments to the organisation of visiting slots to take account of this situation (early consent to two consecutive visiting slots for example). Granting meetings in family visiting-rooms and family living units enables much longer meetings to take place (6 hours for PFs and up to 72 hours for UVFs). Geographical distance is one of the criteria to take into account when setting the duration of these types of meetings without direct surveillance.

A scheme for making visit appointments online will be tested out via the "Digital in Detention" programme's public portal."

> Authorising the French Red Cross (as it is now for Somalians, by ICRC mandate) to meet any detainee who is unable to contact his/her family or is, de facto, in total solitude.

The Minister of Justice's reply: "A partnership is already in place with the Red Cross for installation of confidential telephone lines, for providing assistance and listening to any prisoners who wish to use them."

2.2.3 Right to a social life and activities

> Develop organisation enabling the emergence of a form of community life in accommodation wings.
>
> Give official status to living areas located in accommodation buildings and exercise yards in remand prisons.
>
> Universalise gardening and green exercise yards (collective appropriation of yards).

The Minister of Justice's reply: "Prisoners' social lives and access to activities bear on a wide range of measures and initiatives. The target the prison administration has set itself is to provide for at least five hours of activities per day per prisoner. To this end, the Ministry is mobilising the resources to create the necessary spaces and get associations, cultural and sports stakeholders involved.

The new real-estate programme takes account of the White Paper's recommendations and also includes construction of preparation of release wings (QPSs). These facilities focus on the outside world and encourage autonomy and reintegration along with community life and positive socialisation on the part of inmates. QPSs have low intake capacities (90 to 120 places in general) and are based on an integration and release-preparation platform bringing together and coordinating professionals from various State departments, local authorities and competent bodies under public and private law: inside/outside interface facilities, hearing and interview facilities, vocational training and group project facilities, rooms for classes and cultural and sociocultural activities, and sports facilities. Accommodation units are made up of a group of shared premises including a communal dining room with pantry. Sixteen new QPSs are provided for in Programme 15000

In addition, the Programme 15000's framework for construction of institutions provides for incorporation of "quartiers de confiance" (trustee wings), including in remand prisons, enabling inmates soon to go back into society to experience conditions for autonomy of movement and personal management in time and space. These accommodation units are made up of shared premises including a communal dining room with pantry. Movements outside the wings are not systematically accompanied. Inmates accommodated in them are provided with advanced keys to manage the opening/closing of their cells during authorised time slots. The accommodation unit's corridor is designed as a living area.

Finally, the Pôle d'insertion et de prévention de la récidive (PIPR – Centre for Rehabilitation and Preventing Reoffending) is a key feature of the framework as it plays a major role in the collective living system and process of individual and social reintegration." The PIPR has a central location in the institution and is more developed and attractive.

In new institutions, there is major focus on the quality of interstitial areas located between buildings, recreation areas and outdoor walkways. Such facilities contribute significantly to prisoners' and staff's quality of life and upgrade the overall quality of external areas. Among other things, designers have suggested plant screens as an integrated green way of meeting requirements regarding non-covisibility and non-communicability between functional units."

> Develop counters for picking up purchased items, turning them into real superette-style sales points where inmates can chose and compare products on sale and order their purchases directly, pay for them via a magnetic stripe card or similar system, and have them delivered immediately.

The Minister of Justice's reply: "The "Digital in Detention" programme will enable us to test out inmates' access to the catalogue of canteen products."

> Provide prisoners with more opportunities to practice their mother tongues (assignment based on language spoken, access to media in their mother tongue, etc.).

2.2.4 Relations with the outside world

> Enable prisoners to send and receive emails by using computers made available to them in the same way as telephones and with a monitoring system comparable to that applied to mail.

The Minister of Justice's reply: "This measure is not under consideration as it stands."

> Notify the judge of any infringement of freedom of correspondence; and give the exact reasons for its occurrence.

The Minister of Justice's reply: "Compliance with the framework with regard to infringements of freedom of correspondence (Articles R 57-8-17 and R57-8-19 of the CPP, created by the Decree of 23 December 2010).

Article R. 57-8-19 already covers provision of information to the judge presiding over the procedure for remand prisoners and to the Commission d'application des peines (CAP – Assessment Board), which includes the sentence enforcement judge."

> Deliver letters to their addressees even in the event of the administration being unable to understand and check the content of a letter written in a foreign language.
>
> Improve assistance in writing letters provided to foreign prisoners.

The Minister of Justice's reply: "Several more specific measures have been taken to assist foreign prisoners with their formalities and help them understand documents handed out.

1. voluntary assistance – Associations for the support of foreigners are active in most prisons;

2. the 157 legal access points - These provide assistance and guidance in foreign nationals' legal formalities;

3. provision of documents in prisoners' mother tongue – The guide "I am in detention" (English, Arabic, Spanish, Portuguese, Romanian and Russian) is distributed to all newly arrived prisoners. It is currently available in six foreign languages. A practical guide for prison staff is currently being finalised;

4. broadcasting information on the internal video channel - An induction film for non-French-speaking prisoners has been produced in partnership with the M6 Foundation;

5. the question of renewing or obtaining the first residence permit (Circular of 25 March 2013) is addressed by the signature of protocols between institutions, SPIP and prefectures in order to facilitate formalities.

In compliance with the provisions of Article R.57-8-18 of the CPP, a letter written in a foreign language may be translated before it is delivered or sent. For security reasons, the head of the institution may therefore decide to have letters translated in accordance with the methods provided for by the Circular of 9 June 2011 bearing on prisoners' telephone and written correspondence. This is not obligatory.

In the context of the partnership between the DAP and the Cimade, an information guide in nine languages (French, English, Mandarin, Russian, Italian, Spanish, Romanian, Arabic and Portuguese) intended for foreign prisoners is available in prisons and should be disseminated afresh."

2.3 Freedom of expression and religion

> Right to collective expression
>
> Encourage and develop exchanges between prisoners.
>
> Develop creation of "councils" to encourage dialogue between prison administrations and prisoners.
>
> Set up life councils where young people can express their opinions in respect of the common interest.

The Minister of Justice's reply: "Article 27 of the Prison Act of 24 November 2009 requires prisoners to participate in at least one of the activities provided by the prison administration. Article 29 provides for consultation of prisoners about these activities. Decree no. 2014-442 of 29 April 2014 implementing Article 29 of Prison Act no. 2009-1436 of 24 November 2009 sets out the conditions for such consultation and redefines its scope."

2.4 Access to information and legal advice

2.4.1 Access to services promoting information and knowledge of rights

> Guarantee open access to the library.

The Minister of Justice's reply: "The Digital in Detention" programme will include a library of electronic books.

Access to libraries is guaranteed in all prisons. Conditions and modes of such access are defined in the internal regulations. Prisoners list their names and/or are called directly in accordance with a pre-established schedule."

> Include information useful to prisoners in documents given to new arrivals, display it within prisons in several languages and deliver it orally during "arrival" interviews.
>
> Post the names of the institution's main actors and contact details of various local and national actors.
>
> Communicate full, detailed information on operating rules in foreign languages.
>
> Introduce a "prisoner-facilitator" scheme to assist new arrivals.
>
> Systematically post memos on the institution's operation and practical aspects of everyday life.

The Minister of Justice's reply: "An ambitious proactive policy has been implemented to achieve certification of all new arrivals' wings in prisons, in line with European prison rules. Reminder memos are also displayed in prisons. Lastly, the institution's internal regulations are available for consultation by prisoners.

The reference framework for quality of professional practices in prisons, on the basis of which institutions' "arrivals" procedure is audited by an external body, requires that prisoners are provided with:

- the "I am in detention" national guide (currently in its 7th edition, published in June 2016);
- the local reception guide on the institution's organisation and operation;
- extracts from the internal regulations, including sections on prisoners' rights and duties;
- extracts from the reception programme specifying organisation and content of the reception phase.

These documents are translated into as many languages as possible in order to help enable understanding.

The individual and/or collective interviews that take place during the reception phase are also designed to inform prisoners and answer their questions on the institution's organisation and operation."

> Extend initiatives enabling access to the Internet and the press in prisons for minors, and combine it with educational actions designed to develop young people's critical thinking with regard to media content and foster access to the law and citizenship.

The Minister of Justice's reply: "Young offenders have access to the press via availability of a wide range of magazines in the library, and educational actions on the subject may be organised by the

National Education Authority. Internet access is prohibited in prisons for young offenders, mainly for reasons to do with maintenance of order and security."

> Introduce schemes enabling access to information and the law (accompanied access to their files). Improve staff's legal training.

The Minister of Justice's reply: "There are 157 legal access points in prisons."

> Distribute translations of the administration's "I am in detention" guide and standard documents.
>
> Distribute leaflets with understandable pictograms summarising the essential content of internal regulations; disseminate them via the internal video channel.
>
> Foster use of interpreters.
>
> Systematically have literacy tests carried out by teachers to new arrivals in prisons. Measure levels of proficiency in the French language.

The Minister of Justice's reply: "Several more specific measures have been taken to assist foreign prisoners with their formalities and help them understand documents handed out.

1/ voluntary assistance – Associations for the support of foreigners are active in most prisons;

2/ the 157 legal access points – These provide assistance and guidance in foreign nationals' legal formalities;

3/ the provision of documents in prisoners' mother tongue – The guide "I am in detention" (English, Arabic, Spanish, Portuguese, Romanian and Russian) is distributed to all newly arrived prisoners. It is currently available in six foreign languages. A practical guide for prison staff is currently being finalised;

4/ broadcasting information on the internal video channel - An induction film for non-French-speaking prisoners has been produced in partnership with the M6 Foundation;

5/ the question of renewing or obtaining the first residence permit (circular of 25 March 2013) is addressed by the signature of protocols between institutions, SPIP and prefectures in order to facilitate formalities.

The DAP is giving thought to such experiments (interpreter contracts, translation tablets, etc.). In the context of the partnership between the DAP and the Cimade, an information guide in nine languages (French, English, Mandarin, Russian, Italian, Spanish, Romanian, Arabic and Portuguese) intended for foreign prisoners is available in prisons. In general: Article D. 506 of the CPP stipulates that interpreters should only be called upon in cases of absolute necessity, if a prisoner does not understand or speak French and there is nobody onsite capable of translating.

The "I am in detention" national guide is available online and is printed on request, in English, Spanish, Arabic, Italian, Portuguese, Russian, Chinese, German and Romanian.

A leaflet of useful pictograms has been developed by the DAP. The Communication Department is currently working on its layout, prior to approval.

The Paris and Bordeaux Interregional Directorates for Prison Services (DISPs) have signed an interpretation convention with ISM Interprétariat with a view to facilitating exchanges between non-French-speaking prisoners and the staff. A contract which will enable all institutions to access a telephone interpreting service in as a broad a range of languages as possible is currently being drafted.

Pre-identification of illiteracy is carried out during the arrival phase."

2.4.2 Foreigners' rights

> Foreigners having the right to a residence permit should not cease to be "perfectly legal citizens" as a result of being imprisoned, except in cases of legal interdiction from French territory or administrative deportation measures.

The Minister of Justice's reply: "This question comes under the competence of the Minister of the Interior."

> With the help of associations and legal access points, inform prison rehabilitation and probation counsellors on legislation on foreign nationals, in order to be able to advise judges on the likelihood of a given detained foreigner being granted a residence permit.

The Minister of Justice's reply: "In the context of the partnership between the DAP and the Cimade, the latter is in the process of finalising a guide on foreigners' rights (including the residence permit question), intended for prison rehabilitation and probation counsellors and prison staff."

> Prohibit prefectural services from setting appointment times that make compliance with authorisations to leave closed units difficult. Take account of the requirements of incarceration in implementation of a sequence of formalities specific to detained persons on leave of absence.

The Minister of Justice's reply: "This question comes under the competence of the Minister of the Interior."

> Adapt needs and staffing of "legal access points" and associations present, as well as presence of interpreters. Introduce conventions determining the roles they play.

The Minister of Justice's reply: "There are partnerships with Conseils départementaux de l'accès au droit (CDADs – *Département*-level Councils for Access to Law: Public Interest Groups), which have competence on questions of staffing.

As regards associations, they try to provide their services in all institutions (the Cimade along with local associations)."

> Keep a watch on the prefectural practice of systematically refusing provisional residence, which inevitably leads to a "priority" procedure which, despite the apparent precautions taken, by no means guarantees sufficiently serious examination (ignorance of the right of effective appeal).

The Minister of Justice's reply: "This question comes under the competence of the Minister of the Interior."

> Work towards the drafting of a United Nations international convention on execution of sentences abroad, potentially making up for the lack of bilateral agreements (as has already been done at European level with regard to extradition).
>
> Encourage the practice of "voluntary return" releases on parole.

The Minister of Justice's reply: "The possibility of releasing foreign prisoners on parole provided that they return voluntarily to their countries of origin is provided for by decree, as Article D535 of the CPP states that release of foreign prisoners on parole may be subordinated to the condition of their being expelled from the national territory, taken back to the border or extradited, or leaving the national territory and never returning.

In the context of requests for "voluntary return" release on parole, the Prison Rehabilitation and Probation Service (SPIP) works with prisoners to consider the conditions under which they

would return to their own countries, including existence of accommodation and possible professional and life projects. The SPIP also makes sure that such prisoners can afford to pay for the journey, either out of their own pockets or by calling on external assistance. If necessary, the SPIP may lend prisoners its assistance in taking the practical steps required for their return (e.g. verification and availability of identity documents or reservation of a travel ticket)."

> Remove obstacles to granting permissions to leave to legally resident prisoners.

The Minister of Justice's reply: "Permissions to leave are under the competence of the sentence enforcement judge."

> Consider a probation project to be implemented in the country of origin for individuals who are not legally resident.

The Minister of Justice's reply: "Consideration of a probation project in the prisoner's country of origin requires international partnerships with the ministries of each country concerned."

2.4.3 Processing of appeals

> Systematically renew correspondence materials free of charge.
>
> Pay special attention to the robustness of letterboxes and locate them near the warders' office in order to prevent their being broken into.
>
> Accept oral appeals. Provide appropriate courteous responses whose content must be pertinent, detailed and justified.
>
> Universalise posting of pictograms on touch terminals for input of appeals.
>
> Take account of special requirements when positioning touch terminals for input of appeals (availability to prisoners placed in special wings).
>
> Provide for training in the use of terminals during the arrival phase and distribution of instructions.
>
> Create alerts in the Cahier Électronique de Liaison (CEL – Electronic Liaison Register) when the response deadline has been exceeded. Implement a relaunch system.
>
> Record and trace appeals bearing on the applicant's legal situation.
>
> Systematically issue acknowledgements of receipt of (written or oral) appeals by applicants once they have been traced.

