Le Contrôleur général des lieux de privation de liberté

2020 Annual Report

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Glossary

AP	Prison Administration (Administration pénitentiaire)
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)
ASPDRE	Committal for psychiatric treatment at the request of a State representative (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)
ATIGIP	Agency for Community Service and Professional Integration (Agence du travail d'intérêt général et de l'insertion professionnelle)
CAP	Assessment Board (Commission d'application des peines)
CD	Long-term detention centre (Centre de détention)
CDAD	Departmental council for legal information and advice (Conseil départemental d'accès au droit)
CDSP	Departmental Commission for Psychiatric Care (Commission départementale des soins psychiatriques)
CEDH	European Convention on/Court of Human Rights (Convention/Cour européenne des droits de l'homme)
CEF	Juvenile detention centre (Centre éducatif fermé)
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	Chief Inspector of Places of Deprivation of Liberty (Contrôleur général des lieux de privation de liberté)
CH	Hospital (Centre hospitalier)
CHS	Psychiatric hospital (Centre hospitalier spécialisé)
CHU	University hospital (Centre hospitalier universitaire)
CDU	User Committee (Commission des usagers)
CICI	Interministerial Committee on Immigration Control (Comité interministériel de contrôle de l'immigration)
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
CLSI	Local IT security correspondent (Correspondant local de sécurité informatique)
CLSM	Local mental health council (Conseil local de santé mentale)
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)
CNI	National identity document (Carte nationale d'identité)
CP	Prison complex, with sections incorporating different kinds of prison regimes (Centre pénitentiaire)
CPIP	Prison Rehabilitation and Probation Counsellor (Conseiller pénitentiaire d'insertion et de probation)
CPP	Code of Criminal Procedure (Code de procédure pénale)
CproU	Emergency protection cell (Cellule de protection d'urgence)
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)
CSL	Open prison (Centre de semi-liberté)
CSP	Public Health Code (Code de la santé publique)
DACG	Criminal Matters and Pardons Directorate (Direction des affaires criminelles et des grâces)
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)
DPIP	Prison Rehabilitation and Probation Department (Direction pénitentiaire d'insertion et de probation)
DISP	Interregional Directorate for Prison Services (Direction interrégionale des services pénitentiaires)
DPJJ	Directorate for Judicial Youth Protection (Direction de la protection judiciaire de la jeunesse)
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)
ENPJJ	French National Academy for Youth Protection and Juvenile Justice (Ecole nationale de la protection judiciaire de la jeunesse)
EPM	Prison for minors (Établissement pénitentiaire pour mineurs)
EPSNF	National public health institution at the remand prison of Fresnes (Établissement public de santé national de Fresnes)
ERIS	Regional Response and Security Team (Equipe régionale d'intervention et de sécurité)
GAV	Police custody (Garde à vue)
GENESIS	French national management of prisoners for individual monitoring and safety (Gestion nationale des personnes écrouées pour le suivi individualisé et la sécurité, software)
HAS	French National Authority for Health (Haute autorité de santé)
IGA	Independent government agency
IGAS	Inspectorate-General of Social Affairs (Inspection générale des affaires sociales)
IGJ	Inspectorate-General of Justice (Inspection générale de la justice)
ITF	Prohibition to enter French territory (Interdiction du territoire français)
JAP	Sentence enforcement judge (Juge de l'application des peines)
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 (Médecine, chirurgie, obstétrique)
MNA	Unaccompanied minor (Mineur non accompagné)
NPM	National Preventive Mechanism
NED	"Digital in Detention" (Numérique en détention) project
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 Prison Watch (French section) (Observatoire international des prisons)

OPCAT	Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
OPJ	Judicial police officer (Officier de police judiciaire)
OQTF	Obligation to leave French territory (Obligation de quitter le territoire français)
PAF	Border Police (Police aux frontières)
PEP	Individual sentence plan (Parcours d'exécution des peines)
PJJ	Judicial Youth Protection Service (Protection judiciaire de la jeunesse)
PPSMJ	Offender (Personne placée sous main de justice)
QCD	Detention centre wing (Quartier centre de détention)
QD	Punishment wing (Quartier disciplinaire)
QER	Radicalisation assessment wing (Quartier d'évaluation de la radicalisation)
QI	Solitary confinement wing (Quartier d'isolement)
QMA	Remand wing (Quartier maison d'arrêt)
QPR	Radicalisation prevention wing (Quartier de prévention de la radicalisation)
QSL	Open wing (Quartier de semi-liberté)
SAS	Support structure for release from prison (Structure d'accompagnement vers la sortie)
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
TA	Administrative court (Tribunal administratif)
TGI	Court of First Instance in civil and criminal matters (Tribunal de grande instance)
TIG	Community service (Travail d'intérêt général)
UDV	Violent prisoners' unit (Unité pour détenus violents)
UHSA	Specially Equipped Hospital Unit (Unité d'hospitalisation spécialement aménagée)
UHSI	Interregional Secure Hospital Unit (Unité hospitalière sécurisée interrégionale)
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)
UNAFAM	National Union of Families and Friends of Mentally Ill and/or Disabled People (Union nationale des familles et amis de personnes malades et/ou handicapées psychiques)
USIP	Psychiatric Intensive Care Unit (Unité de 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

As in the whole world, the year 2020 was an agitated and disturbing year for persons deprived of liberty. This was because of the virus, of course, which every day deprived people "outside" of a little more freedom, giving them a glimpse of the cost for the people "inside". The year was agitated as well at the CGLPL, due to a three-month vacancy in the position I hold today – with pride and hope – as I succeed Adeline Hazan, to whom I would like to pay a warm tribute for all that she accomplished. This included the publication, in June 2020, of "minimum recommendations to respect the dignity and fundamental rights of persons deprived of liberty", i.e., the CGLPL's – ever changing – doctrine based on the thousands of observations and recommendations it has addressed, within 12 years of existence, to the public authorities.

From the first days of the health crisis, Adeline Hazan sent letters – which were made public – to the Ministers of Justice, the Interior and Health, alerting them to the risks facing those who, locked up in enclosed spaces, were overexposed to contagion while their rights were being violated by the measures taken to contain the pandemic. And while these places differed from each other on many points, the CGLPL noted, in each one, delayed, contradictory and insufficient precautions and a timid and unequal reduction in the number of people detained.

Paradoxically, this year was marked by some encouraging news. In spring, there was an unprecedented movement of prison deflation, made possible by orders for the release of prisoners, who were released from overcrowded prisons a few weeks from the end of their sentence. This was an unprecedented and salutary operation, intended to avoid widespread contamination, achieved thanks to the involvement of sentence enforcement judges and prison services. It was undertaken without triggering a negative reaction from the public. It provided proof that it is possible to reduce the occupancy rate of prisons to their maximum capacity.

With or without COVID, this essential prison regulation must now be enshrined in law, as the CGLPL has tirelessly advocated since 2014. The country will have no other choice, since in 2020 the European Court of Human Rights ordered France to put an end to the structural overcrowding of its prisons. The same Court and the highest French courts – Court of Cassation, Council of State, Constitutional Council – also ordered the Government to set up effective remedies for undignified detention conditions. This has since been achieved through a Senate bill. While recognised as being insufficient, this bill nevertheless represents real progress.

Similarly, at the end of 2020, a law was adopted requiring psychiatric hospitals to notify the Liberty and Custody Judge of any measures of seclusion and restraint so that he may check whether they are justified. The CGLPL had long been demanding this external monitoring by the judicial system with regard to what constitutes one of the most serious violations of freedom and is pleased with its adoption, despite its excessive modesty.

However, there is nothing to get excited about, because since the 1990s, no Government has taken heed of the growing – and very worrying – damage suffered by the psychiatric sector. From the massive closing of beds, without sufficient compensation in outpatient care, to problems recruiting doctors and nurses, there is every reason for professionals to be discouraged and exhausted with a corresponding decline in the quality and efficiency of care.

Places of deprivation of liberty also have something else in common: the constraints – which are becoming less and less bearable – that have been imposed on prisoners because of the health crisis. In prisons, which are once again overcrowded, all activities are even more restricted than usual. This is true for work, training and education (already very rare in normal times) and also for access to visiting rooms, in which children are often not allowed and which, fitted with plexiglass separating visitors from visited detainees, force them to shout to hear each other. There are also cases of visits being

unexpectedly cancelled and of parcels reaching their recipient late or not at all. And yet it would take almost nothing to improve the situation. For example, a policy of massive testing, at the entrance to and inside of buildings, would facilitate these meetings and make them simpler and more humane.

In order to avoid the clusters which are continuing to spread in prison, the CGLPL has insistently advocated priority vaccination for staff and prisoners, and has also warned of the urgency of emptying prisons to some extent, as was undertaken a year ago. Unfortunately, nothing has been done to that end.

The same goes for detention centres for illegal immigrants (CRAs), which are once again full despite almost no prospects of deportation, which has emptied the measure of its legality, reducing it to its punitive nature in the face of a large majority of people who have committed no offence. In addition, in these centres as elsewhere, the virus is circulating to a worrying degree, such that there is now a centre dedicated to patients and positive cases. For all these reasons, as it has been doing since the beginning of the health crisis, the CGLPL continues to demand the temporary closure of all CRAs.

And what can I say about police custody facilities? All throughout this year, the CGLPL observed multiple degraded and degrading facilities, both for the police and for those in custody, who were forced to sit or lie down on filthy mattresses and under blankets that had not been disinfected from one user to the next.

As for juvenile detention centres (CEFs), intended for child and adolescent offenders, most are suffering from multiple ills, including the profound difficulty of recruiting long-term and trained teams when, faced with children whose lives have already been shattered – and these are not empty words – the very best and strongest youth workers, teachers and trainers are required. There is still some hope, however, as witnessed in a few of the CEFs visited by the CGLPL, whose good practices show and prove that a better future is possible.

Are not the incessant exhortations to comply with very strict sanitary rules, under threat of a fine and opprobrium, valid for everyone, in all places? One would think so! And yet such seems impossible, in the land of Equality.

We must also ask ourselves – taking a very critical view – about access to an adequate defence since, exceptional as it was, videoconferencing – in the age of COVID – has become the norm. CGLPL inspectors regularly attend these hearings, whether in psychiatric hospitals, CRAs or prisons, and almost every time see appalling infringements of rights of defence that are widely ignored. Most often, the lawyer speaks with his client for only a few minutes, on the telephone, then the screen shows him alongside the judge, with the sound and image jumping and sputtering, often making everyone's remarks inaudible. The CGLPL will continue to denounce what often resembles show hearings.

With regard to all these topics, readers of this report will discover the edifying letters received by the CGLPL (Chapter 6) which give some idea of the despair and anguish of people deprived of liberty and their deplorable living conditions, made even more vivid by the pandemic.

Having recently taken up my duties, I am discovering with astonishment – this is an understatement – the flippancy with which the CGLPL's recommendations are treated by the ministers to whom they are addressed. And, as Adeline Hazan expressed with concern in 2019, I would like to reiterate that the objective of following up on the CGLPL's recommendations is in no way to engage in exchanges of information between the ministers and an independent government agency; rather, it is to assess and make public what has been done – or not been done – to improve the lot of detainees. It is not enough to respond point by point to the serious issues raised, or even to the abuses observed by the CGLPL; its recommendations must be translated into real action plans whose implementation is guaranteed. Stranger still is that the same inertia reigns with regard to the "good practices" noted in the places inspected by the CGLPL. The supervisory ministers reply with a few lines to applaud them, but without ever promoting them as "models" applicable to comparable institutions. Is this a normal

way of encouraging the energy, enthusiasm, hard work and intelligence of those who struggle to innovate and transform, for the good of all those under their care?

More reassuring, on the other hand, are the results of the CGLPL's visits to the field. It is common to see practices change after, at the end of a mission, the inspectors point out salient points, whether good or bad. The ensuing exchanges are then more likely to inspire reflection and hope for change than the – quite stereotypical – replies of the supervisory ministers.

Therefore, the CGLPL will continue to inform litigants about all remedies for the enforcement of their rights before judges and will provide magistrates with all necessary objective and useful information resulting from its findings relating to places of deprivation of liberty. Among other things, it plans to draw up observation sheets for the penal institutions visited. Letters from detainees and their relatives will also be summarised. On the whole, each one will constitute a kind of guide, prison by prison, to detention conditions which could be produced before the courts and tribunals.

It will also take care to develop knowledge of its work through teaching and make lawyers, judges, prison staff, caregivers, youth workers and police officers aware of the obligation to enforce the rights of detainees. It will encourage the judicial momentum required to improve the new regulations and generate case law that will fill the persistent gaps.

