
RECOMMENDATIONS

of 30th April 2009

from the French *Contrôleur général des lieux de privation de liberté*
concerning the Nice remand prison

The Nice remand prison was visited by four inspectors from the French *Contrôle général des lieux de privation de liberté* from Wednesday 12th to Friday 14th November, 2008.

The findings from this visit gave rise to an initial report submitted to the director of the institution on 8th December, 2008. The director made his views known concerning this report in a letter dated 26th December, 2008.

The full report on the visit was then submitted to the Minister of Justice for his observations on 19th January, 2009. On the same date, the report was also submitted to the Minister for Health, Youth, Associations and Sport for any possible observations on his behalf. The Minister of Justice submitted his observations, which have been added to the report as an appendix, in a letter dated 12th March, 2009. The Minister for Health and Sports has not provided any observations.

Following this procedure, and in accordance with article 10 of Act no. 2007-1545 of 30th October 2007, the French *Contrôleur général* has decided to make the following recommendations public:

1./ Despite the work that has been carried out, the Nice remand prison is dilapidated and many of its installations, in particular those concerning the electricity supply and the fresh and soiled water distribution, do not comply with basic requirements for habitation. These deficiencies arise from the fact that there has been a long-standing project for the construction of a new institution in the Plaine du Var, to the west of the Nice urban area. The simple existence of this project has been a recurrent reason to refuse any significant request for investment from the current prison, situated in the centre of Nice. The question of any such reconstruction on the current site or of relocating elsewhere currently appears not to be completely decided.

It is natural that those who control the public purse should ensure that the State's money and other resources are well used and that unnecessary expense be avoided – the French *Contrôle général* is sensitive to this. But this argument is not relevant here, since this question has been on the table for many years. It is all the more unacceptable since the required decision concerns the daily existence, in its most basic form, of several hundred people.

The French *Contrôleur général* is aware that the State has embarked on a significant building programme in recent years, but feels it necessary to highlight the need for some rigorous planning, the elements of which need to remain as stable as possible, and which must reconcile the

need for tight expense control and the absolute necessity of ensuring the basic minimum level of comfort for those placed in the hands of the justice system, and for those with responsibility for looking after them.

2./ At the time of the inspectors' visit, the prison had 429 prisoners effectively on site for an institution with 315 places (occupation level of 136%). According to the information gathered on site, out of this population, forty-nine were employed as auxiliaries in the various departments of the institution and twenty-one in the workshops (fourteen men out of the 480 prisoners and seven women out of thirty-six). Thus less than 15% of the prison population had a paid "occupation". One cannot consider as participating in prison work, as has done the Minister of Justice, the jobs of those occupying the open wing who, by definition, work outside the institution.

Naturally it is appropriate to indicate that the question of work in prisons is one of the most difficult to resolve ; that it is dependent on the state of the economy (the number of jobs available to prisoners has sharply diminished since the start of the economic crisis in 2008) and of the job market; that it is subject to the goodwill of companies; that one cannot compare 'professional' activity inside penal institutions with external work (partial release, external site working) the results of which are more positive.

It is no less true that the current situation is distinctly disquieting. It is essential to rapidly create active mechanisms for seeking out job offers, for encouraging new working methods (electronic), for increasing the activities within the penal system and for rethinking the ways of securing external placements (with an appropriate status). The current low volume of work available not only has an effect on the revenue to be shared around (less work means more poverty in prisons), on the level of boredom and consequently on the tensions that exist within prisons, but it completely removes the possibility of reduced sentencing for those prisoners who could benefit from it, as one of the criteria for granting reduced sentencing lies in the knowing whether the person works or not. An action plan in this area would seem to be extremely desirable.

3./ It would also seem advisable to have a better organisation surrounding the types of activity available to prisoners such that the greater number becomes interested in them. It is certainly true that there are plenty of examples of interesting activities with motivated, well thought through and dedicated attention being paid to them. But they are too transient and seem to attract too few numbers. In addition, there appears to be little coordination and there is a great difficulty in discerning the reasoning behind certain activities, what they can lead to and how they improve the chances of rehabilitation.

In short, it would seem desirable to better define the aim of the activities and to increase the number of participants (this last point was already broached in the recommendation of 6th January 2009), without an unacceptable increase in the human flux within the institution.

4./ A permanent and rigorous count (it is often done *de facto*) should be made of the number of prisoners who refuse to take part in exercise. Attention has already been drawn (recommendation of 6th January 2009) to the extent of the violence that reigns in the exercise yard. Fear is the most frequent reason for these refusals. The number of prisoners who refuse to 'go out' is thus one indication which helps to characterise life in such an institution. Particular attention needs to be paid to this, as the Minister of Justice has indicated in his remarks.

On a more general front, particular vigilance should be exercised concerning those prisoners who remain completely passive, or who remain permanently in their cells, taking advantage of nothing or showing no desire to get involved in anything. It should be noted that several officers do this quite spontaneously. The ATF software should be a help here (ATF for *Activités, Travail, Formations* - Activities, Work, Training).

5./ Precisely because of the violence in exercise yards, one could legitimately pose the question as to whether the systematic installation of telephones in the yards - they clearly are welcomed - is a good idea, whatever the call system chosen ('black list' or 'white list'). It is true that this choice does not add additional human flows within the institution, and thus does not add any extra burden to the job of the prison staff. However, this is but a fleeting advantage - the use of telephones in the exercise yards, with its lack of privacy, generates pressure, threats, 'racketing' of the users, and tensions which, sooner or later, will be felt throughout the collective existence of the institution. Moreover, more and more prisoners are asking the staff to be able to telephone from cabins that are under surveillance. It is still not too late to rethink the policy adopted for installation of telephones if one is desirous of reaping all the expected benefits from their use.

6./ The Minister's action concerning harmonisation of the reporting of incidents that occur in detention is warmly acknowledged. But it is no less true that prison directors need to be able to provide complete details of the manner in which the means of coercion have been used with prisoners (the use of these means is defined by article 726 of the code of criminal procedure). This possibility is far from being an innovation, since article D.283-3 of the code obliges institution directors to report the use of such means to their regional director. These reports must obviously be available for consultation by the French *Contrôle général*, for whom it is a most valuable means of appreciating the situation of both prisoners and prison staff.

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