The Minister of Justice's reply: "Appeals, i.e. the written or oral requests that a prisoner makes to the penal institution, are recorded in the GENESIS program (which is now in use across all such institutions) in two ways: they are entered directly by the prisoner via the appeal terminals. Prisoners identify themselves at a terminal using a barcode and personal secret code. In order to comply with regulations, the Prison Administration Department is planning to renew the terminal provision contract as well as carry out trials for entering appeals in cells and activity rooms as part of the "Digital in Detention" programme, with warders entering any oral or written appeals they receive from the prison population. Appeals are not confidential. The service concerned can sort appeals pending responses, in order to identify those which are for its attention and provide written responses. Creation of an appeal, at the appeal terminal or by a warder, leads to an acknowledgement of receipt being issued to the prisoner, indicating an average processing time for requests. When a response is given to an appeal, a document is published indicating the initial appeal and the response given by the service concerned. The appeal processing process in GENESIS does not result in any automatic processing in the application. It is intended to keep a record of prisoners' requests and of

the responses given to their questions. The responses given to prisoners are therefore managed separately from GENESIS.

In addition to the formalism required in terms of traceability, the services concerned also systematically provide substantive responses. Prison and SPIP managements take care to see that this happens.

As regards correspondence materials, a kit containing pen, paper, envelopes and stamps is systematically provided to each new arrival. The necessary supplies can then be accessed via the canteens or renewed whenever necessary for indigent prisoners.

Appeals may be either oral or written. The important thing is that they are taken into account and are replied to. Although they can be managed by the computer application, processing of appeals is managed differently from one institution to the next."

> Authorise illiterate and non-French-speaking prisoners to not have to put the subjects of their appeals in writing before being granted an interview.

The Minister of Justice's reply: "Managements and department heads keep a methodological watch in this respect, to ensure that this requirement is no longer necessary for prisoners with language difficulties. In addition, booklets in a range of languages are distributed in prisons in order to adapt to the many nationalities they contain."

> Systematically identify vulnerable individuals who do not make any requests.

The Minister of Justice's reply: "The prison administration's vigilance as regards situations where prisoners withdraw into themselves and shut others out is emphasised. Close observation on the part of warders and rehabilitation counsellors is absolutely crucial as far as this is concerned. In particular, such identification is carried out as part of the policy on combating suicide risk.

Systematisation of Single Multidisciplinary Committees (CPUs) results in weekly partnerial work enabling exchanges between professionals (management, prison rehabilitation and probation services, medical services and psychiatric services) on tracking vulnerable individuals already identified as such or showing early signs of vulnerability. Such tracking enables closer monitoring of prisoners whose situations are raised during meetings. Apart from observations made by staff, the GENESIS query tool could improve tracking by making it easier to identify groups of individuals in accordance with specific criteria (e.g. individuals who have not been called in for a hearing since…; prisoners who have not been seen by the CPU since...; etc.), criteria that may also be combined in order to refine searches."

> Appoint a correspondent from among the staff responsible for processing appeals, who is capable of replying to them directly or forwarding them to the competent service, and above all of explaining the procedure.

The Minister of Justice's reply: "The Digital in Detention programme should test out electronic appeal input."

2.4.4 Right of access and confidentiality of personal documents

> Develop the possibility of purchasing a magnetic debit card enabling prisoners to make a predetermined number of photocopies on a freely accessible photocopier in the library.

The Minister of Justice's reply: "Conditions under which prisoners may photocopy documents are defined by the Order of 1 October 2001 bearing on conditions for setting and determining costs for copying administrative documents.

The Interregional Directorates and institutions questioned did not make mention of any special difficulties regarding prisoners being allowed to make photocopies. The only difference is in procedures followed from one institution to the next. In most prisons, inmates who want to make photocopies fill out a voucher (a standard form specifying the invoice price) supplied by the registry service or personal account administration (depending on prison). On the form, prisoners specify the documents they want to photocopy and the number of copies required. The voucher is sent to the personal account administration, which blocks the necessary sum. Photocopies are then made by the Bureau de la gestion de la détention (BGD – Detention Management Office) or registry service depending on the photocopies requested, and delivered to the prisoner who requested them. A memo explaining the procedure is available to prisoners.

In institutions without an ad hoc form, prisoners make a written request to a warder or the management with agreement to debit their account in order for them to photocopy the requested documents. In a number of small prisons, photocopies are even made free of charge. Institutions bear the cost of photocopies requested by prisoners without resources.

Prisoners are therefore informed of conditions for reproducing documents.

Apart from the question of pricing, if current conditions for prisoners' access to photocopiers does not enable them to reproduce their documents systematically, in compliance with the Order of 1 October 2001, alternative policies may be considered. Use of magnetic stripe cards (or equivalent system) might be studied, enabling advance purchase of a given number of copies, or debiting prisoners' canteen accounts for copies made. However, it should be emphasised that deployment of such a system, however simple it might be technically, would probably involve substantial costs.

If carried out, the study would not only cover the technical feasibility of such a policy but also explore whether or not the cost of its implementation was in keeping with any hoped-for gains in comparison with the existing situation."

2.4.5 Requests for assistance

> Introduce interphone systems or call buttons that also work at night in order to call for help.

The Minister of Justice's reply: "The programming framework provides for cell interphones connected to the protected station concerned or to the main security station for night calls. A light is also installed above the cell in question, on the corridor side. Investment operations also enable a number of older institutions to be equipped when it is technically feasible and budgets allow it."

2.5 Access to medical treatment and social benefits

2.5.1 Access to healthcare

> Enable open access to the health unit for the first half of the day, with consultations on appointment during the second half.
>
> Automatically grant oral requests for emergency consultations in the health unit.

The Minister of Justice's reply: "Access to treatment is guaranteed and determined with the Ministry of Health. Consultation times also depend on medical unit organisation. In an emergency, requests are passed on by warders to medical staff or by making a call to an external service if this arises while medical staff are off-duty.

Organisation of treatment provided in health units comes under the competence of assigned hospital centres.

The healthcare facility management and prison management draw up a framework protocol setting modes of treatment organisation and access to it during and outside the health unit's opening hours and days.

Fluidity of consultations in the health unit requires close collaboration been healthcare and prison staff enabling identification of inmates requiring access to the health unit and organisation of ways of getting them there."

The Minister of Health's reply: "Test out the possibility of allowing greater flexibility in conditions for accessing health units with fairly small active patient populations. For larger health units however, she is worried that opening up the possibility of free consultation may adversely affect appointment waiting times. Concerning fluidity of consultation circuits, she recommends raising health teams' awareness in this respect, but does not believe it would be possible to set up a single monitoring tool. She is of the opinion that the question of emergency calls made at night is a matter for the prison administration, which must be made aware of health emergencies.

The subject of access to health units' out-of-hours services will be examined in depth with representatives of prison healthcare professionals in the context of workgroups under the new national strategy on offenders (inclusion of the subject in the September 2017 mission letter to rapporteur advisors in Workgroup 4, "Access to and continuity of treatment", overseen by the Direction générale de l'offre de soins (DGOS – General Directorate for Healthcare Services).

Work carried out by Workgroup 4, "Access to and continuity of treatment", should find operational expression among health professionals working in prison environments. Recommendations may be made for updating the methodological guide on treatment of offenders."

> Systematically put prisoners in contact with Centre 15 (Emergency Medical Aid Service) when the institution's medical staff are absent and they request an emergency consultation.

The Minister of Justice's reply: "It is technically difficult to put sick prisoners in direct touch with the emergency services operator; precedence is given to the possibility of emergency crews having access to prisons in order to reach the prisoner/patient. The methodological guide on provision of healthcare to prisoners states that: "Prisoners are put in direct telephone contact with the coordinating doctor in order to enable the latter to assess the interested party's health situation. Direct telephone communication between prisoners and Centre 15 coordinating doctors should be permitted while ensuring respect of the medical consultation's confidentiality and the security of the prisoners concerned and of the institution".

Prison staff shall apply this recommendation, material constraints permitting. There is still the priority of enabling emergency crews to access prisons so as to reach the prisoner/ patient."

The Minister of Health's reply: "The subject of organisation of out-of-hours services when prison health units are closed, in order to avoid any delay in emergency treatment, will be examined by the offender strategy's Workgroup 4. Special attention will be paid to ways and definition of best use of Centre 15."

2.5.2 Reproductive justice

> Do everything possible to ensure that the medically assisted procreation (MAP) project for prisoners is accessible under the same conditions as for the general population.

The Minister of Health's reply: "It should be borne in mind that development of family living units, which give prisoners the opportunity to procreate naturally, is to be encouraged. For couples with no medically diagnosed pathological infertility, Medically Assisted Procreation (MAP) cannot legally replace possibilities of natural procreation. Prisoners already have access to MAP under the same conditions as the rest of the population, provided that couples meet the criteria imposed by the bioethical law in force (couple made up of a man and a woman with medically diagnosed pathological infertility).

However, implementation of this right, in particular in situations in which it is the woman who is in prison, highlights major organisational difficulties in the prison administration's management of medical extraction procedures."

2.6 Right of defence and discipline

> Ensure secrecy of conversations between foreign prisoners and their lawyers, even if foreign and living in another country.

The Minister of Justice's reply: "The confidentiality of these conversations is guaranteed. Adjustments and hearing facilities are planned to facilitate such exchanges.

In order to ensure confidentiality of exchanges, a communication permit must be issued for the lawyer and the person he/she is defending.

The Circular of 27 March 2012 bearing on relations between prisoners and their defence stipulates that, in order to ensure confidentiality of telephone conversations, lawyers with communication permits must be able to prove that the mobile or landline phone number they provide to the institution is really their own (§3-2).

The Circular of 9 June 2011 bearing on prisoners' telephone correspondence stipulates that the head of the institution can check whether or not the correspondent's stated identity matches that of the number the prisoner wants to include in the numbers he/she is authorised to call, and may require documentary evidence in this regard (Point 2.3.1.2).

Point 2.4 of the Circular of 9 June 2011 states that all telephone correspondence to the outside world on the part of a prisoner may be monitored by the prison administration, apart from calls to the CGLPL, the Defender of Rights, lawyers, the Croix-Rouge Écoute les Détenus (CRED – Red Cross Prisoner helpline), and the Association Réflexion Action Prison et Justice (ARAPEJ – Reflection, Action, Prison and Justice Association), as these correspondents are protected by confidentiality.

Standard prison internal regulations (R.57-6-20 CPP) make these principles clear, specifying that prisoners have the right to correspond with their lawyers by telephone and that such telephone conversations are confidential.

They also stipulate that, in able to contact his/her lawyer, a prisoner must first of all have the lawyer's contact details recorded: family name, first name, the bar association he/she is belongs to, and phone number.

As regards foreign lawyers, the Circular of 27 March 2012, bearing on prisoners' relations with their defence counsels, states that it should be established whether or not the latter are registered with a French bar association; if they are, they can communicate freely with the prisoners they are defending. However, when a foreign lawyer who is not an EU national or from a State party to the agreement on the European Economic Area or from Switzerland, and cannot show proof of his/her registration with a French bar association, he/she does not benefit from the principle of free communication (Point 1.1 of the Circular).

Hence, insofar as a prisoner's right of confidential telephone correspondence with his/her lawyer requires that a communication permit be issued, only prisoners' conversations with lawyers not registered with a French bar association may be listened to by the administration."

2.7 Activities and work

2.7.1 Activities

> Provide teachers with special training and assistance.
>
> Develop scholastic, training, cultural, sports and recreational activities likely to foster self-fulfilment and civic participation.

The Minister of Justice's reply: "The effective partnership with the Ministry of National Education in developing educational activities is emphasised. The partnership concerns all areas which play a part in meeting the targets set by the two central administrations: material teaching conditions, conditions underpinning dialogue and information-sharing, definition of the responsibilities of managers at local, regional and national level, and coherence of educational and institutional plans – budgetary procedures in particular. (Convention and framework circular of 8 December 2011 on education in prisons).

Substantial budgets have been devoted to increasing activities, adjusting sentences and developing new integration programmes. €7.9M was allocated to these subjects in 2015, €7.2M in 2016 and €5.3M in 2017 (in the context of three successive government counterterrorism plans (PLAT 1 - 2015, PLAT 2 - 2016 and PART - 2017). The significant ongoing increase in numbers of activities on offer to prisoners is very much to the purpose of actively and usefully involving them in their reintegration pathways. Development of a multidisciplinary offer of activities does not simply seek to meet the need for "recreation" or "occupation", but rather to use all available means to help prisoners acquire the skills essential to return to life in society (soft and hard skills alike). Qualification and vocational training, acquisition of basic knowledge, the capacity to commit oneself to a work activity, knowledge of others, acquisition of the rules of community life and the practice of intellectual debate all go to illustrate the wide range of possible actions. The Prison Administration Department has developed and consolidated fruitful wide-ranging partnerships with the Ministry of Culture and Communication and the Ministry of Sport, giving offenders easier access to the activities on offer from major cultural institutions, well-known associations and sports federations. In the context of the various plans for combating terrorism and radicalisation, and in line with the November 2014 Raimbourg Report's recommendations on provision of individual cells, time spent on activities on offer to prisoners was to the tune of 3.5 hours in 2016 and 5 hours in 2017 (as against about an hour in 2014).

In this context, the Prison Administration Department designed and implemented national level projects in 2015/2016:

- citizenship initiatives intended for the whole prison population (teacher training and development of internal video channels),
- training in sports refereeing, world cuisine workshops, and animal mediation actions,
- actions designed to reduce risk factors (development of prison offices for access to social rights, actions focusing on parenthood and conjugality, etc.);
- in 2017, a "citizenship and work" initiative on behalf of an association of public utility, and a project on access to social rights and accommodation.

The DAP also continued funding actions to do with questions on such topics as violent ideologies, conspiracy theories, the values of the Republic, citizenship, and gender relations. Such

actions seek to get offenders to think about their responsibilities by deconstructing restricting received ideas. They were carried out in the form of citizenship modules, lectures/discussions with guest experts and workshops, taking place in closed and open environments alike.