Lastly, whenever necessary, as it has always done, the CGLPL will raise public awareness of infringements of the rights over which it is responsible, without ever getting used to indifference or indignity.

Dominique Simonnot

Chapter 1

Places of deprivation of liberty in 2020

Over the course of 2020, the CGLPL carried out 80 inspection visits:

- 14 mental health institutions;
- 10 penal institutions;
- 6 health facilities taking in persons deprived of liberty (secure rooms in hospitals);
- 3 detention centres for illegal immigrants and waiting areas;
- 2 juvenile detention centres;
- 34 customs detention and custody facilities;
- 7 courts.

In addition, 14 specific inspections were carried out in June 2020, focusing on respect for the fundamental rights of persons deprived of liberty in view of the health crisis. The observations made during these inspections provided input for the report on "The fundamental rights of persons deprived of liberty put to the test by the health crisis" made public in July 2020.

The CGLPL's inspections in 2020, which were few in number, did not bring to light any significant structural change in the ordinary conditions of deprivation of liberty, and the recommendations made in previous years remain relevant notwithstanding the two significant events of the year: the health crisis linked to the COVID-19 epidemic and the major court decisions made in relation to prisons and psychiatry. The CGLPL's standard assessment will focus on these two points.

1. Places of deprivation of liberty put to the test by the health crisis

1.1 A first effective lockdown at the cost of certain rights being eroded

The sudden onset of the health crisis linked to the COVID-19 epidemic and the measures taken to curb it exposed persons deprived of liberty to new risks of their dignity and fundamental rights being violated.

> From the first days of the crisis, the CGLPL sent letters – which were made public – to the Ministers of Justice, the Interior and Health[1]. The three competent ministers were alerted to risks which, in view of the CGLPL's experience, were confronting the treatment of persons deprived of liberty, either because they could be overexposed to the health risk or because the measures taken to combat the spread of the virus were likely to infringe their fundamental rights.

The Minister of Justice was alerted to the conditions of detention in the most overcrowded remand prisons where close living conditions increase the risk of contagion for remand prisoners and

[1] *Letters of 17 and 27 March 2020, available on the CGLPL's website (www.cglpl.fr).*

those with short sentences. She was asked to urgently take all necessary measures to reduce the prison population: by limiting entries into detention, by promoting early releases from prison and, in order to compensate for the discontinuation of visits, to put in place means of communication by videoconferencing and introduce free telephone calls.

The Minister of the Interior was alerted to the lack of space in detention centres for illegal immigrants (CRAs) and to the total lack of information for the detained population and the lack of health protection measures. Given the virtually complete discontinuation of international flights, the Minister was told that immigration detention measures had lost their legal basis, in the absence of prospects for the implementation of deportation measures. As a result, she was asked to temporarily close all CRAs.

The Minister of Solidarity and Health was asked to take measures to guarantee the protection of psychiatric patients and caregivers, to ensure the continuity of psychiatric care on an outpatient or extra-hospital basis, to ensure intra-hospital service continuity, and to provide psychiatric patients with access to the same somatic care available to all patients. He was also asked to put into place all necessary means so that, in the absence of mobile court hearings, patients would be presented before the Liberty and Custody Judge (JLD) at least by videoconferencing and continue to benefit from the assistance of a lawyer.

> In general, the investigations carried out by the CGLPL during the first lockdown period showed that health risks were effectively prevented at the cost of rights being eroded.

It is obviously difficult to find characteristics common to the measures taken by different agencies to deal with the situation of detainees, involuntary patients, persons placed in waiting areas and immigration detention, and minors placed in juvenile detention centres. We can nevertheless note a few features common to the situations observed in these places: precautionary measures that were generally delayed, contradictory and persistently insufficient, measures to reduce the number of people deprived of liberty that were too timid and unequal, and insufficient compensation for the constraints linked to the lockdown. On the other hand, it should be noted that prevention was effective everywhere and the number of infections was low: the major risk of an outbreak developing in the close living conditions of enclosed environments, within a population whose state of health often makes it particularly vulnerable, was avoided during the first lockdown.

In all places, the respect for freedoms guaranteed by the judicial judge was diminished by the crisis. Obviously, the possibility of extending pre-trial detention without review by a judge is the most serious violation of the rights of detainees; it is all the more serious in that it was enshrined in law through an order and was not, like other infringements, simply suffered under the pressure of circumstances. Failure to present detainees, even by videoconferencing, before the sentencing judge, the Liberty and Custody Judge or the juvenile judge, and difficult access to lawyers, also seriously undermined the rights of persons deprived of liberty.

Beyond these general considerations, some specific conclusions can be drawn for each category of place of deprivation of liberty.

For penal institutions, the crisis will have been marked by a spectacular decline in the prison population (nearly 13,000 fewer prisoners between March and May 2020). It is true that this decline was limited: the most overcrowded institutions were not all concerned and the measures taken by order were too timid; however, it should be noted, on the one hand, that this unprecedented movement was possible thanks to the involvement of sentence enforcement judges and prison services and, on the other, that there was no negative reaction from the public, despite concerns to that end, in the face of this massive drop in the prison population. This is the main lesson that should be learned from this crisis: the overall occupancy rate of French prisons can be brought down to and even below their maximum capacity. It is urgent that the necessary measures – to avoid a return to the previous situation

and continue prison deflation efforts – be taken: prison regulation, which the CGLPL has insistently recommended since 2014, must be enshrined in law.

For mental health institutions, in the absence of national guidelines, the situation was managed based on local decisions before coordination was achieved between the structures that manage psychiatry on a daily basis. Patients were subject to restrictions, in particular with regard to their freedom of movement, their family relations and above all, the exercise of their rights: indeed, in most cases, they were not able to meet with the Liberty and Custody Judge or even their lawyer. The CGLPL was twice confronted with the issue of patients being abusively confined to compel them to comply with the rules of the lockdown: first when a question was posed by an ethics committee of a hospital, then when it was found that patients were being confined, regardless of their admission status, in another institution. The CGLPL has clearly condemned this practice, in that it constitutes an abuse of procedure that seriously infringes the rights of the persons involved. Moreover, observing this situation led the CGLPL to issue emergency recommendations[2]. In a large number of institutions, links with patients were maintained through outpatient or extra-hospital care. The CGLPL hopes that once the crisis is over, this more outpatient-based medical care and the reduction in the number of coercive procedures will continue.

For detention centres for illegal immigrants and waiting areas, despite greatly reduced activity where a large number of these institutions even became inactive, the measures taken to prevent contamination remained insufficient. Persons deprived of liberty were therefore placed in a situation of health risk. Entry into France was refused for health reasons to people who were not taken into care or who were deprived of their rights in a waiting area, whereas in detention, the legal basis for measures of deprivation of liberty was weakened by the interruption of air traffic which made it almost impossible to carry out deportation measures. Under these conditions, detention became a dangerous measure that was unjustified in practice and very questionable from a legal standpoint. The CGLPL deplores the fact that its requests for the temporary closure of detention centres for illegal immigrants were not acted upon.

For juvenile detention centres, the crisis, which had no health consequences, showed that the treatment of minors varies greatly from one institution to the next, as some CEFs maintained their normal activity while others worked to allow minors to return to their families. Work placements and outings were inevitably and jointly interrupted, which negatively affected the young people's reintegration and discharge plans. In the centres that arranged it, the sequential placement system proved useful, both in the course of care and when preparing for discharge. This form of care should be developed.

> Lastly, for all the places inspected, the CGLPL has hoped that the good practices that resulted from need during the crisis will continue, in particular the general reduction in the number of people detained and the decentralisation of decisions. It has also asked that plans to prevent this type of crisis and continuity of care plans be formalised in all circumstances.

Although these recommendations issued by the CGLPL were included in the report that it sent at the beginning of July to the ministers concerned, they have not been followed up on.

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[2] *Emergency recommendations relating to the Roger Prévot public health institution in Moisselles (Val-d'Oise), published in the Official Gazette of 19 June 2020 (see Chapter 2 below).*

1.2 A second less ambitious lockdown

After the lull in the summer, the "second wave" of the health crisis led to precautionary measures being taken in places of deprivation of liberty as well as in French society as a whole. However, the conditions of their implementation were very different from those observed during the first wave. As it had done in the spring, the CGLPL contacted the three ministers responsible for places of deprivation of liberty to draw their attention to the risks facing detainees[3].

Regarding penal institutions, the CGLPL informed the Minister of Justice that it was deeply concerned about the increase in incarceration at a time when numerous clusters were developing in prison. In remand prisons, which are often overcrowded with two or three detainees being packed into each cell, it is not possible to comply with health measures. Up to now, no government measures have addressed the risk of contamination facing prisoners and guards. Despite the seriousness of the crisis, there is nothing that suggests any measures to reduce the prison population, whereas in the spring of 2020, early releases of convicts nearing the end of their sentence, carefully examined by judges, had helped avoid a health disaster and return to a more tolerable cell occupancy threshold. The CGLPL expects the Government to promptly take new measures to reduce the prison population to a level that does not exceed the accommodation capacity of each institution.

Regarding mental health institutions, the CGLPL reminded the Minister of Health that while the rules for organising hospitals could be adapted to meet the obligations of the lockdown, the freedom of movement of patients could not be hampered to a greater degree than anyone else's. The constraints linked to the health crisis must not impact the rules governing involuntary care. Patients' exchanges with the outside world must not been excessively restricted: outings to the parks of institutions and family visits must remain possible provided that precautions are taken, and authorisations for short-term leave cannot be suspended for all on the sole grounds of a risk of contamination. The CGLPL also asked the Minister of Justice to guarantee that the mobile court hearings of Liberty and Custody Judges would be maintained, as the use of videoconferencing and "file-based hearings" are not likely to guarantee the rights of patients.

Regarding CRAs, the CGLPL notes that they are organised in a way that does not allow compliance with health protection measures. Their reception capacity, which was limited to 50% for a while to curb the spread of the virus, gradually increased to 60, 70 or even 90% in certain centres. There are groups of two or even three detainees per room, there is no indication that the health protocols are being better applied today, the information gaps do not seem to have been filled, and the level of hygiene is chronically insufficient. The reduction in international flights has made the prospect of deporting detainees outside the Schengen area slim, or even illusory. The current functioning of the CRAs seems to pose serious risks to the health of detainees and the civil servants who are responsible for them; it has also led to legal insecurity due to the absence of reasonable deportation prospects. The CGLPL strongly recommends temporarily closing the CRAs and at least drastically decreasing their activity.

In custody facilities, the health crisis does not seem to have induced any substantial change in activity. The police services, under heavy strain, continue to impose dangerous overcrowding on people in police custody and on officials, with shared cells that are neither ventilated nor disinfected, mattresses that are rarely cleaned, and blankets that are reused without washing. The CGLPL advised the Minister of the Interior to limit police custody to situations that are objectively necessary and to only implement it in institutions where individual cells can be provided.

It is too early at the time of writing to conduct a full assessment of the health crisis, but some of its characteristics can be highlighted.

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[3] *Letters of 16 November 2020, available on the CGLPL's website (www.cglpl.fr).*

> In penal institutions, unlike what was observed in spring, no measures have been taken to reduce the size of the prison population; on the contrary, it has continued to grow, against all common sense. For example, while the average occupancy rate of remand prisons had fallen to 111% in July[4], it gradually increased to reach 120% in December[5]. The number of mattresses on the floor, reduced to 422 in July, rose to 654 in December 2020 and 849 in March 2021. In such a context, the risk of infection was necessarily less well controlled than during the first lockdown.

To make up for the lack of ambition with regard to overcrowding, the Minister of Justice claims to have enforced strict health rules, in particular by providing masks to all staff and the public taken in. Detainees identified as positive or as close contacts had to be isolated from the rest of detention, in accordance with the health doctrine established jointly with the Ministry of Solidarity and Health. Reinforced medical monitoring was also organised by health units. Facilities occupied by sick prisoners and their linen also had to be treated and cleaned very regularly. In addition, the maintenance of visiting rooms and workshops with adapted health measures, as well as the establishment of a €30 telephone plan for all prisoners, were decided in order to "limit tension and incidents in penal institutions".

In practice, cases of infection could not be avoided due to the close living conditions associated with overcrowding, and the management of isolation measures on returning from visiting rooms, outings or leave, which was quite erratic depending on the institution, sometimes proved impossible due to a lack of suitable facilities. In some cases, these constraints affected whether detainees even had permission to leave and had an impact on visits, which were held in dissuasive conditions.

> In mental health institutions, the drop in activity noted in the spring was not repeated. Drawing from the experience acquired, professional bodies quickly responded, in particular to prevent weaker patient monitoring from causing subsequent crisis situations.

The National Conference of CHS CME Presidents specifically recommended[6] that despite the difficulties encountered in the field of human resources, at-home patient monitoring, outpatient care, day hospitalisation and addiction support activities should be maintained. With regard to full-time hospitalisation, it reiterated the preventive and protective measures to be taken as well as the need to train caregivers for this purpose. This includes in particular limiting permissions to leave, authorised on a case-by-case basis with medical approval, and being vigilant against possible systematic refusals of permissions or the lifting of SDRE measures by the administrative authority. Visits should be subject to protocols in each unit and increased vigilance is recommended so that a transfer to a medical-surgical-obstetrics institution takes place as soon as the clinical condition of a patient hospitalised in a psychiatric department requires it. Lastly, the conference asked that releases to go home or to a social or medical-social structure be anticipated, considering that the resumption of the epidemic should not be an argument for refusing admissions or returns to social or medical-social structures. It requested that the mobile court hearings carried out in specialist institutions by Liberty and Custody Judges be maintained in compliance with the obligations relating to the fight against the epidemic and it initiated follow-up

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[4] *However, this average may be misleading, since more than 10 of these institutions have never experienced an occupancy rate of less than 150%.*

[5] *The overall 97% and 104% occupancy rates of penal institutions on the same dates is meaningless with regard to the management of the health crisis insofar as it results from the average between overcrowded institutions and other institutions in which overcrowding is prohibited and individual cells are guaranteed.*

[6] *Press releases of 4 and 13 November 2020.*

with regard to the antigen tests used in certain institutions on a trial basis. The French National Authority for Health recommended[7] more or less the same measures.

The CGLPL's inspections and interviews confirmed the maintenance of extra-hospital activities, which had the effect of preventing crises and therefore the need to resort to involuntary care, but which deprived institutions of a human resource that had been invaluable in the spring to strengthen intra-hospital care. Caregivers were also more frequently affected by the epidemic than in the spring, including without symptoms, so the management of many hospitals' human resources was exceptionally tight. Visits were generally regulated but maintained, as were short-term outings for which the risks were no different from those incurred by the general population. On the other hand, for outings involving external accommodation, several institutions considered that if the patient was capable of such outings, it would be better to switch to a form of care that would not involve a return to hospital accommodation. The opening of "COVID+" units in some institutions did not seem to have an effect on any restrictions on patients' rights.

The CGLPL was informed of the situation of a *département* in which the administration informed the medical authorities that «as of […] Friday 30 October 2020, as during the first lockdown period, the prefect will not allow any outings for SDRE patients". The Minister of the Interior was immediately asked[8] to withdraw this decision, which was clearly taken despite the wording and spirit of the Public Health Code.

> Lastly, in terms of immigration detention, the management of the second epidemic wave also suffered from serious setbacks. For example, the CGLPL received a large number of referrals reporting serious malfunctions affecting the management of centres in the context of the health crisis. As of 6 October 2020, the Plaisir CRA was entirely dedicated to receiving infected detainees, generally from other CRAs. Its initial capacity of 26 places was reduced to 13 places.

Difficulties implementing and respecting health measures during the first lockdown – many of which directly resulted from the very configuration of the places concerned – persisted in all institutions and sometimes even worsened. There was no access to protective equipment (masks, soap, hand sanitiser) in most detention centres. Protocols providing for the systematic testing of new arrivals were applied in a disparate manner from one centre to the next and even, in some cases, randomly within the same centre, for example due to the absence of doctors when new detainees arrived over the weekend. Several investigations were therefore carried out by the CGLPL with the heads of centres and certain prefectures, for the purpose of clarifying the instructions addressed to the competent authorities on this topic, particularly in the event of positive cases being detected among the persons detained. They were also an opportunity to question – in addition to the problems noted with regard to testing measures and the separation of detainees by zone to prevent contamination (isolating close contacts, keeping new arrivals in dedicated zones pending their test results, reducing the number of people per room, etc.) – deficiencies in the provision of soap and hand sanitiser and the maintenance of collective meals. The healthcare provided to detainees was also the subject of several investigations with the head doctors of UMCRAs, based on numerous reports concerning people being detained despite a proven risk of complications in the event of infection. In this regard, information was requested in particular as to the measures taken to guarantee the safety of people identified as particularly vulnerable and the procedures for their medical follow-up, as well as concerning the recommendations issued by the

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[7] *Réponses rapides dans le cadre de la Covid-19 – Prise en charge ambulatoire des patients souffrant de troubles psychiques [Rapid responses in the context of COVID-19 – Outpatient care of patients with mental disorders] – updated on 19 November 2020.*

[8] *Letter of 9 November 2020.*

UMCRAs to this end for the CRA management authorities (assignment to single rooms, provision of protective equipment, instructions on the use of communal areas and the cleaning of premises, etc.).

2. Improving conditions of deprivation of liberty through the judicial process

2.1 France's obligation to guarantee dignified detention conditions

2.1.1 *The judgement of the European Court of Human Rights of 30 January 2020*

> On 30 January 2020, the European Court of Human Rights (ECHR) delivered a judgement[9] that condemned France both for its inhuman and degrading conditions of detention within its penal institutions and for its structural prison overcrowding and failure to respect the right to an effective remedy.

The Court noted in particular that the existing remedies were not sufficient to eliminate the consequences of this overcrowding or order the measures to reorganise the public justice system that would be necessary to respect the dignity of prisoners. It also noted that the measures implemented did not always produce the desired results, particularly in terms of hygiene, thus illustrating the extent of the consequences of the dilapidated conditions observed in some French prisons. The Court thus recommended "to the respondent State that it should consider the adoption of general measures in order to ensure that prisoners' conditions of detention were compatible with Article 3 of the Convention. The measures taken to that end should include putting a permanent end to overcrowding in prisons. […] Furthermore, an effective preventive remedy should be put in place, which […] would enable prisoners to obtain redress for the situation of which they were victims and prevent the continuation of alleged violations".

2.1.2 *The judgement of the Court of Cassation of 8 July 2020*

> By a judgement delivered on 8 July 2020[10], the Court of Cassation acted on the ECHR decision. It considered that, although the "general recommendations" contained in this ECHR decision were intended above all, "by their very nature", for the Government and Parliament, it was nevertheless up to the judicial authority to "take them into account", without waiting for legislative or regulatory reforms.

In this respect, it considers in particular that it is the responsibility of the judicial judge, in his capacity as a guardian of individual freedom, "to ensure that pre-trial detention is, in all circumstances, implemented in conditions respecting the dignity of persons and also ensure that this deprivation of liberty is free of any inhuman and degrading treatment". It also criticises the trial judges' assessment according to which "a possible attack on personal dignity due to conditions of detention cannot constitute a legal obstacle to placement or maintenance in pre-trial detention".

However, the Court considers that the plaintiff's description of their personal detention conditions must be "sufficiently credible, precise and up-to-date, so that it constitutes prima facie evidence" that their conditions of detention are undignified. When this prima facie evidence exists, it judges that it is then up to the Investigation Chamber "to have additional checks carried out in order to

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[9] *ECHR, 30 January 2020, J.M.B and Others v. France, no. 9671/15 and 31 others.*
[10] *Cass. Crim. Judgement no. 1400, 8 July 2020.*

assess the reality", but without specifying the procedures according to which the said checks could be conducted. In this case, the Court notes that the applicant “only referred to the general conditions of detention in the remand prison in which he [was] detained, without specifying his personal situation”. It can only be regretted that the CGLPL’s inspection report for the institution concerned, which was produced by the applicant in support of his claims and was particularly recent in view of the period during which he was detained (2018 report for detention in 2019), was not considered by the high court as constituting prima facie evidence of the undignified nature of his detention conditions.

By another judgement of 25 November[11] however, the Court considered that the general description of very degraded conditions of detention was sufficient to compel the Investigation Chamber to carry out additional checks to assess to what extent they were credible, precise and up-to-date.

A few days later, the Court[12] conducted a concrete analysis of the dignity of the detention conditions. Its assessment objectively paved the way for a narrow vision of dignity. As disappointing as it was, this analysis provided the basis for a debate that will undoubtedly move it forward.

2.1.3 *The decision of the Constitutional Council of 2 October 2020*

Referred to by the Court of Cassation for a priority question of constitutionality, the Constitutional Council declared[13] that the provisions of Article L.144-1 of the Code of Criminal Procedure were contrary to the Constitution[14]. This decision constitutes a major step forward in terms of the rights of detainees and can be seen as a continuation of the two previous ones.

Having reiterated that safeguarding human dignity is a principle of constitutional value and that there must be no substantial interference with the right of the persons concerned to an effective remedy before a court (Articles 9 and 16 of the Declaration of the Rights of Man and of the Citizen), the Constitutional Council deduces that it is up to the judicial and administrative authorities to "ensure that the deprivation of liberty of persons placed in pre-trial detention is, in all circumstances, implemented with respect for personal dignity" and to the competent authorities and courts to "prevent and repress acts undermining the dignity of persons placed in pre-trial detention and order compensation for the damage suffered". Lastly, “it is the responsibility of legislators to guarantee that persons placed in pre-trial detention have the ability to inform the judge of conditions of detention contrary to human dignity, so they may be ended”.

The Council concurs with the analysis of the ECHR according to which the measures that the administrative judge ruling in summary proceedings is likely to pronounce "do not guarantee, in all circumstances, that undignified detention will be put to an end" and concludes that "therefore, no recourse before the judicial court allows litigants to obtain an end to attacks on their dignity resulting from the conditions of their pre-trial detention. Consequently, and independently of liability actions

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[11] *Cass. Crim. Judgement no. 2710, 25 November 2020.*

[12] *Cass. Crim. Judgement no. 3105, 15 December 2020.*

[13] *Decision no. 2020-858/859 QPC of 2 October 2020.*

[14] *Article L.144-1 of the Code of Criminal Procedure stated: “Pre-trial detention cannot exceed a reasonable period, with regard to the seriousness of the charges brought against the person and the complexity of the investigations required to establish the truth.*

The investigating judge or, if referred to, the Liberty and Custody Judge must order the immediate release of the person placed in pre-trial detention, according to the procedures provided for in Article 147, whenever the conditions provided for in Article 144 and in this Article are no longer met”.

likely to be initiated for reasons of undignified detention conditions, the contested provisions disregard the aforementioned constitutional requirements".

Considering that "in the present case, immediate repeal […] would have manifestly excessive consequences", the Council postponed the date of this repeal to 1 March 2021.

According to the information received by the CGLPL, the number of requests for release filed based on this case law is still modest, and at the time of writing this report, these have given rise to only one order for final release. However, since the Criminal Matters and Pardons Directorate does not have a statistical tool distinguishing between the reasons for requests for release, it is not certain that this information is exhaustive.

2.1.4 *The urgent adoption of an incomplete reform*

With legislators being faced with the unique opportunity of an obligation to legislate before 1 March 2021, the CGLPL invited them to do so in an ambitious way while avoiding two pitfalls: limiting the effects of the new law to remand prisoners only and providing only individual measures that would not improve detention conditions for all remand and convicted prisoners without distinction[15].

The temptation was indeed great to respond in this way to the request of a detainee citing undignified detention conditions: as proof, this solution has been considered – and has probably already been implemented – following the judgement of the Court of Cassation. Indeed, in a dispatch dated 7 August 2020, the Ministry of Justice opened up the possibility of "corrective measures" before the court rules on a remand prisoner's appeal: these measures include the transfer of the applicant to another institution. And yet a far-away transfer may lead to violations of other rights, including the maintenance of family ties and those of defence. Moreover, the same undignified cell will quickly be occupied by another prisoner who in turn will suffer harm.

Legislators therefore had the opportunity to implement this remedy and even go beyond it by combating undignified detention conditions based on their causes, i.e. by combating prison overcrowding and the poor sanitary conditions in certain penal institutions thanks to ambitious renovation plans.

In a speech on 6 March 2018, the President of the French Republic said he hoped that prison regulation could be tested. This proposal, long supported by the CGLPL[16], consists of involving the entire penal chain, taking into account the prison occupancy rate, in order to delay non-urgent incarcerations or bring forward the release of prisoners at the end of their sentence who are best prepared to reintegrate society, under the supervision of a sentence enforcement judge. In this way, the number of detainees would not exceed the number of places within the institution. Such a mechanism would have a strong impact on the overcrowding of our prisons, but its application by all can only be guaranteed if it is written into law.

> Prison regulation is an essential measure in the face of endemic prison overcrowding which aggravates the lack of space and the risk of conflict, reinforces inactivity, reduces dialogue and the intervention of prison officers, makes access to healthcare more difficult, and weakens family ties and reintegration efforts.