Finally, the Prison Administration Department developed a measurement tool for the unpaid activity offer (within the meaning of Article R 57-9-1 of the CPP). Development of activities that help make time spent in prison useful requires major commitment on the part of the prison administration's partners, whether ministerial departments, local authorities or private partners (the voluntary sector in particular), as well as continuation (in the context of a programming law) of appropriations obtained under the plan for combating radicalisation and terrorism."

> Adapt conditions for learning the French language to foreign prisoners.
>
> Facilitate access to radio and television, and any other means of speeding up learning.

The Minister of Justice's reply: "French lessons and refresher courses are a major component of education provided by the National Education system. Various initiatives and activities are also carried out by the prison rehabilitation and probation services to facilitate access to reading in detention."

2.7.2 Work

> Enable all foreign prisoners to work or receive training, without discrimination.

The Minister of Justice's reply: "The work selection procedure provides for examination of requests and decisions to be made by a multidisciplinary committee, ensuring a shared analysis of requests.

Work selection criteria include those listed in Article D.432-3 of the CPP (physical and intellectual capacities, family situation and existence of civil parties to compensate).

Individualised criteria are also taken into account, in line with prisoners' criminal history and how well their skills match the work on offer. Prisoners are selected independently of their nationality. Delay in selection for work may be connected with poor understanding of instructions given in French. In such cases, the prison administration makes sure that prisoners concerned have access to French language classes prior to or at the same time as selection for work. These days, prisoners who work, whether in general service provision or production, are of as many nationalities as are to be found among the prison population."

3. General recommendations concerning detention centres for illegal immigrants and waiting areas

3.1 Dignity and integrity

3.1.1 Discipline, solitary confinement

> Not prevent prisoners in solitary confinement from contacting the legal entities responsible for provision of legal aid.

The Minister of the Interior's reply: "In line with the CGLPL's recommendations and in compliance with the legal framework, "best practices" have been developed with a view to harmonising operational procedures within premises and detention centres for illegal immigrant,

reconciling respect of human dignity and respect of order and security. In the event of an illegal immigrant's placement, in addition to immediately advising the Public Prosecutor of the fact and informing the centre's doctor, the association active in the CRA, pursuant to Article R. 553-14 of the Code for Entry and Residence of Foreigners and the Right to Asylum (CESEDA) must also be informed as soon as possible."

3.2 Rights of defence

3.2.1 Access to information

> Draft internal regulations in simple terms understandable by all prisoners and make them easily accessible.
>
> Translate internal regulations into languages corresponding to the nationalities most represented in each centre.

The Minister of the Interior's reply: "Each CRA has internal regulations approved by the territorially competent Prefect. The CESEDA does not require that a copy be provided to each foreigner placed in detention. However, pursuant to the provisions of Article R. 553-9 of the Code, a copy of the internal regulations in the French language, translated into the most commonly used languages (the UN's six official languages), must be displayed in CRAs' common areas, so ensuring that they are understood by most foreigners. They are sometimes translated into other languages, depending on local characteristics. It should also be borne in mind that associations active in CRAs interview all new arrivals, mainly in order to inform them of living conditions in the centre, the role played by each actor (medical service, French Office for Immigration and Integration (OFII), etc.) and go over the most important points in the internal regulations."

3.2.2 Access to lawyers

> Post the list of barristers likely to act on behalf of detainees in the accommodation area.
>
> Implement a system enabling detainees to enter into direct contact with a duty lawyer without delay.

The Minister of the Interior's reply: "Lawyers' contact details are usually displayed in areas accessible to detainees, or even available from police posts and partners present (associations, OFII, etc.). Detainees may therefore telephone a lawyer directly, using phones provided to them, or request the association active in the CRA to do so on their behalf."

3.2.3 Access to bodies and associations providing assistance

> Leave the OFII free to carry out its mission of helping foreigners prepare the material conditions for their departure, including recovery of detainees' baggage and carrying out administrative formalities.
>
> Facilitate contacts with associations providing foreigners with information, support and legal access, as provided for by law.
>
> Provide access to approved associations lending support to foreigners detained in the accommodation area, except at night.

The Minister of the Interior's reply: "The OFII's missions are governed by a convention with the Ministry of the Interior, which provides for hours in which mediators are present depending on

each CRA's capacity, and which also defines the OFII's role. The convention expressly states that mediators have the task of "assistance with preparation for return".

3.2.4 Interpreter services

> Make use of an interpreter obligatory when detainees cannot speak French, and exclude use of a fellow detainee for such a purpose.

3.3 Right to privacy and family life - relations with the outside world

3.3.1 Personal property

> Not deprive detainees of free access to their belongings when they present no risk to the centre's security.

The Minister of the Interior's reply: "Regulations only provide for location of a baggage area in each centre (Article R. 553-3 of the CESEDA). Detainees may have access to this area at any time via a police officer. In any case, detainees have no particular complaints against this system."

3.3.2 Access to personal information

> Allow detainees access to personal documents and procedural documents pertaining to them.

The Minister of the Interior's reply: "'Defining effective modes of communication that guarantee respect of privacy and protection of documents in each centre's internal regulations" would require an amendment to the standard internal regulations, which does not only come under the competence of the General Directorate of the National Police. Standard internal regulations for CRAs have not been amended on this point."

> Define effective modes of communication that guarantee respect of privacy and protection of documents in each centre's internal regulations.

The Minister of the Interior's reply: "Such access is guaranteed by law and the administration could look into the possibility of amending internal regulations with an article regulating the conditions for detainees accessing their personal documents as well as procedural documents filed with the registry."

3.3.3 Visits

> Authorise visits throughout the week, on Sundays and public holidays in particular, with no limits put on duration except when absolutely necessary.

The Minister of the Interior's reply: "Length of visits is not covered by regulatory provisions, but a 2009 circular provides for a minimum visiting time of 30 minutes. The Minister believes that this rule is applied with some flexibility and that longer visiting sessions are tolerated at regular intervals. He states that centre managers may "exceptionally" be obliged to reduce visiting times, particularly when they are not between families.

The rule setting visit durations is applied with some flexibility. Longer visits are regularly tolerated It may however also be necessary to restrict visits in order to ensure the centre's proper operation. It sometimes happens, even though only occasionally, that visits by friends or family are limited to 20 minutes at weekends, due to numbers of visitors and depending on availability of facilities specifically reserved for visits. Everybody's requests must be handled as fairly as possible.

Family visits always last 30 minutes. The head of the centre decides on access, depending on the dictates of service and public order."

3.3.4 Telephone

> Draw up instructions for telephone use in several languages and distribute them to newly arrived detainees; such instructions should include explanations on how to buy cards, payment for communications and obtainment of international numbers.
>
> Guarantee effective telephone use at any time following arrival at a centre.

The Minister of the Interior's reply: "Pursuant to the provisions of the CESEDA, prisoners must have free access to a telephone. Telephones equipped with cameras are confiscated, but prisoners have the option of taking the SIM card out and putting it into a mobile phone they may be provided with.

Upon their arrival, detainees are provided with practical information on organisation of their stays, including use of telephones. Pursuant to the provisions of Article R. 553-6 of the CESEDA, which stipulate that "facilities for detention of illegal immigrants must have a freely available telephone", detainees have access to a telephone at any time following their arrival at a centre. The situation on this point remains unchanged."

3.3.5 The Internet

> Make supervised use of the Internet available, with access to messaging (also monitored if required).

The Minister of the Interior's reply: "There are no plans to provide Internet access, which gives rise to security problems. The situation on this point remains unchanged."

3.4 Activities

> Install amenities and organise activities likely to meet the needs of populations who sometimes end up spending quite some time in CRAs.

The Minister of the Interior's reply: "Stays in CRAs only last twelve days on average and any leisure amenities installed are fairly quickly damaged "by certain detainees". The law does not determine the list of activities that should be offered to prisoners. However, in 2016, three centres were equipped with table football and table tennis.

Installation of recreational equipment (table-tennis tables, table football, etc.) depends on the centre's configuration and budgetary resources (under the competence of the Direction générale des étrangers en France (DGEF – General Directorate for Foreigners in France) and the Ministry of the Interior's territorially competent Secretariat General for Administration). However, board games and books are regularly donated by associations and staff assigned to centres."

3.5 Right to health

> Encourage location of letterboxes for communicating with medical services so that detainees can ask for appointments more easily and directly rather than going through an intermediary.

> In the Circular of 7 December 1999, specify that a health consultation is systematically set up for all detainees newly arrived at the centre, in order to screen for any contagious diseases and check up on their state of health and enable appropriate treatment, including by specialists if required.

The Minister of the Interior's reply: "The workgroup set up to update the Interministerial Circular of 7 December 1999 bearing on the health system in detention centres for illegal immigrants has not met since early 2015."

3.6 Rights associated with measures coming to an end

3.6.1 Swift return procedure

> Stipulate in the CESEDA the procedure whereby foreigners denied entry at the French borders are swiftly returned (without being placed in a waiting area), with indication of the time-limit within which this can take place.

The Minister of the Interior's reply: "This point does not come under the competence of the national police."

> Record swift return operations in countersigned statements.

3.6.2 Deportations

> Abolish the twenty-kilogram limit set on deported individuals' luggage, with deportees themselves paying any extra charges on baggage weighing more than thirty kilograms.

The Minister of the Interior's reply: "Deportees may transport baggage weighing over 20 kg with no extra cost. The limitation on weight of luggage is not imposed by the administration but by airlines, which impose maximum weights varying from 20 to 30 kg depending on company. Families and relatives are aware of this rule, thanks in particular to the assistance and information mission carried out by OFII staff. In practice, the OFII takes charge of any luggage at the request of deportees' next of kin, and replies to their requests. These latter may therefore decide how much luggage the individual concerned may take and pay for any extra cost entailed."

3.7 Service organisation and staff

> The CGLPL considers that appropriate training should be provided to officers assigned to CRAs. Job descriptions should also provide more information on missions for which police officers are responsible in such centres, where people of every nationality and condition are accommodated.

The Minister of the Interior's reply: "Job descriptions of officers and higher ranks of the management corps describe all of the missions they are required to undertake in detention centres for illegal immigrants.

In 2008, the Central Directorate of the Border Police undertook an initiative on professionalisation of officers assigned to CRAs and set up appropriate training courses (CRA heads, registry, guards, etc.). They include courses designed for staff assigned to guarding detainees."

4. General recommendations concerning juvenile detention centres

4.1 Dignity and physical integrity

> Enact standards applicable to all juvenile detention centres with regard to discipline.

The Minister of Justice's reply: "Methods for managing disobedience were officially documented in 2015 in a memo on educational action and in guidelines on developing institutions' rules of procedure. These documents expressly provide for young offenders' contact with their families to be respected. That said, the specific context of each institution does not enable disciplinary responses to be fully harmonised across the board.

The Juvenile Detention Centre Directors' National Day, held on 8 June 2017, provided an opportunity for exchanges and sharing of practices among institution directors from the public sector and authorised associations sector. The Day included a workshop on prevention and management of incidents. Discussion revealed a consensus on the subjective nature of applicable sanctions, intrinsic to the standards set by each institution. However, teamwork in developing objective transgression indicators appeared necessary in order to individualise sanctions and provide appropriate responses. Reports on the National Day's workshops contribute to thought in work underway on this subject."

4.2 Rights of defence

> Set up legal access systems.
>
> Enable children to contact lawyers of their choice and judges overseeing their cases.
>
> Allow young offenders supervised access to their files, unless interests dictate otherwise.

The Minister of Justice's reply: "No instruction on these points has been issued. Their compulsory nature stems from centres' rules of procedure, an agreement between the Judicial Youth Protection Service Directorate and the National Council of Bar Associations, which is intended to be rolled out at territorial level, as well as legislative provisions of the Social Action and Family Code that guarantee children and their legal guardians right of access to any information or document concerning their care, unless stated otherwise by legislation.

Continuity of a lawyer's action on behalf of a minor contributes to improvement of the quality of criminal defence and judicial rulings. On 8 July 2011, the Ministry of Justice and the National Council of Bar Associations signed a convention aiming to develop personalised defence of children in criminal cases. Territorial versions have been implemented, involving the Directorate for Judicial Youth Protection, the National Council of Bar Associations and/or courts. More specifically, measures are taken within juvenile detention centres to ensure confidential exchanges between children and their lawyers. In addition, appointments with lawyers form the subject of special authorisations for young offenders to leave detention centre premises, as stipulated in the guideline memo issued on 4 May 2015 bearing on drafting of rules of procedure for court-ordered placement institutions in the public sector and authorised associations sector. In addition, pursuant to Paragraph 5 of Article L 311-3 of the Social Action and Family Code, children and their legal representatives have right of access to all information and documents bearing on their treatment, unless stated otherwise by legislation. This request is made to the institution's director. The abovementioned

guidelines also highlight the need to monitor communication of such information, depending on its legal, psychological or medical content."

4.3 Right to privacy and family life - relations with the outside world

4.3.1 Visits

> Develop family visits inside institutions and create facilities conducive to confidential, convivial encounters.

The Minister of Justice's reply: "2015 provisions stress that young offenders' placements in detention should not prevent them from being able to keep in touch with their families and observe that, in 2011, there were plans for specially laid-out room for receiving families in the functional programme for juvenile detention centres.

These provisions are still in force, as is development of dedicated areas for reception of families. The need to involve legal representatives in treatment of children, in particular during placement by court order, is a focus of the work being carried out by the Directorate for Judicial Youth Protection. Communication between teams in open custody environments and those in closed centres helps develop coherent continuity of treatment of young people, including in work carried out with legal representatives."

4.3.2 Correspondence

> Notify the judge of any infringement of freedom of correspondence and give the exact reasons for its occurrence.
>
> Only infringe freedom of correspondence for specific reasons, bearing on the interest of the minor or on the institution's mission, and systematically inform the judge of any such infringement.

The Minister of Justice's reply: "Centres' rules of procedure provide for offenders' freedom of correspondence to be exercised in the judicial context of their detention situation, which may provide for compliance with a communication ban to be monitored. However, for security reasons, they may be asked to open certain items of correspondence (bulky parcels in particular) in the presence of a youth worker. No formal instruction to notify the judge has been enacted.