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[15] *Letter of 17 November 2020.*

[16] *CGLPL, Les droits fondamentaux à l'épreuve de la surpopulation carcérale [Fundamental rights put to the test of prison overcrowding], 2018*

As no bill was introduced before the date set by the Constitutional Council, the government relied on a senatorial bill that enabled minimum measures to be taken late, following a summary procedure. Heard by the two assemblies, the CGLPL made sure to point out this bill's weaknesses:

- a long and dissuasive procedure that will not enable undignified conditions of detention to be effectively sanctioned;
- the near-systematic use of transfers which will settle the issue of undignified detention conditions while infringing other fundamental rights (maintenance of family ties, continuity of care, right to work, etc.);
- a strictly individual response to appeals that does not correspond to the express request of the European Court of Human Rights, which explicitly excludes the transfer of appropriate measures and requires that solutions be implemented to improve the detention conditions of all prisoners.

The reform adopted following the Senate's bill has now entered into force[17]; it was adopted following a summary procedure, without any real prior consultations, with shortened parliamentary debates and without a review by the Constitutional Council. Its minimalist and incomplete nature will probably leave room for new appeals before the ECHR.

2.2 The CGLPL referred to by the Council of State regarding detention conditions

An appeal was brought before the Council of State against an interim order concerning the conditions of detention of a prisoner at the Nanterre remand prison; the Council of State then requested observations from the CGLPL, which also presented its work at the hearing[18].

On 16 November 2020, the urgent applications judge of the Cergy-Pontoise administrative court had condemned the State and ordered that various material operations be carried out to guarantee the dignity of the detention conditions of a person detained at the Nanterre remand prison. In the conclusions of its appeal to the Council of State, the administration indicated in particular that the court was referring to the CGLPL's inspection report of 2016 to consider the situation in dispute in 2020 whereas the institution's situation had changed between these two dates.

The Council of State therefore invited the CGLPL to present its observations and in doing so honoured its work in several respects. The CGLPL was able to present both the observations made during the inspection carried out in 2016 and the information collected as part of follow-up to its most recent recommendations and referrals, while also referring to the conditions of respect for the dignity and rights of persons deprived of liberty that resulted from its *Minimum recommendations*. At the hearing, it was able to express itself with regard to each of the points raised by the parties, without taking part in the dispute.

> The Council of State upheld on appeal the decision of the administrative court by a decision which, three times, was based explicitly or implicitly on the CGLPL's work. This decision opened up new prospects for the follow-up given to the CGLPL's work, particularly in contentious cases.

[17] *Act aiming to guarantee respect for dignity in detention, promulgated on 8 April 2021.*

[18] *Council of State, 16 December 2020, Order no. 447141, Minister of Justice against M.C.*

2.3 The obligation imposed on legislators to establish an effective remedy against seclusion and restraint measures in psychiatry

The Constitutional Council[19], referred to for a priority question of constitutionality, declared unconstitutional the provisions of Article L.3222-5-1 of the Public Health Code which governs the seclusion and restraint measures taken during psychiatric hospitalisation. In doing so, it put an end to the debate sparked by the case law of the Court of Cassation, according to which seclusion and restraint measures fell outside the jurisdiction of the Liberty and Custody Judge without the decisions concerned having identified the authority that is supposed to exercise judicial control over the said measures[20].

The contested provisions are as follows:

"Seclusion and restraint are practices of last resort. They can only be implemented to prevent immediate or imminent harm to the patient or others, based on the decision of a psychiatrist, taken for a limited period. Their implementation must be subject to strict supervision entrusted by the institution to health professionals designated for this purpose. […]"

According to the applicant, these provisions, as interpreted by the Court of Cassation, were incompatible with the individual freedom protected by Article 66 of the Constitution in that they did not provide for any systematic judicial review of seclusion and restraint measures or any remedy in favour of the person subject to them, which violated the right to an effective judicial remedy, the principle of which is laid down in Article 13 of the European Convention on Human Rights (ECHR).

> After reiterating the provisions of Article 66 of the Constitution, according to which "No one may be arbitrarily detained. The judicial authority, the guardian of individual freedom, shall ensure that this principle is respected under the conditions provided for by the law", the Constitutional Council reaffirmed the principle that interference with the exercise of individual freedom must be appropriate, necessary and proportionate to the objectives pursued. Considering that, since seclusion and restraint measures can be decided without the patient's consent, they constitute deprivation of liberty.

Without considering that Article 66 of the Constitution requires that the judicial authorities be informed prior to any measure of deprivation of liberty, the Council considers on the other hand that "individual freedom can only be determined to be safeguarded if the judge intervenes within the shortest possible time". However, it continues by stating that "while legislators have provided that the use of seclusion and restraint can only be decided by a psychiatrist for a limited period, they have not set this limit or stipulated the conditions under which beyond a certain period, the maintenance of these measures is subject to the control of the judicial judge. It follows that no legislative provision submits the maintenance of seclusion or restraint to a judicial court under conditions meeting the requirements of Article 66 of the Constitution".

The Constitutional Council therefore declared the first paragraph of Article L.3222-5-1 of the Public Health Code to be unconstitutional. Considering that "immediately repealing the provisions declared unconstitutional, in that it would prevent any possible placement in seclusion or under restraint of persons admitted to involuntary psychiatric care, would have manifestly excessive consequences", it postponed the date of repeal of the contested provisions to 31 December 2020.

> Consulted by the Government regarding the draft text to be adopted, the CGLPL asked that any seclusion or restraint decision be brought, as soon as possible, to the knowledge of the judicial authority and the trusted person designated by the

[19] *Decision no. 2020-844 QPC of 19 June 2020.*
[20] *Civ. 1re, 21 Nov. 2019, FS-P+B+I, no. 19-20.513.*

> patient. The intervention of the JLD should be mandatory, i.e. it should be automatic after 48 hours. It considers that the rights of a secluded patient are violated from the first minute, which affects people with serious diseases, who are often unable to assert their rights by themselves. Moreover, the decisions in question are precisely intended to directly deprive them of all freedom of movement, i.e. to prohibit them in practice from taking any action.

The CGLPL also requested that this legislative change be accompanied by an information campaign for hospitals on the role of the trusted person and the procedure for appointing this person, which is often invalid if not completed.

It was on purpose that it advocated a restrictive procedure because its inspections show that certain institutions that treat very serious diseases never use restraint (it meets many departments that do not have restraint straps) and sometimes, more rarely, almost never practise seclusion. These are therefore measures that can be greatly reduced in number, in particular through preventive crisis management. The CGLPL's position is based on the finding that how third parties (JLD, prosecutor, relatives of the patient) perceive seclusion or restraint measures leads teams to question the effects and the relevance of their practices. Furthermore, the administrative constraint of third-party information and JLD referral operations is such as to prohibit the trivialisation of seclusion and restraint by leading to reflection on the necessity or usefulness of these acts.

Moreover, professionals consider[21] that "Seclusion and restraint practices […] cannot be considered harmless and part of the ordinariness of daily practice. They can in no way constitute a response to issues of discipline or nursing staff or be implemented for institutional convenience. They should be limited to what is only strictly necessary".

> Faced with the urgency resulting from its late response to the decision of the Constitutional Council, the Government chose to amend Article L.3222-5-1 of the Public Health Code in the social security finance law for 2021. This procedure was unfortunate in several respects.

Firstly, by including this provision in a debate essentially relating to social finances in the context of a large-scale health crisis, it deprived Parliament of the opportunity to discuss whether and how seclusion and restraint should be used to violate individual freedoms. It also placed the Law Committees of the assemblies – traditional guardians of freedoms – in the background in this debate organised within the framework of the Social Affairs Committees. Secondly, by introducing a government amendment late in the course of the debate, it deprived the Senate of a real examination of the text which it finally discovered only through a very small number of elected officials in a hurry, behind the closed doors of a joint committee; on such a topic, real parliamentary work would have been necessary. Lastly, to the benefit of an unexpected political consensus, the social security finance law was not submitted for prior review to the Constitutional Council, which was therefore unable to ensure that the provision adopted met the requirements it had set.

The CGLPL believes this was not the case.

Article L.3222-5-1 of the Public Health Code is now as follows[22]:

"Seclusion and restraint are practices of last resort and can only concern involuntary patients hospitalised on a full-time basis. They can only be implemented to prevent immediate or imminent harm to the patient or others, based on a reasoned decision of a psychiatrist and only in a manner that is appropriate, necessary and proportionate to the risk after evaluation of the patient. Their

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[21] *National Conference of CHS CME Presidents, General principles concerning seclusion and restraint practices in psychiatry, 18 May 2016.*

[22] *Wording used in Act no. 2020-1576 of 14 December 2020 on the financing of social security for 2021, Art. 84.*

implementation must be subject to strict somatic and psychiatric supervision, entrusted by the institution to health professionals designated for this purpose and traced in the medical file.

II.- A seclusion measure may be taken for a maximum period of 12 hours. If the patient's state of health so requires, it may be renewed for periods of up to 12 hours under the same conditions and the same terms, within the limit of a total duration of 48 hours.

A restraint measure may be taken as part of a seclusion measure for a maximum period of six hours. If the patient's state of health so requires, it may be renewed for periods of up to six hours under the same conditions and the same terms, within the limit of a total duration of 24 hours.

Exceptionally, the doctor may renew, beyond the total durations provided for in the first two paragraphs of this Section II, the seclusion or restraint measure, in compliance with the other conditions provided for in the same first two paragraphs. The doctor shall immediately inform the Liberty and Custody Judge, who may act on his own motion to put an end to the measure, as well as the persons mentioned in Article L.3211-12 when they have been identified. The doctor shall inform these people of their right to appeal to the Liberty and Custody Judge for the purpose of lifting the measure pursuant to the same Article L.3211-12 and the procedures for referral to this judge. In the event of referral, the Liberty and Custody Judge shall rule within 24 hours.

Seclusion and restraint measures may also be subject to review by the Liberty and Custody Judge pursuant to Section IV of Article L.3211-12-1 […]".

> This text presents advances compared to the previous law: it reserves seclusion and restraint for involuntary patients who are hospitalised on a full-time basis; it adds an obligation to state reasons to the psychiatrist's decision; it reiterates the conditions of necessity and proportionality with regard to a previously assessed risk; and it specifies the dual *somatic and psychiatric* nature of the supervision to which patients must be subject and the obligation to ensure the traceability of this supervision.

Whereas the previous wording referred only to a "limited period", the new text specifies the maximum authorised durations: 12 hours for seclusion and six for restraint. These durations are renewable within the respective limits of 48 and 24 hours.

Moreover, renewals can only take place "*exceptionally*" and it is only at this time, which is already late, that the doctor must immediately inform the Liberty and Custody Judge, who can act on his own motion, as well as the persons close to the patient[23] if they have been identified.

The new law also gives the judge the opportunity to rule, if necessary, including on his own initiative, on the maintenance of the seclusion or restraint measure when he does not order the lifting of the full-time hospitalisation measure on which he is ruling under his powers prior to the reform.

The last two paragraphs of Art. L.3222-5-1 of the Public Health Code, which the Constitutional Council had censured "by implication", are reinstated in identical terms.

> On the other hand, concerning the very object of the Constitutional Council's censure, the law falls short of the expectations of the CGLPL and probably those of the judge. It allows for periods not covered by a possibility of appeal: the first two days of seclusion and one full day of restraint. In addition, after the period of

[23] *The list given in Art. L.3211-12 of the Public Health Code is as follows: the person receiving care; the holders of parental authority or the guardian if the person is a minor; the person in charge of a legal protection measure relating to the person receiving care; their spouse or partner, or the person to whom they are bound by a civil pact of solidarity; the person who made the request for care; a relative or a person who may act in the interests of the person receiving care; the public prosecutor.*

48 hours, the measures can be extended without a specific check, in particular by the institution ' s college of health professionals which the CGLPL wanted to meet after eight days of seclusion.

It is also regrettable that the Liberty and Custody Judge is not asked to note the material conditions in which the measures are carried out in order to concretely ensure that the dignity of patients is respected; this could have forced institutions to renovate their seclusion rooms if it had been found that there were material conditions undermining the dignity of patients.

Lastly, as professional organisations immediately noted[24], it is regrettable on the one hand that the regulations are limited to the scope of censure by the Constitutional Council, whereas a "coherent legal framework should firstly take into account all practices of seclusion and restraint which are not limited to psychiatric departments alone and secondly include them within the framework of a more global law for psychiatry with regard to the specificity of involuntary care", and on the other that it does not provide for "adequate support measures to cushion this new institutional shock", particularly in terms of "training and human resources".

The decision taken by the Constitutional Council therefore helped somewhat advance perceptions of seclusion and restraint, ensure that they are more closely regulated, and perhaps slightly reduce their use. However, its scope in this respect should not be exaggerated because the legislative translation of this decision remains timid and incomplete. There is little doubt that the Council will be called upon again to rule on this provision in the coming years and it is difficult to see how it could consider that individual freedoms have been effectively protected when a person can be tied to a bed for 24 hours or locked up for 48 hours even before a judge is informed and when this measure can be extended without him having to rule.

2.4 The CGLPL facing new expectations

The CGLPL is no stranger to the case-law developments observed in 2020; a third party intervening with the CNCDH before the European Court of Human Rights, it enabled this court to assess *in concrete terms* the conditions of detention in France. Cited by the plaintiffs in the two priority questions of constitutionality, its work supported different cases without it needing to be called to court. Before the Council of State, the CGLPL was led to report on the findings of its inspections and also update them through its other means of information: referrals and follow-up to its recommendations.

In parallel with these developments, the CGLPL published *Minimum recommendations for respecting the dignity and rights of persons deprived of liberty* which can give everyone direct insight into what here and now are the minimum standards that should be respected in all places of deprivation of liberty, that is to say the situations from which it is appropriate on the one hand to proceed with the compensation that the law has provided for a long time without it being easy to know the criteria from which it must apply or provide proof of them being met, and on the other hand to take organisational measures, or even put an end to a measure of deprivation of liberty, which the law now tends to recognise.

The CGLPL, which is not meant to intervene in support of individual situations, intends to continue the work carried out in 2020 by giving litigants the information allowing them to assert their rights before the judge and by providing the judge with objective information on the situation in places of deprivation of liberty as well as with criteria for respecting dignity and rights. To this end, it will take care to develop knowledge of its work through teaching and to make lawyers aware of

[24] *Inter-organisation press releases of 17 November and 21 December 2020.*

the new possibilities offered to their clients; it will encourage the judicial momentum necessary to apply the new regulations and help to fill persistent gaps in the law.

Chapter 2

Reports, opinions and recommendations published in 2020

1. Minimum recommendations for respecting the dignity and fundamental rights of persons deprived of liberty[25]

The CGLPL published a collection of 257 articles preceded by a chapter of guiding principles and a foreword, entitled "*Minimum recommendations for respecting the dignity and fundamental rights of persons deprived of liberty*". This document is presented as "the essence of the doctrine developed by the CGLPL since its creation in 2008" and "the minimum set of measures to be taken to respect the dignity and fundamental rights of persons deprived of liberty". These recommendations concern all places where people are deprived of their liberty on the basis of an administrative or judicial decision.

> After more than 10 years of visits to all the places subject to its inspection, the CGLPL developed a coherent, global and near-exhaustive doctrine on conditions for respecting the dignity and rights of persons deprived of liberty; it is aware that this doctrine published over the years had become difficult to identify and even find.

Indeed, the CGLPL has multiple means of expression as defined by the Act of 30 October 2007: its inspection reports, opinions, annual activity reports, thematic reports, recommendations and emergency recommendations are all means of expression that carry its voice. Some are published in the *Official Gazette*, others through more standard publications, and still others simply on the website of the institution. Through these tools, the CGLPL issues more or less general recommendations depending on the formalism and procedure adopted for their publication.

The sum of these publications corresponds to the definition of soft law, as formulated by the Council of State: this category includes instruments which are "intended to modify or guide the behaviour of their targets by obtaining, as far as possible, their approval"[26]. They must not themselves create any right or obligation for their target – this constitutes the boundary between soft law and hard law. Lastly, they must "present, by [their] content and [their] method of development, a degree of formality and structure which causes [them] to resemble rules of law"[27].

The CGLPL's recommendations fall within this framework: it does not have the power to impose obligations and its work only bears fruit when the strength of its arguments wins the support or conviction of the authorities under review. Lastly, its mission relates to the specific purpose of soft law, which is to guide and orient the behaviour of the authorities in charge of places of detention so that they better respect the dignity and fundamental rights of the people in their care.

> The CGLPL's functions are therefore similar to those that the Council of State attributes to soft law which are "creating a dynamic"[28] in its recipients and

[25] *Published in the Official Gazette of 4 June 2020.*
[26] *Soft law, The reports of the Council of State (formerly the Studies and documents of the Council of State collection), p. 9.*
[27] *Ibid.*
[28] *Soft law, The reports of the Council of State (formerly the Studies and documents of the Council of State collection), p. 11.*

> animating their spirit of responsibility, which binding rules do not always manage to do, as these are likely to lead, on the contrary, to circumvention reactions. The CGLPL ' s work is part of this logic of contribution and complementarity with regard to binding laws, which are particularly present in places of detention.

Lastly, the Council of State has not ruled out the possibility of soft law being invoked in support of an appeal, thus conferring on it an indirect and accessory binding force, likely to be imposed by judicial process. The CGLPL's doctrine is thus regularly invoked in support of legal actions, particularly administrative ones; this was the case on several occasions in 2020 (see Chapter 1 of this report).

There are many rules of soft law of international origin that apply to persons deprived of liberty, in particular in detention[29], and also many rules of positive law that govern, with differing degrees of precision, each category of deprivation of liberty: imprisonment, immigration detention, police custody, and involuntary care. It was only after the creation of the CGLPL, which considers deprivation of liberty as its main purpose, that this notion in itself became an object of study without being a mere accessory to criminal law, health law or foreigners' rights litigation.

> The CGLPL ' s originality lies in the number and variety of places it inspects and also in the object of its inspections: the dignity and fundamental rights of people deprived of liberty.

As the Universal Declaration of Human Rights does[30], the CGLPL has chosen to focus on the dignity of rights and not to identify a concept of the right to dignity that would be juxtaposed with other fundamental rights.

Adopting the definition of the United Nations, the CGLPL recognises dignity as "*inherent in all members of the human family*" and by nature equal for all human beings. This dignity which is not conferred by law implies that everyone should be treated in a manner acceptable to all.

Responsible for ensuring that the fundamental rights of persons deprived of liberty are respected, the CGLPL has also had to question the definition of these specific rights, for which there is neither a list nor a definition. In the absence of a list, many sources – national and international, universal and specific, binding and belonging to the category of soft law – can be referred to in order identify these rights, which underlie the *Minimum recommendations* and which can be analysed in three categories:

1. The rights common to all human beings defined in national or international texts, whether binding or not.

   This category includes texts for universal or specific use. The former include the Declaration of the Rights of Man and of the Citizen of 1789, the Universal Declaration of Human Rights adopted by the United Nations in 1948 and the European Convention on Human Rights adopted by the Council of Europe in 1950. The latter include the 1979 Convention on the Elimination of All Forms of Discrimination against Women supplemented in 1995 by the Beijing Platform for Action, the 1989 Convention on the Rights of the Child, and the 2006 Convention on the Rights of Persons with Disabilities.

   These rights, such as the right to physical and mental integrity, access to healthcare, the maintenance of family ties and the right of expression, are not specific to persons deprived of liberty who should not, however, be deprived of them; detention can

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[29] *In particular, the United Nations Standard Minimum Rules for the Treatment of Prisoners, known as the "Nelson Mandela Rules", and the European Prison Rules (EPRs) which inspired the CGLPL to compile its minimum recommendations.*
[30] *United Nations, Universal Declaration of Human Rights, 10 December 1948 – Preamble.*

sometimes justify limits to their exercise but these must be legal, necessary and proportionate.

2. Rights that persons deprived of liberty must be able to exercise under the same conditions as those in free society, unless they have been expressly abolished or suspended by law or by decision of a competent authority.

   In particular, this category includes rights under the Civil Code, the Code of Relations between the Public and the Administration, the Education Code, the Social Action and Family Code, the Public Health Code, the Code for Entry and Residence of Foreigners and Right of Asylum, the Electoral Code and even the Consumer Code. Some of these rights are the exercise of parental authority, the right to vote and the protection of personal data.

   Their exercise is, by nature, threatened by detention which can make it difficult or impossible: the possibility of implementing them must therefore be monitored effectively.

3. Rights related to the measure of deprivation of liberty which are intended to apply only to the persons who are subject to it and whose purpose is to define its legal framework, set limits, or accompany it with guarantees.

   These rights are generally derived from national legislation but may also come from international instruments such as the United Nations Standard Minimum Rules for the Treatment of Prisoners known as the Nelson Mandela Rules (UN) or the European Prison Rules (Council of Europe).

   These rights, such as the right to information, the right of appeal, and the limitation of searches and of the use of restraint, protect the person deprived of their liberty against the abuses which could arise from the measure to which they are subject.

These categories provide the basis for establishing an operational list of what the CGLPL must monitor as part of its inspections.

> The objective of these recommendations is above all to ensure that the dignity and fundamental rights of detained persons are respected more effectively. In a place of deprivation of liberty, anything that is not planned or organised is impossible[31]. It is thus necessarily up to the authorities to guarantee effective dignity and fundamental rights within the place for which they are responsible by taking all concrete measures to that end.

As an independent agency, the CGLPL carries out its tasks freely, and this freedom is exercised including in its view of positive law. As such, the minimum recommendations sometimes reiterate what is already provided for by positive law. However, some recommendations add to positive law, which is sometimes incomplete, without necessarily contradicting it. Lastly, some minimum recommendations are contrary to positive law and should therefore be interpreted as inviting the authorities to amend it.

The authorities in charge of places of detention are the natural targets of this new document which gives them the ability to carry out a form of self-monitoring; however, it is also desirable that lawyers and courts take full advantage of it in order to advance the effectiveness of the law in places of deprivation of liberty and, in so doing, guarantee respect for the dignity and fundamental rights of persons deprived of liberty.

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[31] *Preface to the Minimum recommendations for respecting the dignity and fundamental rights of persons deprived of liberty.*

2. Opinion on Internet access in places of deprivation of liberty[32]

Our society has made digital tools essential for accessing knowledge and has made it necessary to use the Internet to carry out many formalities. This essential vector of empowerment and communication cannot be ignored by those who have authority over the operation and organisation of places of deprivation of liberty. In the context of the digitisation of all public services by 2022 – initiated by France – providing access to the Internet, training the detained population in its uses and providing support for its use must be considered as priorities, so as not to deprive this population of the effective exercise of its rights.

2.1 Access to the Internet is essential for respecting fundamental rights and freedoms

Deprivation of liberty may lead to restrictions on certain rights insofar as their limitation is provided for by law and justified by imperatives of security and public order. However, these infringements of rights cannot be unlimited, and it is the responsibility of the administration to seek a fair balance between objectives of public order and respect for the rights of persons deprived of liberty.

> The situation of dependence of persons deprived of liberty on the government agencies to which they are entrusted results, for the latter, in an obligation to organise, for the former, procedures for exercising their rights. Certain procedures are made laborious, even impossible, because the persons concerned do not have access to online services, and in particular the information available there. The need to go through third parties or professionals to access information, complete administrative formalities and maintain contacts complicates procedures and robs persons deprived of liberty of their autonomy because they depend entirely on the availability and goodwill of third parties.

Many rights of persons deprived of liberty are therefore affected by this imposed mediation: preparation of the defence, effective exercise of the right to maintain external ties, right to education, reintegration procedures, etc.

2.2 Internet access with regard to the specific characteristics of the place or the public received

> There is no law to deprive detained people of any access to the Internet. Depending on the place of deprivation of liberty concerned and its specific characteristics, particularly with regard to the public it receives, the terms of Internet access are diverse and limitations are frequent. In this regard, the CGLPL is issuing recommendations in order to promote access to the Internet, taking into account the particularities of the different places of deprivation of liberty.

In detention centres for illegal immigrants, the CGLPL recommends that all computer and electronic devices be authorised, even those allowing pictures to be taken. It also recommends that accommodation areas be equipped with lockable storage. Wifi access and a room equipped with terminals connected to the Internet should be made available to detainees in order to facilitate the exercise of their rights and their administrative and personal procedures, maintain their links with their relatives, allow them to obtain useful information, and fight against boredom and forced idleness.

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[32] *Opinion published in the Official Gazette of 6 February 2020.*

In psychiatric hospitals, the CGLPL recommends setting up Internet access (Wifi access) in order to allow patients whose clinical condition allows it to consult their emails, receive training or information and initiate procedures, in complete autonomy. Patients should be able to keep their personal mobile terminals and their rooms should be equipped with lockers. The only exceptions should be made by medical decision or be the choice of the patient concerned.