Article 6 of the Charter of Rights and Liberties of Persons Committed to Institutions, appended to the Order of 8 September 2003 pursuant to Article L. 311-4 of the Family and Social Action Code recognises the right to respect of family ties. The PJJ puts this right alongside the right to respect of private and family life and secrecy of written and electronic correspondence. However, the court may set limits on freedom of correspondence, pursuant to Articles 132-45 of the Criminal Code (suspended sentence with probation, with prohibition to make contact with the victim or co-perpetrator) and 138 of the CPP (during an inspection by the judicial authorities). Only infringements of freedom of correspondence resulting from a violation of the prescribed measure's obligations need be reported.

The memo of 4 May 2015, bearing on guidelines for rules of procedure at court-ordered placement institutions, refers to Article L.311-7 of the Social Action and Family Code governing such institutions. Hence, PJJ professionals may only open envelopes protected by secrecy of correspondence in order to make certain that there has been no violation of any judicially ordered prohibition to communicate, via identification of the prohibited sender or via lack of the sender's identification. As regards the institution's security, and in the event of there being any doubt as to the envelope's (or parcel's) content, it may be opened in the minor's presence without the letter being

read, or may require action on the part of a judicial police officer if there is any suspicion of dangerous content.

Introduction of a mail register, recording all cases of correspondence being opened and their results, is a solution that has come up in our thought on this subject, as it would provide better visibility on confidentiality of minors' correspondence."

4.3.3 Access to information

> Make supervised use of the Internet available, with access to messaging (also monitored if required).

The Minister of Justice's reply: "Instructions from 2015 allow Internet access with filtering systems as regards certain content, and provide for access to email services to be organised whilst respecting the confidentiality of correspondence. Preventive actions on Internet use and misuse are carried out among young offenders.

The Directorate for Judicial Youth Protection is currently working on a thematic document on professional practices with regard to minors in the digital age. The document is part of a corpus of texts designed to provide teams with theoretical and practical tools. Internet access is guaranteed in juvenile detention centres, but Internet literacy training for the youth workers will enhance its use and supervision among young offenders. It is intended for professionals and is being drafted with a view to developing specialist training programmes on the subject."

> Implement Internet and press access initiatives.

4.3.4 Information to families

> Provide holders of parental authority with a special information booklet
>
> Involve holders of parental authority in educational actions undertaken, and at minimum keep them regularly informed of children's progress and projects implemented.
>
> Organise meetings between holders of parental authority, youth workers and teaching staff in order to foster communication of information in full respect of parental authority and implementation of educational action.

The Minister of Justice's reply: "These obligations stem from a 2002 Act and were most recently restated in 2015 and 2016 provisions to inform families of any change in a child's placement status, of the chosen terms of action for the child's care, of the institutions' rules of procedure and of the rights and duties associated with the placement. There are plans for a welcome interview to be held with the minor and his/her family, and an individualised care plan, drawn up with the minor and his/her family, is officially set out in the individual placement document. Assessment has been made of the legal difficulties encountered in imposing upon centres managed by the authorised associations sector similar obligations to those imposed on the public sector.

The absence of any judicial vehicle for enforcing CEF specifications in institutions in the authorised associations sector creates a degree of inequality in treatment of young offenders across the national territory. However, although such obligations cannot be imposed, institutions in the authorised associations sector are strongly encouraged to apply them. Finally, the Directorate for Judicial Youth Protection is currently working on a draft decree bearing on minimum technical conditions for organisation and operation, leading to their inclusion in the Social Action and Family Code and providing a common reference framework for the public sector and authorised associations sector alike."

4.4 Care arrangements

> Organising scholastic, training, cultural, sports and recreational activities likely to foster young offenders' self-fulfilment and civic participation.

The Minister of Justice's reply: "A 2015 order defines the need for permanent organisation of daytime activities to support educational actions. The same text organises the schooling of young people in centres on the basis of individual assessment of acquired skills, with each young person being given a personalised timetable aimed at encouraging his/her return to common law schemes.

A framework text provides a more detailed definition of how young people in juvenile detention centres are schooled. Co-signed on 4 April 2005 by the Directorate for Judicial Youth Protection (DPJJ) and the Direction générale de l'enseignement scolaire (DGESCO – Directorate-General for Schools), the text is intended to stabilise organisation of the schooling of young offenders in juvenile detention centres, with the National Education Authority assigning a teacher to each centre.

In January 2016, the DPJJ and the DGESCO undertook a joint initiative to update the text: a workgroup comprising representatives of the two institutions (Director of Services, Educational Unit Manager, teachers at juvenile detention centres in the public and authorised associations sectors, and representatives of the DGESCO and the DPJJ) met 3 times between March and May that year. A joint version of the text has now been finalised and its joint approval is now underway.

Updating of the 2005 document, which began less than three years after creation of the CEF system, enables the question of schooling to be considered in the more general context of academic and professional integration pathways of young people in its care and address all professionals in the Judicial Youth Protection service."

> Provide teachers with special training and assistance.

The Minister of Justice's reply: "The provisions in force stipulate continuity of education and a series of training measures, including two annual groupings of teachers.

The joint DPJJ/DGESCO text of 4 April 2005, currently being updated, provides for joint training modes organised by the two Directorates for professionals working in CEFs, whether teachers or youth workers. Such training, given formal expression in the context of a joint INSHEA/DGESCO/DPJJ convention, includes two weeks a year in which teachers are brought together, one week organised by the École nationale de la Protection Judiciaire de la Jeunesse (ENPJJ – National Academy for Youth Protection and Juvenile Justice) for the DPJJ, and the other by the Institut supérieur de formation et de recherche pour l'éducation des jeunes handicapés et les enseignements adaptés (INSHEA – National Institute of Advanced Training and Research for the Education of Young People with Disabilities and Adapted Teaching) for the DGESCO."

4.5 Right to health

> Organising educational information actions on sexuality.

The Minister of Justice's reply: "This topic is included in the training priorities set out in 2015.

Educational actions providing information on sexuality and intended for young offenders committed to CEFs take place locally. Partnerial conventions between territorial directorates and Regional Health Agencies facilitate access to bodies with competences in this area, including Maisons des adolescents (MDAs – Adolescent Centres), whose missions include preventive action among adolescents, in particular on the subject of sexuality."

4.6 Freedom of conscience and expression

> Set up life councils where youngsters can express their opinion in respect of the common interest.

The Minister of Justice's reply: "Provisions enacted in 2015 provide institutions with several modes of user participation: social life councils, focus groups, initiative and project groups, and systems for gathering opinions.

How far the right of expression of young people in CEFs is taken into account is one of the points looked out for by the technical advisors and auditors responsible for carrying out centre operation inspections, as well as in implementation of internal assessments by department directors with respect to consideration of users' rights. The best practices identified and assessed will be disseminated and promoted."

4.7 Service organisation and staff

4.7.1 Staff training

> Provide youth workers with a robust theoretical reference framework and consolidate their legal training.

The Minister of Justice's reply: "The DPJJ has set up an initiative aimed at shoring up "efforts to increase the staff professionalism, common to both the public and authorised associations sector". A specific mission has been set up within the Directorate and work is in progress to determine more precisely what the needs are in this area. National School for Judicial Youth Protection training programmes are now available to the authorised associations sector; among other things, they particularly bear on the legal situation of minors in detention and assistance with initial employment. Since 2015, support for mentors has been provided to any managers who wish to benefit from it. A two-day seminar is organised for department directors working in juvenile detention centres, enabling them to discuss their professional practices.

In 2015, the DPJJ's Sub-Directorate of Human Resources drafted specifications for a training programme for staff working in the field of accommodation, its aim being to improve CEF staff's skills and enable professionals to carry out teamwork on institutions' strategic plans and understand the advantages of collective organisation of work.

Basing itself on these specifications, the ENPJJ developed a training course taking account of the diverse backgrounds of professionals involved in accommodation, including in juvenile detention centres. The course is organised into three levels, according to types of participants: new arrivals, existing staff and management. Training sessions are organised around a focus on interdisciplinary teamwork and special complementary modules (context for intervention by court order in CEFs, minors law and specificities of centre populations, management of collective accommodation, etc.). Disparities have been identified with regard to deployment of training courses across national territory. An analysis is currently underway with a view to resolving difficulties connected with implementation of these courses and low rates of attendance. New instructions have been sent to territorial training centres to ensure that account is taken of territorial specificities and training schemes are developed onsite."

4.7.2 Organisation of the service

> Develop internal documents (departmental or institutional strategic plans, internal regulations, welcome booklets, etc.) centred on the interest of the child, known to staff and used on a daily basis.

The Minister of Justice's reply: "CEFs are social and medicosocial institutions and as such use the tools listed in the Act of 2 January 2002 bearing on such institutions, as is reasserted in the memo of 16 March 2007 bearing on implementation of the provisions of Act no. 2002-02 of 2 January 2002.

In addition, the Implementing Circular of 10 March 2016 for the Order of 31 March 2015 specifies that formalisation of a series of documents is required in order to open a juvenile detention centre: rules of procedure, welcome booklet, document individuel de prise en charge (DIPC – Individual Treatment Document) and Charter of Rights and Liberties of young offenders taken in. A personalised project is drawn up with the child and his/her family and incorporated into the DIPC. In consultation with the child and his/her legal representatives, the DIPC sets out the aims of treatment and the means to be implemented in order to achieve them."

4.7.3 Inspection authorities

> Provide the judge with detailed information on the content of educational action carried out in the CEF so that he/she is able to measure the risks involved and support the staff if he/she deems their proposal is in the child's interest.

The Minister of Justice's reply: "Instructions along these lines have been issued and, in principle, steering committee meetings are held within the juvenile detention centres themselves.

Judges of jurisdictions are invited to intuitions' annual steering committee meetings. Moreover, the local directorate is tasked with upholding ties with the courts. Likewise, directors of institutions are responsible for establishing ties with all presiding judges, whether or not located in their jurisdictions."

5. Follow-up to the visit to the Unité d'hospitalisation spécialement aménagée (UHSA – Specially-equipped hospitalisation unit) in Rennes (Ille-et-Vilaine)[82]

5.1 Good practices

> The facility provides material conditions for optimal hospitalisation and accommodation, in particular due to the layout of individual rooms and design of pleasantly fitted-out common areas.

> The rules governing daily life at the UHSA are based on the principle of mixity in the two treatment units and on the principle of freedom of movement in treatment units and open access to rooms during the day.

> Medical staff are committed to improving treatment and regularly call their practices into question. In this regard, a resident psychiatrist chairs the Guillaume Régnier Hospital Centre's (CHGR) ethical think tank and is taking part in development of a reference framework for the facility on care of patients in solitary confinement and under restraint.

[82] *Visit from 1 to 4 December 2014.*

> An external professional is responsible for facilitating monthly clinical supervision sessions for medical staff.

The Minister of Health's reply: "This best practice will be highlighted in the context of in-depth assessment of the first phase of the UHSA programme."

> Delivery of canteen products takes place between 1:15 p.m. and 2:30 p.m., during which time patients are asked to rest in their rooms. This method of distribution manages to avoid covetousness and risks of racketeering targeting the more vulnerable patients

The Minister of Health's reply: "In order to ensure the UHSA's proper medical, hoteling, technical and administrative functioning, materials and products (meals, pharmaceutical products, canteen products and hoteling materials) are delivered in accordance with methods specified in the local convention.

Prison regulations on monitoring materials (entry and exit) are applied.

Rules of procedure and inspection are set locally."

> Chaplains are free to set dates and times of visits and (after inspection) give religious books and objects to patients.

5.2 Recommendations

> It would seem to be a matter of urgency that prison staff give fresh thought to the mission entrusted to them in order to better assist detainee patients in management of their daily lives.

The Minister of Health's reply: "The Prison Administration's field of competence"

> It is essential that special efforts are made to foster medical staff stability.

The Minister of Health's reply: "The management of the Guillaume Régnier Hospital Centre states that special attention is paid to this recommendation, in particular via an approach that seeks to stabilise skills specific to professional practice in UHSAs.

Medical teams have access to a training plan on aspects of security procedures and the legal environment."

> As regards management of incidents, institutions need to achieve better constructive and objective coordination of their institutional practices, in order to ensure the safety of staff and patients alike while maintaining a caring environment.

The Minister of Health's reply: "Multiprofessional workgroups are organised at the initiative of the Prefect and Regional Health Agency. The channel for transmission of prison liaison forms has been formalised and a procedure for reporting undesirable events developed.

Information on incidents is communicated between healthcare and prison staff at the UHSA up the chain of command in order to ensure more institutional coordination:

- monthly meetings between medical staff and prison administration staff;
- organisation of exercises simulating incidents involving detainee patients, in order to familiarise professionals on the ground with the ways they should react and operational coordination in order to ensure security."

> It is necessary to improve implementation of transport and admission of patients to the UHSA outside opening times.

The Minister of Health's reply: "The internal regulations have been updated and a "downgraded mode" admission procedure is provided for on weekends.

Admissions to the UHSA at weekends and in the evening are conditional to availability of transport. This method has been employed on a number of occasions when there was a shortage of beds in general psychiatry wards, even though it cannot be universalised due to restricted prison transport times."

> Patient's observations should be collected in order to ensure their availability when deciding whether or not to continue treatment or on forms of treatment.

The Minister of Health's reply: "The USHA team has stated that it systematically collects patients' observations in order to make regular updates of individualised treatment projects during clinical meetings."

> Common thought should be given to the possibility of arranging meetings between patients and their imprisoned spouses in order to develop a protocol designed to improve maintenance of family ties.

The Minister of Health's reply: "The UHSA's medical team is in favour of this recommendation, although it requires initial discussion with the prison administration."

> It is well worth developing a protocol on the procedure for notification of admission decisions and rulings by liberty and custody judges in order to guarantee full reliable information.

The Minister of Health's reply: "There is no specific protocol at the UHSA. However, rigorous traceability of information delivered to patients on their rights throughout implementation of treatment measures is ensured."

> The protocol on transport and escorts requires revision, as creation of a courtroom at the hospital – located not far from the UHSA – is likely to limit use of restraints.

The Minister of Health's reply: "A courtroom has been created within the hospital, near the UHSA.

Use of restraints is assessed by the prison administration on a case-by-case basis in the context of accompanying prisoners to the courtroom."

> Areas for the exclusive use of medical staff should be improved.

The Minister of Health's reply: "The institution's management states that it is at a loss to respond to this recommendation; as the UHSA premises are relatively new, there has been no need for their renovation expressed (by the Committee for Health, Safety and Working Conditions, for example) since the CGLPL's visit."

> Rooms for people with reduced mobility who have been placed in solitary confinement need to be equipped with call buttons that bedridden patients can use to summon medical staff.