In prisons, the CGLPL reiterates the recommendations made in its opinion of 20 June 2011: "in shared facilities, in which a third party (trainer, teacher, etc.) and/or administrative staff are present, communication materials and data should be accepted and even encouraged. […] arrangements should be made as soon as possible so that each institution provides a link with online services (Internet) from these facilities; the administration can reserve the right to make access to some of them impossible […] on a verifiable and identified basis". It also recommends that the infrastructure put in place for the Digital in Detention project provide real, direct, individual and controlled access to online services in cells (access to information sites without interactive functions; access to a closed messaging system with monitoring comparable to that for paper correspondence; access to a controlled video communications system under the same conditions as for telephones today; controlled access to service sites – administrative procedures, education – for people whose situation justifies it and by individual decision).

Minors (whether placed in CEFs, detained or hospitalised) retain their right to education, which involves training in the responsible use of digital tools and resources. The protection of minors justifies the fact that access to online services can be subject to monitoring and supervision, which must be done through support, awareness-raising and training. However, the pure and simple prohibition of Internet access in places where minors can stay for several months – even several years – contravenes this objective. As such, the CGLPL recommends that all places of deprivation of liberty be able to educate minors deprived of their liberty with regard to digital tools and the Internet.

2.3 Internet access that complements and does not exclude human relations

> The CGLPL considers that the development of digital technology in places of deprivation of liberty should be surrounded by various guarantees. The use of digital technology should never completely replace human interactions. A person deprived of liberty should always be able to choose to carry out all or some of their procedures without having to use digital tools or online services. Any internal or external digitisation process should be added to existing methods or leave room for alternatives that do not require digital proficiency.

The solutions put in place to improve access to rights via the Internet and digital technology should not lead to the deterioration or elimination of existing services. Increased use of the Internet should not exempt agencies from their obligation to provide good care to persons deprived of liberty in all its aspects and to prevent any risk of isolation or withdrawal that could result from the implementation of the digitisation process in rooms or in cells.

2.4 The comments of the Minister of the Interior dated 23 January 2020

The CGLPL ' s opinion relating to Internet access in places of deprivation of liberty was sent to the Minister of the Interior, the Minister of Justice and the Minister of Solidarity and Health so that they could make comments. Only the Minister of the Interior submitted his comments in a letter dated 23 January; they were also published in the Official Gazette.

> Firstly, the Minister of the Interior justifies the withdrawal of computer devices allowing people placed in CRAs to take pictures by "the need to preserve the right of publicity and therefore the right to privacy of co-detainees and police officers, as well as security within the centres". In this regard, he indicates that the authorisation of computer equipment with cameras in detention could pose a

> security risk for the CRAs, in particular in the event that images are disseminated revealing their internal organisation “as well as certain security systems”. The circulation of computer devices within detention could also be a source of tension and make it more difficult to maintain order.

In response to the recommendation to equip accommodation areas with lockers so that each detainee can secure their belongings and make free use of them, the Minister indicates that certain CRAs (such as that of Le Mesnil-Amelot) are equipped with them, but because of systematic damage to the doors of the said lockers, it is difficult to ensure that each detainee is able to use a secure personal locker.

> With regard to the provision of Wifi access and a room equipped with connected terminals to detainees, the Minister of the Interior argues that the deployment of widespread access to the Internet is not provided for by the regulations, insofar as it raises issues of security and access control. However, a reflection is under way to "deploy a computer station with Internet access", which could result in "organisational adjustments in some pilot CRAs".

With regard to maintaining ties with their relatives, he reiterates that detainees have several means of communication (visits, mobile phones without cameras that are used freely, ability for the OFII to lend mobile phones to be used with the chips removed, open-access telephone booths).

With regard to fighting against the idleness and boredom of detainees, the Minister points out that "many projects to improve sports equipment (for example, apparatuses, football pitches, weight rooms) as well as leisure activities (televisions, subscriptions to sports/cinema channels, game consoles) have been initiated or are in the process of being deployed in all detention centres”. In this respect, it is also specified that the development of leisure and entertainment activities and the improvement of equipment will continue.

In conclusion, the Minister indicates that "given the presence of workers and the means made available to detained foreigners […], the latter benefit from all the guarantees necessary to make use of their rights" and considers that "the conditions of access to the Internet and to means of communication in CRAs are thus in line with the operational constraints of services and the rights of detainees".

3. Opinion on defence in places of deprivation of liberty[33]

Respect for rights of defence is cardinal in all matters, and even more so in the context of a measure of deprivation of liberty, since any decision taken by a public authority to deprive a person of liberty entails a risk of their dignity and fundamental rights being violated. Rights of defence and their corollaries – the right to a fair trial, the right to a judge, adversarial proceedings, formalism and judicial ritual – are necessary conditions for the implementation of fundamental rights.

[33] *Opinion published in the Official Gazette of 25 June 2020.*

3.1 Persons deprived of their liberty must be able to have their case heard

3.1.1 *The right to an effective remedy*

No measure of detention should escape the control of the judicial authority. However, beyond the control exercised over the initial decision, not all decisions taken when executing a detention measure are subject to appeal and the law on detention remains incomplete in certain respects.

> Certain decisions, although likely to infringe the rights of the persons concerned, continue to this day to escape the control of the judge. These include decisions to place patients in seclusion rooms[34] or assign them to difficult patient units in mental health institutions; within penal institutions, they may be decisions concerning a change of assignment from one regime to another; in detention centres for illegal immigrants, the effectiveness of remedies relating to the incompatibility of detention with the state of health of the persons concerned is debatable, given the widely varying practices in force.

Persons deprived of liberty should be able to challenge and lodge an appeal against any decision concerning them which is likely to infringe their rights. The exercise of this appeal should be subject to formalities that are as reduced as possible and tailored to the constraints imposed by places of detention.

This appeal should be effective, in the sense given to it by the case law of the European Court of Human Rights, i.e. it should make it possible to put an end to a situation contrary to fundamental rights and allow any injured party to be compensated. The CGLPL can only applaud, in this respect, the decision of 30 January 2020 by which the European Court of Human Rights condemned France for detention conditions constituting inhuman and degrading treatment, and under the terms of which "an effective preventive remedy should be put in place, which, together with the compensatory remedy, would enable prisoners to obtain redress for the situation of which they were victims and prevent the continuation of alleged violations"[35].

The effectiveness of the remedy should also be questioned when the contested decisions produce their full effects before the rights of appeal have expired, without it being possible to reform them. This is the case, for example, of the decisions made by a disciplinary committee in a penal institution.

The effectiveness of a remedy also depends on the capacity of the persons concerned to exercise it. Thus, any remedy available to patients in a mental health institution who are placed in a seclusion room cannot be effective without prior notification of a third party.

> Lastly, the effectiveness of the remedy depends on the capacity of the personnel and management in places of detention to remain neutral, even when they are called into question. Everyone should be able to freely decide to initiate an action or lodge a complaint without having to fear a sanction, reproaches or any deterioration of their detention conditions.

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[34] *Concerning decisions for placement in seclusion rooms, the law has changed and these measures are now likely to be controlled by the judicial judge (see Chapter 1, Section 2.3 of this report).*

[35] *European Court of Human Rights, Fifth Section, J.M.B. and Others v. France, application no. 9671/15 and 31 others, § 316.*

3.1.2 *The hearing and judicial ritual*

Respect for rights of defence implies, in addition to the guarantee of having a remedy, that of being able to submit it to a judge. This judge should exercise his office according to the guiding principles of the trial, within the formal and ritualised framework of a hearing ensuring the fairness of the parties. Persons deprived of liberty should appear there with dignity and without hindrance. They should express themselves fully and be listened to and heard. Lastly, unless there is a legal exception, they should be judged there publicly.

> The findings on this matter are of concern. For example, the CGLPL has long been concerned about the increasing use of videoconferencing, particularly in places of detention[36]. While the use of videoconferencing cannot be systematically ruled out, it can only be validly challenged by putting an end to the physical presence of the defendant at their own hearing, which constitutes a weakening of the rights of defence.

Detention should not, in itself, obstruct the right of persons deprived of liberty to appear before a judge and present their defences in person whenever they so wish. The hearings, appearances and adversarial debates of detained persons should meet the requirements of impartiality, publicity and balance between the parties imposed by due process. The judicial and administrative authorities should therefore guarantee that detained persons and their counsel can actively participate in the debates. Lastly, whatever the time constraints weighing on the courts responsible for examining their appeals, respect for the rights of defence of individuals requires that they be listened to with the attention, availability, rigour and humanity required by the review of their situation.

3.2 Persons deprived of liberty should have the time and facilities necessary to prepare their defence

3.2.1 *Appropriate information and support*

Access to appropriate and comprehensive information is a necessary prerequisite for the preparation of any defence, as is the possibility of being supported for this access.

The effectiveness of access to information depends on the means put in place by the authorities to deliver this information, with the aim of ensuring it is available and can be understood by the persons concerned. General information should therefore be widely disseminated, on several types of media, and should be translated as needed.

> Legal information in places of deprivation of liberty is all the more important as their operation is governed by largely infra-legislative, or even infra-regulatory, law. Compendiums of applicable texts, including infra-regulatory texts, should therefore be made available to the people detained. Interpretation services should be accessible and free of charge in places of detention.

The effectiveness of access to justice and the law in places of deprivation of liberty also requires that persons deprived of liberty benefit from mechanisms enabling them to access legal information and advice as part of their procedures.

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[36] *See in particular the opinion of the CGLPL of 14 October 2011 on the use of videoconferencing with regard to persons deprived of liberty.*

3.2.2 *Access to useful files and documents for the purposes of defence*

The effectiveness of rights of defence requires compliance with the adversarial principle. No information shall be taken into account as part of a hearing or adversarial debate which has not been previously brought to the attention of the person concerned.

Persons deprived of liberty and their lawyers should have access to any documents or evidence that may be useful for their defence, whether these relate to a decision concerning them or the basis on which they plan to bring an action. The authorities or services holding them should ensure they are transmitted in time for the proceedings and the effective exercise of the rights of the defence.

3.2.3 *The necessary time and material resources*

The authorities in charge of places of detention should guarantee that detained persons have the means necessary to prepare their defence. At the very least, these people should have time and a space where they can sit down, consult their documents, write and prepare, in conditions that respect their needs.

> The CGLPL regularly receives testimonies from people who do not appear before the judge in conditions respectful of their dignity, in particular due to a lack appropriate clothing, whether these people are in custody and have been brought before the courts or have been hospitalised or detained. Persons deprived of liberty who are summoned to court should be able to prepare, be accompanied and appear in conditions that respect their dignity.

3.3 Persons deprived of liberty must be allowed a defence

3.3.1 *The role of lawyers in places of detention*

The framework and methods of intervention of defenders – lawyers or legal aid and assistance associations – should be defined jointly by their representatives and the authorities in charge of places of detention in order to meet the real needs of detained persons. This intervention framework should be known not only to defenders and the people they assist, but also to the personnel in the places concerned. It is therefore the responsibility of the authorities in charge of places of detention, in conjunction with the representatives of the professional bodies or associations concerned, to sustain their collaboration and guarantee its proper functioning.

While it is up to the authorities in charge of places of detention to guarantee a space for lawyers and associations allowing them to carry out their mission, it is also up to the latter to arrange for detainees to benefit from their assistance, in particular by organising training to this end for lawyers or stakeholders.

> Any person who so requests should be provided with access to a lawyer as soon as possible, whether this lawyer is chosen or court-appointed. And yet the CGLPL regularly observes and deplores the fact that places of detention are unequally occupied by lawyers. However, it is not unaware of the economic factors that partly explain this difficulty. The defence of the imprisoned is most often a defence of the poor. While it is not acceptable for lawyers to turn away from their missions in places of deprivation of liberty, it is the responsibility of the State to guarantee that the compensation granted to them (legal aid) allows them to carry out their tasks.

To ensure the cooperation of the authorities in charge of places of detention, and that of lawyers, people in detention need to know how they can contact their defenders. It is therefore essential

that bar associations draw up and regularly update lists allowing detainees to identify lawyers practising in the legal fields that concern them.

3.3.2 *Lawyers and their clients deprived of liberty*

Regardless of the place in question, it should always be as rapid and easy as possible for detainees and their lawyers to get in touch with one another, by whatever means. This is not always the case, for various reasons, depending on the place.

> The authorities in charge of places of detention should put into place procedures allowing the people entrusted to them and their defenders to contact one another upon and after their arrival. They should also allow detainees and their defenders to meet in a place guaranteeing the tranquillity and confidentiality of their discussions.

The configuration and layout of areas dedicated to discussions between persons deprived of liberty and their counsel should also allow them to work in good conditions, for the time they deem necessary. Lawyers should have access to their working instruments, computers and documents.

Lastly, lawyers and their clients should be able to exchange in writing under conditions that guarantee the proper routing and complete confidentiality of correspondence. No circumstance should have the effect of making it impossible for a lawyer and his detained client to communicate.

4. Radicalised people in prison and fundamental rights[37]

Since 2015, the Islamic terrorism that has struck France has resulted in the incarceration of hundreds of people and this phenomenon has led to the establishment of specific structures and wings in which the conditions of detention are far removed from those of the general inmate population. Far from underestimating the extent and seriousness of the situation with regard to the security problems it poses, the CGLPL decided, in accordance with its mission, to monitor the effective exercise of the fundamental rights of the detainees concerned and observe whether the prison policy put in place is likely to lead to infringements of these rights.

In 2015 and 2016, the CGLPL published two reports on the treatment of detainees prosecuted or convicted for acts related to a terrorist enterprise or considered by the intelligence services and the prison administration as being steeped in an Islamic ideology advocating the exercise of violence. This third report continues to explore this topic, which has become a major issue in French prisons, both because of the number of detainees concerned and because of the upheavals that have occurred in their treatment.

> As it stated in 2016 in its report studying dedicated units, the CGLPL would like to monitor changes in care arrangements for detainees involved in Islamic radicalisation. Apart from specific wings reserved for the assessment (QER) or handling (QPR) of the persons concerned, the study has been extended to all penal institutions, whether or not they have such wings, whether they are included on the list of “sensitive” institutions or not, and whether they take in men or women. This report is thus intended to review the implementation of the “penal process” reserved for “radicalised” individuals, from their arrival to their release from the institution and by way of their transfers and various assessment processes.

[37] *Report published on the CGLPL website on 10 June 2020.*

In 2014, a model dedicated unit was set up at the Fresnes remand prison on the sole initiative of its director. Exclusively taking in detainees indicted for acts of terrorism, this new specific space was then strongly criticised by the Ministry of Justice. Under the pressure of events (the increase in the number of attacks committed on French soil, involving some individuals who seemed to have been won over to radical Islam during previous periods of detention), dedicated units were set up. The philosophy behind this system was to group together the detainees concerned in order to protect the rest of the prisoners and try to combat proselytism.

The CGLPL then came out against this grouping, considering that it entailed more disadvantages than advantages and posed a significant risk of violating fundamental rights. The subsequent opening of the dedicated units also led to criticism from the CGLPL, particularly concerning the discretionary aspect of placement in specific wings, where a particular detention status was created without any legal framework providing for the appeals necessary to guarantee that the persons concerned could exercise their rights in the normal way[38].

> Over time, thanks to feedback and research programmes, the policy of the Prison Administration Department has evolved into the current situation where a mixed system "with neither grouping nor dispersal" has for the moment prevailed.

Despite the downward trend in the number of people currently imprisoned who are concerned by the issue of Islamic radicalisation, the phenomenon is far from over. The lengthening of the sentences incurred is leading to ever longer incarcerations, which now also concern women, who are prosecuted and sentenced not only for their departure to conflict zones, but also for their role in the preparation and implementation of terrorist acts on French territory.

In this report, the CGLPL reviews the handling of “radicalised” people in detention and, in particular, the question of respect for their fundamental rights. Based on the referrals received and the visits and interviews carried out, the CGLPL notes, in keeping with its initial work, that the way in which these people are handled is far from meeting the essential criteria that should govern the conditions of their detention and is likely to infringe, in various ways, their fundamental rights.

The near-autonomous penal category of "radicalised persons", Islamic terrorists ("TISs") and common-law prisoners showing signs of radicalisation ("DCSRs") is based on a process of identification devoid of any procedural guarantee, generally associated with legal insecurity for a public that is already relatively uninformed of its rights. The criteria governing the inclusion of detainees in the category of “radicalised persons” are opaque and discriminatory, left to the discretion of each institution or even of each officer. Entry into the category of people imprisoned not for acts of terrorism but for acts of common law, who have been identified by the administration as showing signs of “radicalisation”, does not give rise to any provision of information to the person concerned.

> The creation of a specific prison category poses a risk to fundamental rights in that it is likely to obstruct the imperative need to personalise the handling and monitoring of individuals. In reality, the identification of a category of detainees leads to overly systematic measures being applied to a population whose heterogeneity cannot be ignored. In its 2015 annual report, the CGLPL reiterated “the need to exercise good judgement in the handling of detainees. […] In general, and even if the concern of security is legitimate, it too often leads to undifferentiated measures that, by the spirit of the system, by concerns of simplicity or as a precaution, are applied to diverse situations”.

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[38] *A few days before the submission of the CGLPL's second report in 2016, the creation of the units was regulated by law, with Article 726-2 of the Code of Criminal Procedure providing that a decision to assign a detainee to a dedicated unit “may be appealed before the administrative judge”.*

Despite a supposedly common framework, the methods used differ considerably from one institution to the next. And yet everywhere, the status of the person concerned – “TIS” or “DSCR” – much more than their behaviour or even their level of radicalisation, is what determines how they are handled.

Although now regulated by decree[39], the regime of specific wings (QERs and QPRs) does not seem to offer a legal framework with strong security. Therefore, it does not address guarantees in terms of information, appeals or disputes, particularly with regard to assessments. The very process of identification, which has caused profound changes in treatment, is devoid of any guarantee.

The principle of "radicalisation assessment" in specific wings (QERs), mainly intended to decide on the assignment of detainees, has undeniable effects on the penal and judicial process for the persons concerned. Both assignment to these wings and the detention regimes applied there can be detrimental to those who are subjected to them. And yet, as specified in Article L.211-2 of the Code of Relations between the Public and the Administration: “Persons have the right to be immediately informed of the reasons for unfavourable individual administrative decisions which concern them”.

> The CGLPL considers that any measure of restraint or seclusion harms the person it concerns and should be subject to appeal. The criteria for assignment to an assessment wing should therefore be specified and at the same time, the persons concerned should be sufficiently informed. The possibility of appeal against decisions of assignment to these wings should be guaranteed by an explicit legislative provision.

The conditions in which the assessments are organised, their legal framework and the implementation of the decisions taken within these wings are causes for concern.

The professionals in charge of them are faced with ethical questions. It is unacceptable that certain professionals responsible for assessing detainees conceal the objectives of their interviews with them. Officially forbidden by the Prison Administration Department, this attitude should be prohibited and strict instructions should be provided. The ethics of psychologists should be reiterated and more generally, the functions of professionals should be specified, and these professionals should be left less alone in the conduct of their mission. The freedom of organisation left to local teams should not allow unacceptable disparities in treatment according to the policy implemented in each institution.

Similarly, the role of prison intelligence needs to be clarified. During assessments, professionals share information with intelligence officers without having the slightest idea of how it can be used, which regularly puts them at odds with the ethics of their respective professions.

The actual consequences of the assessments are not well known. The cases examined by the CGLPL suggest that assignments upon release from QERs are not always consistent with the conclusions of the assessment. Moreover, the prison administration is not in a position to analyse the prison experiences of people who have gone through QERs, which deprives the assessment procedure of some of its meaning. Under these conditions, the management of radicalised people is more akin to that of a flow treated through a series of one-off measures than to the management of experiences that are linked to an individual and are oriented towards reintegration.

> Penal institutions, which are largely bound by other imperatives, in particular overcrowding, have developed a precautionary principle that has led to security measures such as long-term placements in solitary detention or prolonged placements, for up to one year, in the new arrivals’ wing. There is a strong

[39] *Decree no. 2019-1579 of 31 December 2019 amending the Code of Criminal Procedure (regulatory part - decrees of the Council of State) and relating to wings for the management of radicalisation – Official Gazette of 1 January 2020.*

> temptation to replace a logic of care with a practice of neutralisation. The relatively small number of people concerned – around 1,500 – makes this possible.

The creation of specific wings is in line with the prison administration ' s will to multiply "differentiated" regimes with a disciplinary connotation. As such, the post-QER assignment appears more as a detention management tool than a tool for dealing with the persons assessed. The creation of QPRs, designed to accommodate people on a temporary basis (for a maximum of 18 months), actually pursues a logic of long-term seclusion, sometimes until the person ' s release. Furthermore, recommended placement in the solitary confinement wing of a QER becomes an official, long-term assignment which amounts to making solitary detention an autonomous and lasting regime applied without a legal basis.

> Whether they are imprisoned in ordinary detention or in specific wings, and whether they are prosecuted or convicted for acts related to a terrorist enterprise or they are common-law prisoners identified as radicalised, these people suffer conditions of detention which derogate from the common law regime.

For people imprisoned in specific wings, the detention regime is almost equivalent to that of solitary detention. For those in ordinary detention, there are many additional constraints and restrictions on rights: increased surveillance; frequently impossible access to work, education, vocational training, and family living units; increased monitoring of communications and correspondence; implementation of exorbitant search regimes for the most part; near-systematic presence of guards during healthcare, etc. These conditions of detention, justified by imperatives of security, have a systematic nature which raises questions concerning their legality and the harmful consequences on the life in detention of people who one day will all have to leave prison.

In this regard, the CGLPL is particularly concerned about the decisions of certain penal institutions to restrict access to professional activities for persons imprisoned for acts of terrorism, even though no provision authorises this. In response to requests from the Chief Inspector, the Prison Administration Department assures that the restrictive measures taken in terms of access to work for "TIS" individuals are not intended to stigmatise a certain part of the prison population and are linked, pursuant to Article D.432-3 of the Code of Criminal Procedure, "to the prison profile of job seekers and the requirements for the proper functioning of institutions". The CGLPL nevertheless considers that an instruction preventing an entire category of prisoners from working or undergoing vocational training, without any individualisation or assessment of their family situation, conflicts with the objective of professional activity in prison which is reintegration.

The fact that the prison administration is unable to produce figures for assessing the actual access of "TIS" and "DCSR" individuals to work, vocational training, education and family living units is completely unacceptable and demonstrates, if proof were necessary, that these rights, acquired for all prisoners and intended to promote their reintegration, are not considered essential for this category of the prison population.

Many penal institutions have programmes for the prevention of violent radicalisation (PPRVs) but are unable to sustain them. While various activities are proposed (sculpture, creation of furniture, photography, sophrology, conferences-debates, etc.), the agreements relating to the actions implemented, the objective of which is presented by the competent services as being the fight against violent radicalisation, do not generally specify the actual terms of this prevention. In practice, these programmes have a hard time reaching their audience.

> Preparation for release is not thought out and sentence adjustment measures are inaccessible. Devoid of any sentence adjustment projects and social or professional prospects, the proposed management of "radicalisation" appears to have no effect. It is paradoxical that for these people considered by the prison

> administration as requiring specific handling, the return to life in society is prepared even less well than for others.

Whether in specific wings or in ordinary detention, the security measures and numerous restrictions imposed on "radicalised" individuals hinder the exercise of their fundamental rights. In this regard, the CGLPL observes that the objective of security takes precedence over any other consideration, in particular that of preparation for release.

Therefore, it is difficult to see how this system, which is marked only by constraints whose daily management creates widespread tension among prison staff, prisoners and their relatives, could help prevent violence and recidivism.

Although the principle of specific treatment for "radicalised" people does not seem to need to be called into question, its current organisation cannot be considered satisfactory. It is necessary to:

- guarantee the transparency of the assignments in this regime and that of assessments;
- respect the rights of defence of the persons concerned;
- respect the ethics of each of the categories of professionals involved in the system;
- ensure personalised conditions of detention, tailored to the behaviour and the level of radicalisation of each individual;
- provide care arrangements that make room for efficient programmes to prevent violent radicalisation while ensuring the pre-release arrangements necessary for successful reintegration.

For six years, a whole series of measures whose legal framework has always been put into place after the fact has created instability that is harmful to both staff and prisoners. These changes are not the result of a reflection taking into account an in-depth evaluation of previous systems but rather stem from the pressures of current events and political orders. Security measures – already exorbitant under common law – are causing "radicalised" prisoners to be even further isolated. Growing security requirements are infringing fundamental rights without necessarily being a guarantee of real security.

5. Thematic report: involuntary care and fundamental rights[40]

One in five French people suffers from "mental disorders". In 2016, 342,000 people were thus hospitalised on a full-time basis, including 80,000 who were treated without their consent. This mode of admission to psychiatric care, provided for by law since the 19th century, is often associated with the detention of these patients in the healthcare institution authorised to receive them, and this institution then becomes, *ipso facto*, a place of deprivation of liberty.

> Many people admitted to involuntary psychiatric care are among the most vulnerable of all those persons deprived of their liberty and are the least able to defend their rights and their dignity. It is even because of their incapacity that this measure is applied to some of them. Their families and friends, who are often more overwhelmed than vengeful, are not in a position to ensure that the rights of their hospitalised loved one are respected. The patient is literally "taken care of" and is hardly demanding in terms of respect for their personal dignity.