The Minister of Health's reply: "A technical workgroup was set up by the Guillaume Régnier HC in September 2017, tasked with adapting and harmonising professional practices with the National Health Authority's recommendations on solitary confinement and restraints. Its lines of thought are based on an internal audit of all the institution's seclusion rooms, including those in the UHSA."

> The telephone access problem should be resolved as soon as possible – conversation confidentiality, authorisation procedure and staff proficiency in use of computer tools – as it causes frustration and tension that could well be avoided.

The Minister of Health's reply: "The various discussions held between medical and prison staff have resulted in an agreement providing the present way of managing requests for telephone access with greater flexibility."

6. Follow-up on the visit to the Public Mental Health Institution (EPSM) in La Roche-sur-Foron (Haute-Savoie)[83]

Recommendations

> The procedure for reception and admission after 5:30 p.m. needs to be revised, as it is only in the hands of a security officer rather than a health professional.

The Minister of Health's reply: "The welcome booklet was updated in 2016. The local context changed two years after the visit was made. The institution has been under new management since January 2016, following the Director's retirement, new psychiatrists have been recruited to vacant posts and development of the institution's strategic plan is underway."

> There are not enough activities on offer.

The Minister of Health's reply: "A sports instructor was recruited in 2015."

> Too little explanation is provided when patients are notified of decisions on their situations and their inherent rights, nor are their observations adequately collected.

The Minister of Health's reply: "In March 2016, the National Health Authority granted the EPSM certification, with an obligation to improve its performance with regard to "users' rights". This being so, the "patients' rights" process is currently being analysed and an audit is planned for autumn 2016.

Close attention is also being paid to a number of other points, including time taken to send outgoing mail (room for improvement) and securing stocks of medicines (since then, the EPSM has removed stocks of medicines from medico-psychological centres (CMPs), only keeping essential items on hand in them)."

> The underlying cause of the continuing high turnover of nursing staff is a factor of destabilisation and should be analysed and put to rights.

The Minister of Health's reply: "Staff turnover decreased between 2014 (32%) and 2015 (24%). The institution has implemented a staff-retention policy (mentorship and training programmes). A social project is currently under development."

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[83] *Visit from 4 to 8 August 2014.*

> There is too frequent use of solitary confinement and restraint, which seems to be systematic and devoid of traceability; thought should be given to its necessity and purpose, and to possible alternatives.

The Minister of Health's reply: "An assessment of professional practices concerning restraint was carried out (2014) and protocols were implemented (2015).

A record was introduced in 2016 (in compliance with Article 72 of the law on modernisation of our health system). A new assessment of professional practices was to be carried out in autumn 2016. Finally, a training programme was implemented in August 2016."

> Detainees are systematically placed in seclusion rooms rather than the Psychiatric Intensive Care Unit (PICU) for unexplained reasons.

> A second somatic physician is required, in particular for vaccination follow-up of long-term patients.

The Minister of Health's reply: "As regards somatic monitoring, the institution is currently having difficulty in recruiting a general practitioner. It had created a post for a somatic physician, which was filled until May 2016 (departure to be nearer her spouse). It is proving difficult to replace her, essentially due to the problem of medical demography. The post was first advertised in 2016, with no takers. It will be advertised again in October 2016."

> Medication seems to be used too often as an easy way out, to the detriment of human contact, which should always be central to treatment.

The Minister of Health's reply: "Special attention is also being paid to personalisation of treatment, with implementation of a healthcare project and treatment plans for long-term patients.

Thought is currently being given to the notion of life projects, in the context of developing a psychosocial rehabilitation project."

> Collective distribution of medicines in most care units shows little respect for privacy or medical secrecy.

The Minister of Health's reply: "An assessment of professional practices concerning administration of medicines and respect of medical secrecy has been carried out(2016). Medicines are now distributed in the treatment room in order to respect patients' privacy."

> The PICU seems to produce good results but remains underused.

> Summoning all patients to appear before the judge of liberties and detention (JLD) at the same time should be avoided.

The Minister of Health's reply: "In March 2016, the National Health Authority granted the EPSM certification, with an obligation to improve its performance with regard to "users' rights". Analysis of the "patients' rights" process is therefore currently underway, with an audit planned for autumn 2016."

7. Follow-up to the visit to the Canet detention centre for illegal immigrants in Marseille (Bouches-du-Rhône)[84]

7.1 Good practices

> A deportation assistance and support unit has been set up.

The Minister of the Interior's reply: "It has led to a significant reduction in incidents at the CRA. This positive result has been communicated to other CRAs in the south defence and security zone."

7.2 Recommendations

> Systematic handcuffing of detainees arriving at the CRA should be replaced by practices proportional to the security risk.

The Minister of the Interior's reply: "Handcuffs are used in compliance with Article 803 of the CPP. Staff members are regularly reminded that they should make discerning use of their power to use handcuffs. A recent memo emphasised that handcuffing had to be authorised by the escort leader. This question was also covered in a recently delivered training course on escorts."

> The "Your rights in detention" form should be systematically provided to each new arrival at the CRA.

The Minister of the Interior's reply: "Everything possible is done to ensure that foreigners are fully informed of procedures carried out and that their rights are guaranteed. Copies of the form are systematically delivered to detainees, who do not always keep them."

> Internal regulations should be displayed in the six regulation languages and a copy should be given to each detainee in a language he/she understands.

The Minister of the Interior's reply: "This document was updated on 17 November 2015. It is translated into the six UN languages and is posted in transit rooms and refectories."

> Internal regulations should be in compliance with the regulatory model.

The Minister of the Interior's reply: "The internal regulations have been modified and now comply with the regulatory model."

> Detainees' belongings deposited in the luggage room should be inventoried and the room itself kept locked.

The Minister of the Interior's reply: "The inventory of detained foreigners' belongings is included in LOGICRA (Logiciel de gestion individualisée des centres de rétention administrative / Individualised CRA management software)". Detainees are provided with receipts when they arrive at the centre and when funds or valuable items are moved."

> The project for replacement of individual room lights with power-socket blocks should be carried out as soon as possible in order to remedy the many outages.

The Minister of the Interior's reply: "All rooms were equipped in April 2016."

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[84] *Visit from 29 September to 2 October 20144.*

> Television rooms, which are the only places where entertainment is on offer to detainees when no activities are provided, should be refitted in order to make them rather more convivial.

The Minister of the Interior's reply: "All television sets are under a year old. Replacement of cumbersome furniture and changes in seat orientation are underway."

> Exercise yards should be equipped in compliance with the provisions of the internal regulations.

The Minister of the Interior's reply: "The internal regulations, which were amended in November 2015, no longer specify that basketball baskets would be available as such is not the case. A football activity has also been introduced."

> Organisation of daily cleaning of common areas of living units should be rearranged in order to take advantage of times when they are not occupied, as was the case in the past.

The Minister of the Interior's reply: "Cleaning of each living area has been carried out daily since December 2014, at set times."

> Shaving and use of nail-clippers should be facilitated.

The Minister of the Interior's reply: "A dedicated room has now been made available."

> Organisation of meals should be reviewed in order to ensure that detainees and staff can all eat their meals in peace.

The Minister of the Interior's reply: "Since early 2015, refectory doors have been closed at mealtimes."

> There should be easier access to drinking water.

The Minister of the Interior's reply: "Detainees can use drinking fountains located near the entrances to each living area, under permanent video surveillance in order to prevent damage."

> The deportation assistance and support unit should be provided with the means to organise activities if they are to continue to be given the responsibility for doing so.

> "Activity rooms" should be equipped.

The Minister of the Interior's reply: "All relaxation rooms in living areas are already equipped with bodybuilding apparatus and table-tennis tables."

> Beverage and snack dispensers should be repaired so as to ensure they give the correct change; this point has already been stressed in the last two reports.

The Minister of the Interior's reply: "New contract signed with JSA, with a 24-hour service call number displayed on machines. Technicians are on the job within 24 hours and coin acceptors are checked on a daily basis."

> Telephone booths should be constructed in such a way as to ensure confidentiality.

The Minister of the Interior's reply: "The Chief Inspector's recommendations have been taken into account. All the CRA's phone booths were changed in autumn 2016. They are located away from living area corridors in order to ensure as much confidentiality as possible. A study is underway on the possibility of equipping them with louvres in order to ensure confidentiality of conversations."

> The visit register should be kept more carefully and checked.

The Minister of the Interior's reply: "A memo of 26 May 2016 reminded staff of the rules on proper upkeep of the register."

> The "CRA event monitor" computerised register should be kept up to date.

The Minister of the Interior's reply: "The register has not been used since July 2014. Incidents are listed and included in the statistics drawn up and communicated monthly to the Central Directorate of the Border Police."

> Detainees should only be placed in solitary confinement for reasons provided for in the regulations.

The Minister of the Interior's reply: "Solitary confinement is strictly supervised and staff members were reminded of the procedure in a memo issued in 2014, as well as by modification of the CRA's internal response guide."

> Seclusion rooms should be refitted to provide a calming atmosphere for individuals in psychological distress.

The Minister of the Interior's reply: At the request of CRA Medical Unit physicians, each seclusion room has been equipped with a low-light camera, so enabling lights to be turned out at detainees' request.

At the request of CRA Medical Unit physicians, each seclusion room has been equipped with a low-light camera, so enabling lights to be turned out at detainees' request. Detainees in solitary confinement have the right to visits."

> The project for intervention by a psychiatric team, which was developed prior to the inspectors' visit but whose financing was refused after the visit, should be relaunched.

The Minister of the Interior's reply: "Given the average duration of detention and budget constraints, the project for a psychiatric teams' intervention at the CRA cannot be implemented.

Special attention is being paid to following up the project for a psychiatric team's intervention at the CRA. The national police are in favour of it. A practice of this kind would result in a significant decrease in number of transports to the hospital in Marseille. The project is still under study."

> Movement of detainees to the medical unit and the system for indirect reporting of requests for consultations should be reviewed in order to ensure access to treatment.

> Modes of treatment distribution must respect certain patients' autonomy and therapeutic equilibrium.

> It would seem advisable to start screening detainees for tuberculosis give the risks of exposure to this disease in the CRA's confined living conditions.

The Minister of the Interior's reply: "As regards screening for tuberculosis, no such request has been made by the CRA medical unit despite meetings held between the centre's partners. There are therefore no plans at the moment to bring the Centre de lutte anti-tuberculose (CLAT – Tuberculosis Control Centre) lorry onto CRA premises. Moreover, for reasons of medical secrecy, medical unit nurses do not inform the head of the CRA in the event of a detainee being suspected of being a tuberculosis risk."

> Envelopes containing asylum applications must be sealed before being delivered to the registry.

> Detained asylum seekers must be given a copy of the report on their interview with the French Office for the Protection of Refugees and Stateless Persons (OFPRA) in the same way as those not under detention.

The Minister of the Interior's reply: "Implemented since November 2015."

> Complaints regarding cases arising within the CRA should not be submitted to a Border Police service in order to ensure that investigations are not entrusted to a service that might be involved in such cases.

The Minister of the Interior's reply: "Only the Marseille Public Prosecutor's Office, which is informed once an investigation is started, may take the border police off a case and entrust it to another service."

> An interpreter should be called in whenever the arrival of a new detainee requires it.

The Minister of the Interior's reply: "An interpreter is called whenever necessary for all steps in the procedure."

> The detention register should be checked and stamped by the Public Prosecutor and the head of the centre.

The Minister of the Interior's reply: "All registers are checked once a month by the head of the CRA or his deputy."

8. Follow-up to the visit to the detention centre for illegal immigrants in Plaisir (Yvelines)[85]

Recommendations

> The centre's future must be decided on and made public in order to put an end to deleterious uncertainties among its staff and consequent deterioration of working conditions.

The Minister of the Interior's reply: "The centre's closure has not been on the cards since late 2014 and all staff have been informed of the fact. The new head of the centre, who took over in May 2015, has instigated a more participatory form of management. Over the last two years, several police officers set to be transferred (ranking officers, experienced and newly graduated police constables) and Adjoints de Sécurité (ADSs – Police community support officers) at the beginning of their contracts have chosen to be assigned to this CRA. All these changes have created a new dynamic and fostered a more tranquil atmosphere."

> The video surveillance system should be modified to ensure recording and preservation of images.

The Minister of the Interior's reply: "Contrary to the Chief Inspector's observation, video-protection images are recorded."

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[85] *Visit from 29 September to 2 October 2014.*

> There should be traceability of use of means of restraint.

> Incidents occurring in detention should have whatever legal follow-up the circumstances call for.

The Minister of the Interior's reply: "When they involve a criminal offence (such as deliberate acts of violence or death threats against police officers), incidents occurring in the CRA are systematically handled by officers from the Border Police's mobile search squad during the week and public security police officers at weekends. Such proceedings may result in convictions."

> Police officers assigned to the centre should be provided with better training.

The Minister of the Interior's reply: "When the CRA was closed in October 2015, for work to bring the premises up to fire safety standards, and in September and October 2016 for work to enlarge the guardroom, training courses were delivered to CRA officers. They received training on such subjects as document fraud, crossborder regulations and intervention techniques."

> The full text of the internal regulations should be provided to detainees upon their arrival.

The Minister of the Interior's reply: "The complete internal regulations, translated into the six UN languages, are displayed in the refectory. They were updated in autumn 2016 and are available to all detainees."

> During visits to detainees, cubicle doors remain open and a police officer stands outside in the corridor able to overhear conversations. The fact that doors are not equipped with portholes, which is supposedly why they are left open, is no justification for this violation of the right to privacy and confidentiality.

The Minister of the Interior's reply: "In compliance with the Chief Inspector's regulations, doors to visiting rooms have been equipped with portholes. Doors now remain closed during visits as police officers can keep a watch on detainees. Respect of the right to privacy and confidentiality of conversations is therefore fully guaranteed."

> Detainees are notified of Orders to Leave French Territory (OQTFs) without the presence of interpreters or of legal representatives of individuals finishing their prison sentences. When they leave, they are immediately placed in detention; deadlines for appeals have already expired when they meet with the legal aid association at the CRA. Hence, the possibility of their exercising their right of defence is disregarded.

> The list of lawyers belonging to the Versailles bar association should be posted in the detention centre's living area.

> Interviews held at Versailles Court of First Instance in Criminal and Civil Matters (TGI) between detainees and their lawyers are held in waiting cubicles where there is no guarantee of confidentiality of exchanges. A dedicated room should be made available to lawyers.

9. Follow-up on the visit to the juvenile detention centre (CEF) in Saint-Denis-le-Thiboult (Seine-Maritime)[86]

9.1 Good practices

> Thanks to an active policy on training, individual promotion and support implemented by the administrative association, the institution's staff are characterised by high levels of training and job stability, evidencing their commitment to the CEF.
>
> The centre's activities, in which staff are very much involved, combine schooling, sport, introductory professional placements, a wide variety of sociocultural activities and free time for the children's own interests. This overall coherence is essentially the result of having a single management overseeing two CEFs and a maison d'enfants à caractère social (MECS – Children's home with social character), whose policy is relayed to each institution by an educational department head who ensures that it is carried out properly.
>
> The "séjour de dégagement" (decommitment stay), which is organised before arrival at the centre, at a neutral location in the company of the minor's mentor, constitutes a kind of "decompression chamber" providing a useful breathing-space between the placement measure and arrival at the centre, easing fears and so reducing tensions.

The Minister of Justice's reply: "Various institutional meetings enable exchanges of best practices, such as technical committees for monitoring CEFs, meetings between the Interregional Directorate and CEF directors, and CEF regional and national steering committees. In addition, exchanges on practices concerning placement centres taking in young offenders in a penal framework and meetings organised at the initiative of child protection association federations provide opportunities to extend dissemination of such best practices to other types of placement institutions."

> As regards use of restraints, the recommendations made following the first visit have been taken into account. A training scheme on conflict management has been introduced and there is now little need for use of restraints: only two occasions over the eighteen-month period preceding the second visit.

The Minister of Justice's reply: "Conflict management training modules are on offer at interregional level depending on intuitions' needs and requests. This information is disseminated, although participation in such courses on the part of all professionals has not been systematised."

9.2 Recommendations

> The barbed wire on the entrance gate conveys an unpleasant impression of the centre that does not correspond with the philosophy of the institution's strategic plan. It should be removed in the centre's new configuration.

The Minister of Justice's reply: "When the premises were being renovated, the barbed wire on the entrance gate was removed, endowing the centre entrance with a more welcoming image."

> The educational staff pay close attention to bad behaviour on the part of their young charges, commission of damage in particular. Sanctions applicable to such behaviour are now included in the rules of procedure. Such provisions should

[86] *Visit from 6 to 8 August 2014.*

> now be complemented by more detailed information on acts likely to be punished and the authority authorised to enforce punishments.

The Minister of Justice's reply: "The rules of procedure and welcome booklet both give more detailed information on acts likely to be punished and the authority authorised to enforce punishments. For example, in cases of abscondment, the welcome booklet states that returning juveniles will be required to go to bed at 9 p.m. and be gated for a week. The booklet also stipulates that the judges concerned must be informed."

> As there is no teacher available during the summer, young people admitted during this period cannot be assessed scholastically, which constitutes a loss of opportunity and a breach of equality. Along with the Ministry of National Education, thought should be given to reconsideration of the notion of "school years" in CEFs.

The Minister of Justice's reply: "A scholastic youth worker has been recruited to take over during summer periods. In parallel, the Principal of the Unité Pédagogique Régionale (UPR – Regional Educational Unit) is studying the possibility of deploying special resources in all CEFs and young offenders' wings.

The Grand-Nord and Grand Ouest Interregional Directorates have signed conventions with Regional Educational Units. The conventions stipulate that staff working as academic and administrative directors must come under the National Education system. This enables educational assessment of each child arriving at the centre.

Recruitment of a scholastic youth worker ensures that children are schooled and assessed up to the month of July. August is a month in which it remains difficult to ensure continuity of schooling."

10. Follow-up to the visit to the juvenile detention centre in Saint-Pierre-du-Mont (Landes)[87]

10.1 Good practices

> Maintaining family ties is of major importance in provision of care to children.

The Minister of Justice's reply: "Parental representatives are involved in monitoring and care of children via implementation of a protocol inviting them to assist in development of the children's Documents individuels de prise en charge (DIPCs – Individual Treatment Documents) and summary reports, as well as through organisation of mediated visits, which are decided on at multidisciplinary meetings and following the agreement of the judges concerned. If conditions for receiving children at home are unsatisfactory, gites in the CEF's municipality are rented in order to ensure they spend weekends with their families. Such work on maintaining family ties helps prepare young offenders for leaving the CEF under the best possible conditions."

> Implementation of preventive activities designed to help youth workers manage situations of violence in appropriate fashion contribute to avoidance of use of restraints.

The Minister of Justice's reply: "Such practices have been institutionalised through weekly meetings, training courses, staff assistance and a monthly workshop entitled "Gestes et postures"

[87] *Visit from 3 to 5 September 2014.*

(Movements and postures). The workshop aims to consolidate staff members' practices by working on team cohesion and coherence via thought on professional posture and work on young people's and staff's safety during situations of violence. Forum-theatre workshops also help nourish thought on management of violence. Finally, a number of staff members have attended the interregional training course on management of conflict cycles. These varied actions support professionals in their daily practices, including during situations of violence."

10.2 Recommendations

> Following major intake of new staff, the educational response should be consolidated and made the guiding principle of staff action.

The Minister of Justice's reply: "Work on educational principles, team coherence and well-treatment began when the institution reopened. A booklet aiming to harmonise practices has been drafted. The institution's strategic plan has been reworked in order to ensure a consensus on its policy, based on educational principles shared by the multidisciplinary team.

> Although there have been positive effects as far as staff turnover is concerned, nine staff members are on fixed-term contracts, making regular staff movement inevitable.

> There is room for improvement in upkeep of premises, toilets and rooms, repairs are needed, walls are bare and furniture is impersonal. Efforts are required to improve the living environment.

The Minister of Justice's reply: "The regular visit to the institution revealed well-maintained premises in good state of repair.

A "living area" project managed by the centre's youth workers has given the young people in their care minors a free hand in livening up the place, creating a warm, convivial atmosphere (photos, presentations, posters and wall decorations). In addition, creation of a "housekeeper" position aims to ensure that premises and sanitary arrangements are well maintained. A reduction in damage to fixtures and fittings property has been observed."

> Unoccupied rooms should be permanently locked in order to prevent children gathering in them unsupervised by educational staff.

The Minister of Justice's reply: "The two rooms that have become unusable due to persisting unpleasant odours following the fire are locked and inaccessible to minors. Plans for renovating the two rooms are underway."

> The rules given formal expression in the internal regulations are not always applied. Practices must comply with the rules as regards hygiene and tobacco.

The Minister of Justice's reply: "Tobacco use is an issue we share with other institutions and to which special attention is paid at territorial level. Five CEF professionals took part in a training programme on assisting institutionalised young people with addiction problems.

The institution prioritises rules on hygiene, and has recruited a "housekeeper" as a result, facilitating application of the rules formalised in the internal regulations.

In addition, a smoking-cessation protocol is currently under joint development by the CEF's referring doctor and the hospital's addictology department, in order to better apprehend the question of tobacco use among young offenders."

> Special attention must be paid to diet, hygiene in canteens and food storage conditions.

The Minister of Justice's reply: "Housekeeper recruited in September 2015. Significant improvement observed on upkeep of premises since resumption of activity.

Hygiene and safety protocols have been developed in order to ensure compliance with the cold chain, storage methods and cleaning plans. In addition, a subsidy granted by the Regional Health Agency (ARS) enabled menus to be reworked with the help of a dietician, with an approach centred on provision of a balanced diet."

> We were only able to consult the Individual Treatment Documents (DIPCs) for four children. The quality of written monitoring of treatment needs to be improved.

The Minister of Justice's reply: "An audit carried out in 2016 led to setup of a workgroup on children's individual projects and introduction of a single file. Judicial, educational, integration and health information on each child is now centralised in a single file kept by the secretariat. One of the Coordinator's tasks is to ensure that such files are properly kept."

> Responses to incidents must comply with the rules governing them and be applied in the same way by all youth workers.

The Minister of Justice's reply: "A list of punishments is posted in the children's accommodation area. However, strict applications of the same responses by all professionals would still seem to be difficult despite vigilance on the part of the management."

> A convention should be concluded with a neighbouring secondary school for schooling of children.

The Minister of Justice's reply: "Children's gradual reintegration into secondary schooling takes place via individual and individualised conventions. Children taken in by the centre are systematically schooled by the teacher made available to the institution by the National Education Authority."

> Psychiatric treatment must be made available to young people at the centre.

The Minister of Justice's reply: "Partnership set up with the mental health service. CEF/CHS Child Psychiatry Department since December 2015. Thematic workgroups on professional practices in 2016.

A partnership with the hospital's Accueil-Ado enables the young people concerned to be monitored by a child psychiatrist. The partnerial project between the Child Psychiatry Department and the CEF has resulted in development of multidisciplinary joint treatment. The protocol is not currently being implemented, however, due to lack of healthcare staff."

> Medicines no longer required must be returned to the pharmacy.

The Minister of Justice's reply: "The healthcare protocol booklet sets conditions for proper upkeep of the institution's pharmacy, with medicines no longer required now being systematically returned to it."

11. Follow-up to the visit to the juvenile detention centre (CEF) in La Chapelle-Saint-Mesmin (Loiret)[88]

Recommendations

> As regards recruitment of staff, minimum requirements should be set in the specifications, in compliance with the rules set out in Paragraphs 82 and 85 in United Nations Resolution 45/113 on Protection of Juveniles Deprived of their Liberty.

The Minister of Justice's reply: "Special attention has been paid to recruiting qualified staff. At 1 September 2017, four permanent youth workers, a technical teacher, eleven youth workers and youth worker/instructors, either State-qualified or with validation of acquired experience (VAE), had been recruited. Some of them have professional seniority enabling their experience to be passed on to new arrivals, and make a major contribution to the team's stability."

> In order to ensure coherence of educational action, it would help if the functioning of the "Management – Educational Unit Head" duo were clarified and formalised with regard to their respective roles and interactions; It would also be useful to ensure they meet at regular intervals to discuss and give thought to life at the CEF, so fostering coherence and clarity of decisions taken on the young people at the centre as well as on the teaching staff.

The Minister of Justice's reply: "The fragility of the contracted management team, recruited in September 2016, has not enabled enough progress to be made on determining respective places and roles. Work is underway in the context of technical meetings on management organised by the Territorial Directorate. Appointment of a voluntary permanent Director and Educational Unit Head in September 2017 should stabilise the management team, foster capacities and coherence among the teaching staff and lead to evolutions in readjustments at strategic level."

> All youth workers should benefit from a minimum of legal training in order for them to perform their duties to best advantage.

The Minister of Justice's reply: "Between September 2016 and January 2017, all professionals benefited from an assistance plan deployed by the Dijon Pôle Territorial de Formation (PTF – Territorial Training Centre). Knowledge of the legal framework governing treatment, posture of authority and project methodology were prioritised in view of the needs perceived by the Territorial Directorate. The course is to be repeated on a yearly basis so that new arrivals can benefit from it."

> In order to counter the sense of insecurity expressed by young professionals, youth workers should seek help and support from their superiors when any serious incident occurs.

The Minister of Justice's reply: "Organisation of institutional exchanges on analysis of practice and encouragement to participate in the violence management training courses provided are among the preventive actions implemented at the institution, including for young professionals.

The established reporting line ensures that the management is informed of incidents without delay. When a staff member is the victim of a serious incident, responses are provided at institutional, legal and healthcare levels: systematic lodging of complaints in cases of assault, accompanied by a senior manager in agreement with the victim, referral to the occupational health physician with consultation as soon as possible, assessment of the staff member's need for psychological support,

[88] *Visit from 29 September to 2 October 2014.*

and a meeting with the Director of the institution before the staff member returns to work. In order to ensure continuity in the centre's activity, we plan to recruit more professionals. Finally, an institutional analysis of the centre's organisation is carried out by the Territorial Directorate."

> Under certain conditions, access to rooms during the daytime should be facilitated, organised and formalised.

The Minister of Justice's reply: "In order to ensure proper surveillance of the young people in our care, the internal regulations only allow access to rooms during the day in special cases (in the event of illness, for example)."

> All file documents should be completed; it should be possible to use them to trace the individual goals set for children and their evolution.

The Minister of Justice's reply: "The committee responsible for monitoring children at the CEF, set up in liaison with the Territorial Directorate, enables regular monitoring of all young people at the centre. Nonetheless, improvements are expected in formalisation and organisation of young people's administrative files."

> All minors should be assessed in consultation with their mentors, open-custody youth workers and legal representatives.

The Minister of Justice's reply: "Individual Treatment Documents (DIPCs) are drafted in the presence of parental representatives and children's open-custody youth workers, six weeks after being committed to the institution. In addition, midterm and end-of-stay review meetings in the presence of open-custody youth workers and parental representatives enable all parties concerned to follow children's evolution during their placement, and prepare for their leaving the CEF under the best possible conditions."

> Teaching should be made effective and curricula followed more closely.

The Minister of Justice's reply: "Development of young people's individual curricula is a permanent focus. However, the teaching post is not held by a qualified primary schoolteacher despite efforts in this respect. Exchanges between the territorial directorate and the National Education Authority's Academic Director have determined the professional skills required for the post with a view to recruitment."

> Sessions with a child psychiatrist should be set up.

The Minister of Justice's reply: "The institution provides sessions with a child psychiatrist at 0.04 FTE rather than 0.25 FTE as desired and specified in CEF specifications. Calls for candidacies are underway in order to increase present session rates."

> The notion of medical secrecy seems rather vague and poorly understood. The confidential nature of treatment must be better respected.

The Minister of Justice's reply: "Recruitment of a fulltime nurse in September 2017 should help develop and consolidate work underway on the notion of medical secrecy and confidentiality of treatment. She takes part in institutional and educational meetings on each minor at the CEF and is responsible for drawing up reports on treatments carried out during their placement and what treatment should be delivered after they leave the centre."

> The CEF should comply with the ban on use of tobacco by minors. There should be health education sessions on addiction prevention and possibilities of treatment by an addictologist. If required, the nurse should be able to provide nicotine replacements.

The Minister of Justice's reply: "Possessing and using tobacco on centre premises are prohibited. Smoking cessation and dependence management is carried out in close collaboration with

the Association nationale pour la prévention de l'alcoologie et l'addictologie (ANPAA – National Association for the Prevention of Alcoholism and Addiction). The association works twice a year with the institution's professionals in order to raise their awareness on the problems of addiction, and also arranges individual appointments with children, providing them with expert advance, severance tools, and monitoring if required."

> It is regrettable that pork is not served at mealtimes, even if it means preparing substitute dishes for children committed to a pork-free diet.

The Minister of Justice's reply: A Référent Laïcité et Citoyenneté (RLC – Advisor on Secularism and Citizenship) is due to visit the institution at the start of the new school year in order to foster appropriation of the principle of neutrality and secularism among its staff. Practical application of this recommendation will be in the context of the action plan developed by the management team following the conclusions of the audit carried out on the centre's rules of procedure. It will also be included in more general thought given to management of food provision following feedback on the malfunction inspection carried out by the Interregional Directorate in June 2017."

> Work to repair damage should be carried out with all due speed and with children's participation.

The Minister of Justice's reply: "The 2015 works programme resulted in improvement of the general state of the building.

There is a budget for repair of damage caused by young people, in which they may be involved. However, the centre's operation is still hampered by its premises, due to inadequacies and shortcomings in the initial building's design and creation, and renovation work replicating them. Its general state is nonetheless maintained by a technical officer responsible for routine maintenance of the premises."

> Although creation of a housekeeper post is to be commended, assignment of a youth worker to the job has deprived the CEF of her services in this respect. Steps should be taken, to recruit a housekeeper whose profile matches the job description.

The Minister of Justice's reply: "The post of housekeeper was created in 2016 and has been filled by a contracted staff member since May 2017."

> It is to be regretted that judges from the Orléans Court of first instance in civil and criminal matters do not visit the CEF.

The Minister of Justice's reply: "The coordinating juvenile court judge and the public prosecutor for minors took part in the CEF Steering Committee meeting held in May 2017, and carried out a visit to the premises on the same day."

12. Follow-up to the visit to the juvenile detention centre (CEF) in Savigny-sur-Orge (Essonne)[89]

12.1 Good practices

> A Menus Committee involving children has been set up and "homemade" dishes with fresh products are prepared.

The Minister of Justice's reply: "An action fiche on the "Menus" Committee has helped develop internal communication. The Committee holds weekly meetings with a children's representative appointed by his/her peers, the cook and the nurse; menus are posted at the entrance to the dining room. Annual meetings of such institutional bodies as the CEF's Steering Committee and the CEF Directors Day provide opportunities for communication on this practice."

> Individual treatment documents (DIPCs) are now better maintained.

The Minister of Justice's reply: "In future, the new Manager of the Educational Unit will be responsible for weekly monitoring of referents. The evolution of each young person's legal situation will be the subject of an addendum to the DIPC. Involvement in the joint treatment project is developing, in particular with the territory's open custody services."

> With a PJJ elementary schoolteacher and technical teacher, vocation training is well in hand.

The Minister of Justice's reply: "The eight children enrolled for the Certificat de Formation Générale (CFG – Certificate of General Education) all obtained their certificates at the December 2016 session. In addition, career discovery workshops help children develop an interest in vocational training."

> The method for dispensing medicines has been improved, as the Contrôleur Général des Lieux de Privation de Liberté recommended following the previous visit.

The Minister of Justice's reply: "The nurse has introduced an individual treatment checklist for distribution of medicinal treatments. Medicines are kept in the sanatorium and distributed by youth workers in compliance with the nurse's instructions. Finally, the territorial nurse may be called upon if required for any questions relating to minors' health."

> Reinforced treatment of mental health, as announced at the end of the previous visit, is now underway.

The Minister of Justice's reply: "The CEF team has been strengthened by the presence of a psychologist and monthly visits by a psychiatrist. A territorial convention has led to close collaboration with the Orsay Emergency Reception and Treatment Centre, which provides rapid psychiatric diagnoses of children if needed."

12.2 Recommendations

> The CEF should be appropriately signposted in the town and there should be a sign on the entrance porch.

The Minister of Justice's reply: "The Town Hall has accepted our request for a street number. However, the CEF management has reservations about signposting in the town due to the fact it

[89] *Visit from 1 to 4 December 2014.*

takes in young offenders convicted for associating with criminals planning acts of terrorism. Signage is to be set up on the Ferme de Champagne site."

> A more exhaustive annual report should be produced.

The Minister of Justice's reply: "At present, the annual report is produced alongside quarterly reports, enabling updated data extraction for preparation of the annual Steering Committee meeting."

> Youth workers should pay more attention to the strategic plan and refer to it in order to improve their professional practice.

The Minister of Justice's reply: "Finalisation of the institution's strategic plan is currently underway.

The plan provides for development of action fiches for each activity. The beginning-of-year seminar helps develop a common professional culture among all the institution's staff and appropriation of institutional tools."

> The rules of procedure communicated to each new arrival should be signed by him/her and by the Director and legal representatives, and a copy should be appended to the young person's file.

The Minister of Justice's reply: "The rules of procedure were updated in 2016. They are presented to new arrivals and their legal representatives during the reception phase."

> Rewards are distributed in cash, a procedure not generally followed in other juvenile detention centres. This way of operating runs the risk of stronger elements pressurising their weaker fellows.

The Minister of Justice's reply: "A savings account has been introduced, replacing cash and so avoiding rewards becoming a competitive issue among the young people in our care."

> Youth workers' practices should be harmonised, in particular in cases of abscondment.

The Minister of Justice's reply: "A protocol has been signed between the CEF and the Savigny-sur-Orge police station enabling rapid intervention when a young offender absconds. Such unauthorised absences are monitored by the Territorial Directorate."

> The rules of procedure should include a list of punishments. A punishment book should also be opened.

The Minister of Justice's reply: "The internal regulations, which define punishments, were approved by the Territorial Directorate. Each punishment has an educational aspect. New tools, such as "calming periods", are employed in order to prevent unacceptable behaviour on the part of young offenders and so limit recourse to punishments."

> As the previous report emphasised, "families should be more closely involved in treatment, not just in the event of an incident occurring during a young person's departure from or return to the CEF, but in their child's entire educational project."

The Minister of Justice's reply: "Families are involved in their children's placement procedures, during the institutional reception phase and at the review meetings following completion of each module. Families are systematically involved in drawing up DIPCs. At the end of the reception and assessment phase, families are asked to express their wishes as to their children's professional orientation.

> The centre provides for visits to parents' homes at the start and end of each placement, in order to make sure that conditions for receiving their children are

> satisfactory in the event of their returning to their usual home. Such visits provide opportunities for discussion with parental representatives. In addition, a family reception scheme has been inaugurated at the centre, enabling children access to an area set aside for reception of their families.

> The list of lawyers belonging to the Evry bar association should be posted on the premises.

The Minister of Justice's reply: "The educational team is currently giving thought to the question of children's right to defence. Children's lawyers should be identified during the reception phase. Work on involving children in contact made with their lawyers is encouraged, in particular to enable preparation of hearings."

> The absence of a sports youth worker is disadvantageous.

The Minister of Justice's reply: "A half-day is devoted to children's physical and sports activities, overseen by the National Education teacher. They also participate in bodybuilding sessions twice a week, facilitated by a specialised teacher."

Appendix 5

Inspectors and staff employed in 2017

Chief Inspector:

Adeline Hazan, *judge*

Secretary General:

André Ferragne, *Chief Inspector of the French armed forces*

Assistants:

Nathalie Leroy, *administrative assistant*

Nathalie Brucker, *administrative assistant*

Franky Benoist, *administrative manager*

Permanent inspectors:

Adidi Arnould, *Director of the Judicial Youth Protection Service*

Chantal Baysse, *Director of Prison Rehabilitation and Probation services*

Luc Chouchkaieff, *public health medical inspector*

Gilles Capello, *Director of prison services* (until 21 August 2017)

Céline Delbauffe, *lawyer*

Thierry Landais, *Director of prison services*

Muriel Lechat, *Chief Superintendent of the French National Police Force*

Anne Lecourbe, *President of the judiciary of administrative courts*

Cécile Legrand, *judge*

Dominique Legrand, *judge* (until 1 September 2017)

Philippe Nadal, *Chief Superintendent of the French National Police Force*

Danielle Piquion, *judge* (from 15 October 2017)

Vianney Sevaistre, *civil administrator*

Bonnie Tickridge, *nurse and executive in the associations sector.*

Cédric de Torcy, *former director of a humanitarian association*

Fabienne Viton, *Director of prison services* (from 13 March 2017)Chantal Baysse,

External inspectors

Julien Attuil-Kayser, *former administrator at the Secretariat of the European Committee for the Prevention of Torture* (from 24 March 2017)

Ludovic Bacq, *former prison commandant*

Christine Basset, *lawyer*

Dominique Bataillard, *psychiatrist, hospital practitioner* (from 1 September 2017)

Dominique Bigot, *former hospital director*

Betty Brahmy, *former hospital practitioner, psychiatrist*

Virginie Brulet, *physician*

Cyrille Canetti, *psychiatrist, hospital practitioner* (until 30 June 2017)

Michel Clémot, *former general of the gendarmerie*

Marie-Agnès Credoz, *former judge*

Pierre Duflot, *former Interregional Director of the prison administration* (from 10 November 2017)

Isabelle Fouchard, *research officer at the CNRS in comparative law*

Jean-Christophe Hanché, *photographer*

Hubert Isnard, *former medical inspector*

Michel Jouannot, *former vice-president of an association*

Gérard Kauffmann, *former chief inspector of French armed forces*

Gérard Laurencin, *psychiatrist, former hospital practitioner*

Philippe Lescène, *former lawyer*

Dominique Lodwick, *former director of the judicial youth protection service*

Bertrand Lory, *former attaché to the City of Paris*

Alain Marcault-Derouard, *former executive of a company engaged in public procurement contracts with the prisons administration*

Annick Morel, *general inspector for social affairs*

Dominique Peton-Klein, *former public health chief physician*

Bénédicte Piana, *former judge*

Bruno Rémond, *former chief auditor at the Court of Auditors*

Dominique Secouet, *former manager of the Baumettes prison multimedia resource centre*

Jean-Louis Senon, University professor, *clinical criminology and psychiatry teacher and hospital practitioner*

Christian Soclet, *former director of the judicial youth protection service*

Akram Tahboub, *former prison training manager*

Dorothée Thoumyre, *lawyer* (until 1 June 2017)

Departments and centres in charge of referred cases

Legal Affairs Director:

Jeanne Bastard, judge

Financial and administrative director:

Christine Dubois, Head Attaché of Government departments

Archivist in charge of monitoring opinions:

Agnès Mouzé, attaché of Government departments

Inspectors responsible for case referrals:

Benoîte Beaury,

Anna Dutheil, until 15 July 2017

Sara-Dorothée Guérin-Brunet

Yacine Halla, until 10 December 2017

Maud Hoestlandt

Mari Goiocoechea, until 15 July 2017

Lucie Montoy

Estelle Royer

Inspector - responsible for the Scientific Committee:

Agathe Logeart, journalist and former editor in chief of the *Nouvel Observateur*

Inspector - responsible for communications:

Yanne Pouliquen, former employee of an association for access to legal rights

Inspector - responsible for international affairs

Anne-Sophie Bonnet, former representative on the International Red Cross Committee

In addition, in 2016, the CGLPL welcomed, for professional training or for fixed-term employment contracts (CDD):

Mathilde Bachelet (law student)

Justine Besson (law student)

Constance Cavart (law student)

Margaux Cluse (trainee administration attaché)

Sebastien Courou (graduate of the Universities of Paris X and Paris I)

Guillaume Halard (Trainee counsellor to the Administrative Court)

Aurélie Lahitte (graduate of the Universities of Pau and Pays de l'Adour)

Julia Lanton (graduate of University of Paris 1)

Raphael Nicodème (student at the Institute of Political Sciences, Paris)

Marie Wepierre (trainee administration attaché)

Appendix 6

Reference texts

Resolution adopted by the General Assembly of the United Nations on 18 December 2002

The General Assembly […]

1. Adopts the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment contained in the annexe to the present resolution, and requests the Secretary-General to open it for signature, ratification and accession at United Nations Headquarters in New York from 1 January 2003;

2. Calls upon all States that have signed, ratified or acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to sign and ratify or accede to the Optional Protocol.

Optional Protocol to the Convention of the United Nations against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Part IV

National Preventive Mechanisms

Article 17

Each State Party shall maintain, designate or establish at the latest one year after the entry into force of the present Protocol or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level. Mechanisms established by decentralised units may be designated as national preventive mechanisms for the purposes of the present Protocol, where they are in conformity with its provisions.

Article 18

1. The States Parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel.

2. The States Parties shall take the necessary measures to ensure that the experts of the national preventive mechanism have the required capabilities and professional knowledge. They shall strive for a gender balance and the adequate representation of ethnic and minority groups in the country.

3. The States Parties undertake to make available the necessary resources for the functioning of the national preventive mechanisms.

4. When establishing national preventive mechanisms, States Parties shall give due consideration to the Principles relating to the status of national institutions for the promotion and protection of human rights.

Article 19

The national preventive mechanisms shall be granted at least the following powers:

a) To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in Article 4, with a view to strengthening where necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;

b) To make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;

c) To submit proposals and observations concerning existing or draft legislation.

Article 20

In order to enable the national preventive mechanisms to fulfil their mandate, the States Parties to the present Protocol undertake to grant them:

a) Access to all information concerning the number of persons deprived of their liberty in places of detention as defined in Article 4, as well as the number of places and their location;

b) Access to all information referring to the treatment of those persons as well as their conditions of detention;

c) Access to all places of detention and their installations and facilities;

d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator where deemed necessary, as well as with any other person who the national preventive mechanism believes may furnish relevant information;

e) The liberty to choose the places they want to visit and the persons they want to interview;

f) The right to have contacts with the Subcommittee on Prevention, to send it information and to meet with it.

Article 21

1. No authority or official shall order, apply, permit or tolerate any sanction against any person or organisation for having communicated to the national preventive mechanism any information, whether true or false and no such person or organisation shall be otherwise prejudiced in any way.

2. Confidential information collected by the national preventive mechanism shall be privileged. No personal data shall be published without the express consent of the person concerned.

Article 22

The competent authorities of the State Party concerned shall examine the recommendations of the national preventive mechanism and enter into a dialogue with it on possible implementation measures.

Article 23

The States Parties to the present Protocol undertake to publish and disseminate the annual reports of the national preventive mechanisms.

Act no. 2007-1545 dated 30 October 2007[1]

O/R: JUSX0758488L - Consolidated version as on 20 January 2017

Article 1

Amended by Act no. 2017-55 dated 20 January 2017 - Art. 43

The Chief Inspector of places of deprivation of liberty, an independent administrative authority, is hereby made responsible, subject to the prerogatives granted by law to judicial or quasi-judicial bodies, for inspecting the conditions of management and transfer of persons in custody, so as to ensure that their fundamental rights are respected. For the same purpose, he supervises the exercise by the administration of deportation measures against foreign nationals up until the hand-over to the recipient State authorities.

Article 2

Amended by Act no. 2017-55 dated 20 January 2017 - Art. 43

The Chief Inspector of places of deprivation of liberty shall be appointed because of his expertise and professional knowledge by decree of the President of the Republic for a period of six years. This term may not be renewed.

He may not be prosecuted, investigated, arrested, detained or tried in respect of opinions expressed or action performed in the performance of his duties.

His appointment may not be terminated before the end of his office except in the case of resignation or inability to perform his duties.

The Chief Inspector of places of deprivation of liberty exercises its functions on a fulltime basis. Its functions are incompatible with any elected office.

Article 3

Amended the following provisions:

Amends the Electoral Code - Art. L194-1 (V)

Amends the Electoral Code - Art. L230-1 (V)

Amends the Electoral Code - Art. L340 (V)

Article 4

The Chief Inspector of places of deprivation of liberty shall be assisted by inspectors that he recruits because of their expertise in the areas related to his task.

The duties of inspectors are incompatible with the performance of activities related to the establishments inspected.

In the performance of their tasks, the inspectors are under the exclusive authority of the Chief Inspector of places of deprivation of liberty.

Article 5

The Chief Inspector of places of deprivation of liberty, his team members and the inspectors assisting him are bound by professional secrecy regarding the facts, action and information of which they have

knowledge because of their duties, subject to the information required for drawing up reports, recommendations and opinions as provided in Articles 10 and 11.

They shall ensure that no information allowing persons subject to the inspection to be identified is included in the documents published under the authority of the Chief Inspector of places of deprivation of liberty and in his public statements.

Article 6

Amended by Act no. 2014-528 dated 26 May 2014 - Art. 2

Any natural person, and any legal person whose stated object is the respect of fundamental rights, may bring to the knowledge of the Chief Inspector of places of deprivation of liberty any facts or situations that may fall within his remit.

Matters shall be referred to the Chief Inspector of places of deprivation of liberty by the Prime Minister, members of the Government, Members of Parliament and the Defender of Rights. He may also take up matters on his own initiative.

Article 6-1

Created by Act no. 2014-528 dated 26 May 2014 - Art. 3

Where a natural person or legal entity brings facts or situations to the attention of the Chief Inspector of places of deprivation of liberty, they shall state, having set out names and addresses, the grounds, as they see it, for an infringement or risk of infringement of fundamental rights of persons deprived of their liberty.

Where the facts or the situation brought to his attention fall within his jurisdiction, the Chief Inspector of places of deprivation of liberty may carry out inspections, where necessary, on-site.

When these inspections have been completed and having received the observations of all interested parties, the Chief Inspector of places of deprivation of liberty may make recommendations in relation to the facts or situations in question to the person responsible for the place of deprivation of liberty. These observations and recommendations may be made public without prejudice to the provisions of Article 5.

Article 7

Amended the following provisions:

Amends Act no. 73-6 dated 3 January 1973 – Art. 6 (Ab)

Amends Act no. 2000-494 dated 6 June 2000 – Art. 4 (VT)

Article 8

Amended by Act no. 2014-528 dated 26 May 2014 - Art. 3

The Chief Inspector of places of deprivation of liberty may, at any time, within the Republic of France, visit any site where people are kept in custody by the decision of a public authority, and any healthcare facility authorised to admit involuntarily committed patients pursuant to Article L. 3222-1 of the Public Health Code.

Article 8-1

Created by Act no. 2014-528 dated 26 May 2014 - Art. 3

The authorities responsible for the custodial establishment may only object to the checks on-site provided for under Article 6-1 or visits provided for under Article 8 for serious, compelling reasons connected with national defence, public security, natural disasters or serious disturbance within the site visited, subject to providing the Chief Inspector of places of deprivation of liberty with justification for their objection. They shall then suggest a deferment. As soon as the exceptional circumstances causing the deferment have come to an end, they shall inform the Chief Inspector of places of deprivation of liberty of the fact.

The Chief Inspector of places of deprivation of liberty shall obtain from the authorities responsible for the custodial establishment any information or document necessary for the performance of his task. At the visits, he may interview any person whose contribution he considers necessary, under conditions ensuring the confidentiality of the conversation.

The secret nature of any information and documents requested by the Chief Inspector of places of deprivation of liberty may not be raised as an objection to him, except if their disclosure is likely to jeopardise national defence secrecy, State security, the secrecy of investigations and examinations or professional secrecy applicable to the lawyer-client relationship.

Statements relating to conditions under which a person is or has been detained, on any grounds whatsoever, in police stations, gendarmeries or customs shall be provided to the Chief Inspector of places of deprivation of liberty, except where they relate to personal hearings.

The Chief Inspector of places of deprivation of liberty may delegate the powers mentioned in the first four paragraphs of this Article to the inspectors.

Information covered by medical confidentiality may be disclosed, with the agreement of the person concerned, to inspectors having the professional capacity of doctors. However, information covered by medical confidentiality may be disclosed to them without the consent of the person concerned where it relates to deprivation, abuse and physical violence, whether sexual or physical committed against a minor or a person not able to protect themselves because of their age or physical or psychiatric incapacity.

Article 8-2

Created by Act no. 2014-528 dated 26 May 2014 - Art. 4

No penalty may be ordered and no prejudice may result solely because of links established with the Chief Inspector of places of deprivation of liberty or from information or documents provided to him in carrying out his work. This provision will not be a hindrance to possible application of Article 226-10 of the Criminal Code.

Article 9

Amended by Act no. 2014-528 dated 26 May 2014 - Art. 5

At the end of each visit, the Chief Inspector of places of deprivation of liberty shall inform the ministers concerned of his observations regarding, in particular, the state, organisation and operation of the site visited, and also the condition of the persons in custody, taking into account developments in the situation since his inspection. Except for cases where the Chief Inspector of places of deprivation of liberty gives dispensation, ministers are to make observations in response within the time limit provided, which may not be less than one month. These comments in response shall then be attached to the visit report drawn up by the Chief inspector.

If he observes a serious infringement of the fundamental rights of a person in custody, the Chief Inspector of places of deprivation of liberty shall promptly notify the competent authorities of his observations, shall give them a period within which to respond and, at the end of this period, shall

determine whether the infringement notified has ceased. If he deems necessary, he shall then publish the contents of his observations and the responses received.

If the Chief inspector becomes aware of facts suggesting the existence of a criminal offence, he shall promptly bring these to the attention of the Public Prosecutor, in accordance with Article 40 of the CPP.

The Chief inspector shall promptly bring to the attention of the authorities or persons having disciplinary powers any facts that might lead to disciplinary proceedings.

The Public Prosecutor and the authorities or persons invested with disciplinary powers shall inform the Chief Inspector of places of deprivation of liberty of the action taken in relation to his procedures.

Article 9-1

Created by Act no. 2014-528 dated 26 May 2014 - Art. 8

Where requests for information, documents or comments made on the basis of Articles 6-1, 8-1 and 9 are not acted upon, the Chief Inspector of places of deprivation of liberty may serve notice on the parties concerned to respond within a time limit which he shall set.

Article 10

Amended by Act no. 2014-528 dated 26 May 2014 - Art. 6

Within his field of competence, the Chief Inspector of places of deprivation of liberty shall issue opinions, make recommendations to the public authorities and propose to the Government any amendment to applicable legislative and regulatory provisions.

After having informed the authorities responsible, he may publish these opinions, recommendations or proposals, as well as any observations made by these authorities.

Article 10-1

Created by Act no. 2014-528 dated 26 May 2014 - Art. 7

The Chief Inspector of places of deprivation of liberty may send to authorities having responsibility, opinions on construction, restructuring or rehabilitation proposals relating to any place of deprivation of liberty.

Article 11 (repealed)

Repealed by Act no. 2017-55 dated 20 January 2017 - Art. 43

Article 12

The Chief Inspector of places of deprivation of liberty shall cooperate with competent international bodies.

Article 13 (repealed)

Amended by Act no. 2008-1425 dated 27 December 2008 - Art. 152

Repealed by Act no. 2017-55 dated 20 January 2017 - Art. 43

Article 13-1

Created by Act no. 2014-528 dated 26 May 2014 - Art. 9

Hindering the Chief Inspector of places of deprivation of liberty in the course of his duties is punishable by a fine of €15,000.

1° By hindering the progress of checks on-site provided for under Article 6-1 and visits provided for under Article 8;

2° Or refusing to provide information or documents necessary to the checks on-site provided for under Article 6-1 or visits provided for under Article 8, by hiding or making the said information or documents disappear or altering their content;

3° Or taking measures to hinder, by threat or illegal action, relations that any person might have with the Chief Inspector of places of deprivation of liberty in application of this Act;

4° Or ordering a penalty against a person solely because of links established with the Chief Inspector of places of deprivation of liberty or from information or documents provided to him in carrying out his work that this person may have provided.

Article 14

The conditions of application of this law, including those under which the inspectors mentioned in Article 4 are called to participate in the task of the Chief Inspector of places of deprivation of liberty, are stated by decree in the Council of State (Conseil d'État).

Article 15

Amended the following provisions:

Amends the Code for Entry and Residence of Foreigners and Right of Asylum (Code de l'entrée et du séjour des étrangers et du droit d'asile) - Art. L111-10 (M)

Article 16

This Act is applicable in Mayotte, the Wallis and Futuna Islands, the French Southern and Antarctic Lands, French Polynesia and New Caledonia.

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(1) Preparatory work: Act no. 2007-1545.

French Senate: Bill no. 371 (2006-2007);

Report by Mr Jean-Jacques Hyest, on behalf of the Legislation Commission, no. 414 (2006-2007);

Discussion and adoption on 31 July 2007 (Adopted text no. 116, 2006-2007).

French National Assembly: Bill, adopted by the Senate, no. 114;

Report by Mr Philippe Goujon, on behalf of the Legislation Commission, no. 162;

Discussion and adoption on 25 September 2007 (Adopted text no. 27).

French Senate: Bill no. 471 (2006-2007);

Report by Mr Jean-Jacques Hyest, on behalf of the Legislation Commission, no. 26 (2007-2008);

Discussion and adoption on 18 October 2007 (Adopted text no. 10, 2007-2008).

Appendix 7

The rules of procedure of the CGLPL

The CGLPL drew up internal regulations in accordance with Article 7 of Decree no. 2008-246 of 12 March 2008 concerning its operation.

In addition the inspectors are subject to compliance with the principles of professional ethics in the performance of their duties with regard to their conduct and attitude during inspections and the drawing up of reports and recommendations.

> The whole of these texts, as well as all of the other reference texts, may be consulted on the institution's website: www.cglpl.fr

The purpose of the CGLPL is to make sure that persons deprived of liberty are dealt with under conditions which respect their fundamental rights and to prevent any infringement of these rights: right to dignity, freedom of thought and conscience, to the maintenance of family bonds, to healthcare and to employment and training etc.

> Cases may be referred to the Chief inspector by any natural person (and corporations whose purpose is the promotion of human rights). For this purpose, they should write to:
>
> Madame la Contrôleure générale des lieux de privation de liberté
> CS 70048
> 75921 Paris cedex 19 FRANCE

The inspectors and the centre in charge of referred cases deal with the substance of letters sent directly to the CGLPL by persons deprived of liberty and their close relations, while verifying the situations recounted and conducting investigations, where necessary on-site, in order to try to provide a response to the problem(s) raised as well as identifying possible problems of a more general order and, where need be, putting forward recommendations to prevent any new breach of a fundamental right.

> Above all, apart from cases referred and on-site inquiries, the CGLPL conducts inspections in any place of deprivation of liberty; either in an unexpected manner or scheduled a few days before arrival within the institution.

Inspections of institutions are decided upon, in particular, according to information passed on by any person having knowledge of the place and by staff or persons deprived of liberty themselves.

Thus for two out of four weeks, four to five teams each composed of two to five inspectors or more according to the size of the institution, go to the site in order to verify the living conditions of persons deprived of liberty, carry out an investigation on the state, organisation and operation of the institution and, to this end, hold discussions in a confidential manner with them as well as with staff and with any person involved in these places.

In the course of these inspections, the inspectors have free access to all parts of the institutions without restriction, both during the day and at night and without being accompanied by any member of staff. They also have access to any documents except, in particular, those subject to investigatory and professional privilege applicable to relations between lawyers and their clients. Under certain conditions, they also have access to medical documents.

At the end of each inspection, the teams of inspectors each write their draft report or initial report, which, according to the provisions of Article 31 of the internal regulations of the CGLPL[90], "is submitted to the Chief inspector, who then sends it to the head of the institution, in order to obtain the latter's comments on the facts ascertained during the inspection. Except in case of special circumstances and subject to the cases of urgency mentioned in the second paragraph of Article 9 of the Act of 30 October 2007, the head of the institution is given one month to reply. In the absence of a response within this deadline, the Contrôleur général may commence drafting the final report." This report, which is not definitive, is subject to rules of professional privilege which are binding upon all members of the CGLPL with regard to the facts, acts and information of which they have knowledge.

And Article 32 of the same internal regulations states that "after receipt of the comments of the head of the institution or in the absence of a reply from the latter, the head of the assignment once again calls together the inspectors having conducted the inspection, in order to edit the report if necessary and draft the conclusions or recommendations which accompany the final report, referred to as the "inspection report" [which] is sent by the Chief inspector to the appropriate ministers having competence to deal with the facts ascertained and recommendations contained therein. In accordance with the above-mentioned Article 9, a deadline of between five weeks and two months, except in case of urgency, is fixed for responses from ministers."

Once all of the ministers concerned have made their observations, these inspection reports are then published on the CGLPL website, which was brought into production in April 2009.

In addition the Chief inspector may decide to publish specific recommendations concerning one or several institutions as well as overall assessments on cross-cutting issues in the *Journal Officiel de la République Française* when he considers that the facts ascertained infringe or are liable to infringe one or several fundamental rights.

[90] *Internal regulations established in application of Article 7 of Decree no. 2008-246 dated 12 March 2008.*

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