[40] *Report published by Éditions Dalloz on 17 June 2020, available in full on the CGLPL website.*

5.1 Detention in psychiatry: a priority for the CGLPL

The CGLPL has always been concerned about the issue of detention in psychiatry and has made it its priority since 2014. At the end of Adeline Hazan ' s term, the institution visited all the facilities specialising in mental health and a majority of the psychiatric departments of general hospitals receiving involuntary patients.

> Thus, nearly 200 inspections of facilities have been carried out by the CGLPL over a 12-year period. These visits have led to the observation that full-time hospitalisation is accompanied by more or less serious attacks on the dignity and rights of patients and particularly on their freedom of movement. The large number of these visits has made it possible to measure the extent of the attacks and their trivialisation and also to observe good practices and initiatives that go against this general trend.

Over the years, the CGLPL has also been pleased to witness, as part of its inspections, changes in the positioning of its points of contact. Resistant 12 years ago, they now show their interest in the observation prism of the CGLPL, recognising in particular the advantages of having an "external perspective".

5.2 An inventory of rights violations and 67 recommendations to prevent them

Based on the findings from its inspections and the reports it has received, the CGLPL is now able to draw up an overview of the violations of fundamental rights likely to affect patients admitted to psychiatry; it can also summarise the organisational arrangements that promote these violations: management in emergency departments, material conditions, impact of the organisation of care, knowledge and exercise of rights, etc.

In this report, the CGLPL issues 67 recommendations to improve the treatment of hospitalised people, to preserve their dignity and their fundamental rights.

> The CGLPL also wishes to share its experience both with professionals and with the general public and participate in the discussion that is occupying the psychiatric sphere, through its point of view which is different from those of professionals and managers in the sector, while placing its findings in their historical and institutional context. This approach is driven by the certainty, reinforced by many of its points of contact, that respect for rights and dignity is a condition for the effectiveness of care.

The CGLPL is convinced that considering the patient no longer as an object of care, however benevolent it may be, but as a subject of rights will give meaning to the collective and individual work of the professionals concerned. This shift is all the more desirable since many of the professionals encountered by the inspectors testify to the uneasiness that they experience because they feel their work has lost its meaning.

5.3 Findings of widely varying practices

The CGLPL has never visited two similar facilities. They are all different in terms of their various operating conditions: the location and environment, the condition and layout of the premises, the management methods used, the organisation of the units, the distribution of patients, and the number of beds. All these aspects have an impact on the care of patients, and no facility visited is completely free from infringements of its patients ' rights.

This diversity allows the CGLPL to not merely describe or denounce practices infringing rights but to attempt to grasp the operational elements – whether local or on a larger scale – which contribute

to the occurrence of these infringements. These visits have also highlighted explanations regarding the origin of or reasons behind excessively restrictive practices.

5.4 A myriad of requests addressed to psychiatry, marked by security concerns

The fields of competence and intervention of psychiatry have increased considerably over the past few decades, often in response to certain dramatic events that have been over-exploited by the media.

> The management of psychotraumas, the creation of mobile mental health outreach teams, the increase in socio-judicial follow-up measures with obligations of care for sex offenders then for violent subjects, the law on psychosocial risks and the law on the sharing of data in cases of suspected radicalisation illustrate this *psychiatrisation* of social issues. Added to this is the psychiatrisation of all forms of mental suffering, whether it results from ordinary life events (death, separation) or is induced by the social injunction to perform in all aspects of life: personal, professional, school, relationships, etc.

Part of the medical community is ambiguous about these security imperatives. Professionals are reluctant to open the doors of units that receive involuntary and voluntary patients, thus seriously hampering their freedom of movement, citing security concerns, the risk of "runaways", etc.

For patients admitted by decision of a State representative, psychiatrists assert that their responsibility would be engaged in the event of a problem and sometimes cite legal cases in which psychiatrists are implicated. Thus, even though it does not endorse the stigmatising representations of the patients for whom it is responsible, the medical community is obsessed with the responsibility it thinks it will incur in the event of problems occurring, regardless of the patient and their mode of admission. Patients first become dangerous for the potential legal risk that they pose to the doctor or the facility and preventing this risk can take precedence over respect for patients ' rights.

5.5 Ongoing use of involuntary care

For nearly two centuries, the law has allowed people with mental disorders to be hospitalised without their consent. Even though the texts affirm that voluntary care should be favoured when the person ' s state of health allows it, in practice, there has been an alarming increase in the share of involuntary patients admitted to psychiatry, which has reached a quarter of admissions and accounts for 40% of them in some institutions.

> This compulsory care has sometimes led professionals to consider themselves implicitly authorised to use physical restraint resulting in behavioural restrictions: hours, smoking, visits, etc., for the sake of normalisation in order to organise life as a group. Limited, even non-existent relations with the outside world, the agitation of certain patients and the need to control a few erratic acts and gestures have historically allowed empirical practices to be developed, beyond any real control by institutional bodies.

These institutions have opened up to the outside world, but in many places, people are less open-minded and professionals are all the less inclined to observe and critically analyse their practices and their effects since they do not have time to do so and since the vast majority of them are driven by the conviction that "it is for the patient ' s good". Closed operations, combined with material difficulties and growing staff numbers, lead to abuses and limit distancing, as evidenced by many caregivers: “we no longer see ourselves working”.

5.6 The public hospital crisis has not spared psychiatry

Mental health institutions have not been spared by the public hospital crisis, which affects human resources in particular, to which is added, as far as they are concerned, changes in the patient population and collective demand: changes in the nature of mental disorders, partly resulting from social difficulties and destabilising living conditions, and a more or less real need for security that has nonetheless been exacerbated by political discourse.

> Psychiatry is being face with paradoxical demands: that of opening up through the shift to ambulatory care accompanied by the closing of a large number of hospital beds, and that of the increasingly frequent or lasting detention of disturbing individuals for security reasons.

There is an absolute need for hospitalisation in France. The rapid decrease in intra-hospital capacities – which dropped from 170,000 beds in 1970 to 50,000 beds in 1999 – was not offset by a necessary increase in the resources allocated to extra-hospital arrangements; combined with the very worrying shortage of psychiatrists in the public sector, it led to growing difficulty in receiving patients in crisis, insufficiently prepared returns home, and more frequent re-hospitalisations.

5.7 Rights can be better respected

The journey of a person suffering from mental disorders is often long, alternating between balanced periods and crisis periods that are treated with varying degrees of intensity depending on the episode. Human rights must be constantly respected – at all stages of the disease and at each stage of treatment. Respecting these rights means searching for treatment methods that are the least restrictive of freedom as possible and keeping periods of full-time hospitalisation to a bare minimum.

In France and abroad, interesting initiatives have proven that the institutional framework does not prevent modes of care that respect patients and their personal objectives: even in situations of full-time hospitalisation, the latter, who are more "users" than patients, can co-manage the course of their care with the healthcare team.

Some organisations bear witness to the fact that respecting rights is not only a burdensome and subsidiary obligation but can be viewed as a component of therapy. This is evidenced by specialist psychiatric institutions whose units and sites are open; the CGLPL has even observed identical models in general hospitals.

> The period of hospitalisation, often experienced as a failure, should on the contrary be an opportunity to renew or strengthen a therapeutic alliance – an essential bond of trust including the patient ' s team and relatives that cannot be forged in a restrictive, condescending or even degrading environment.

Similarly, the development of treatment programmes as part of extensive and multidisciplinary outpatient care, tied in with health, social and medico-social services, helps keep periods of full-time hospitalisation and therefore restrictions on freedom to the absolute minimum.

5.8 Destigmatising mental illness to facilitate inclusion in the community

New thinking is necessary to promote the emergence of psychiatric care proposals in France. Just as it is necessary to overhaul the laws of 2011 and 2013, it is essential to rethink the provision of care, not only taking into account the new fields of neuroscience, but also giving priority to human resources capable of providing support, alleviating suffering, and treating patients with psychiatric disorders. The piling up of new legislative provisions has resulted in the "hardening" of practices where the caregiver mentality lies in paradoxical imperatives relating to care and security.

> Alternatives to institutionalisation – which are more or less rigid and more or less durable – for people suffering from mental disorders require that their inclusion in the community be facilitated. It is then a question, more broadly, of working to destigmatise mental illness, which is a condition for offering people with mental disorders a place that respects their rights and does not involve keeping them on the margins of society. Destigmatisation involves modifying a general discourse relating to mental disorders, along with the picture it paints of the people affected.

Mental disorders arouse more dread than compassion. Empathy becomes difficult to express in the face of delirium, apparently disorganised thinking, and folly. Therapeutic care through detention in asylums, which was long ineffective, paved the way for the stigmatisation of the mentally ill which today is heightened by an extensive normalisation of social behaviour. Stigma, with all that it entails in terms of rejection and additional suffering, pushes both patients and their relatives to deny the disease, which delays treatment. It is necessary to make the media – the first shapers of these images – aware of the need to modify them; to inform social workers and teachers during their training; and to disseminate information to companies on the employability of sick people. It is also essential to lead prefects and mayors to make social inclusion prevail over concerns for public order, to involve elected officials in individual cases, to make cities and funders less hesitant about the idea of "living together" with people with disabilities, regardless of their background, and to offer tools for inclusion.

5.9 A major psychiatric reform is necessary

> Successive governments since the 1990s do not seem to have taken the measure of the increase in difficulties in the psychiatric sector, the discouragement of professionals, and its harmful effects on the effectiveness of care. They have largely minimised the effects of interconnected economic difficulties, the disintegration of solidarity, and mental disorders.

In her *Mental health and psychiatry roadmap*, presented on 28 June 2018, the Minister of Solidarity and Health affirmed her desire to “guarantee coordinated and sustained care through accessible, diversified and high-quality psychiatric services”. She specified the conditions for the implementation of territorial mental health projects, in order to structure local service provision ensuring continuity of follow-up throughout the patient journey. While we must commend the desire to have various stakeholders work together, in the same region, and the affirmation that care needs to be diversified, political will is clearly failing to limit involuntary hospitalisation and favour, support and develop alternative care and support methods.

A far-reaching reform of the mental health and psychiatry system should be developed; it would provide the system ’ s users with care that respects their rights, their social and family specificities, and their choices and would therefore preserve, with regard to training and research and in practice, the diversity of therapeutic approaches.

6. Emergency recommendations relating to the Roger Prévot public mental health institution in Moisselles (Val-d’Oise) [41]

Informed of violations of the fundamental rights of hospitalised persons linked to the management of the health crisis in the Roger Prévot public health institution in Moisselles (Val-d’Oise),

[41] *Emergency recommendations published in the Official Gazette of 19 June 2020.*

the Chief Inspector of Places of Deprivation of Liberty visited this institution on Monday 18 May 2020, accompanied by three employees.

During this visit, serious violations of the rights of hospitalised persons were noted, resulting in particular from confusion between the psychiatric seclusion regime established by the Public Health Code and the health lockdown decided by the public authorities, to fight against the spread of COVID-19. Although corrective measures were quickly taken at local level after the CGLPL's visit, the seriousness of the observed violations of fundamental rights and the risk of this ambiguity causing similar violations of the rights of patients admitted to other institutions justified the use of the emergency procedure provided for in Article

2020. Although strict detention in a locked room is not provided for by this circular, practitioners implemented it systematically on the grounds that psychiatric patients would not be able to understand and respect preventive measures.

However, in addition to being unjustified and illegal, these deprivations of liberty were implemented in undignified conditions: poorly lit rooms, without showers, that were difficult to ventilate, non-existent or defective equipment and call buttons, patients who did not have their personal belongings and were dressed in tearable pyjamas, insufficient toiletries, etc. Most patients had their cell phone and smokers were allowed to smoke in their room. In one of the “incoming patients” units, the chairs had been removed from the rooms, as a patient had used his to try to break a window: a chair was brought in for each patient for meals and then taken away. The inspectors also noted that involuntary patients were not notified of the measure or informed about their status and their rights during their stay in these units.

In addition, patients received at the “G04 Levallois-Perret” complex after their stay in the “incoming patients” unit were subject to an additional obligation of strict isolation in their room, for 14 additional days. The inspectors were thus told that, since the start of the pandemic, several patients had been locked in their rooms by decision of the psychiatrists from the complex or their sector of origin in the event that they were accommodated outside of their sector. However, no such decision could be found in the files consulted by the inspectors.

> Following these findings, the Chief Inspector reiterated the illegal nature of detention measures taken against involuntary patients in the absence of a decision made by a psychiatrist and, in any event, against people admitted to voluntary care. She also stressed that patients being allegedly unaware of preventive measures, which was not proven for all patients, could not justify their systematic detention.

Three days after the visit, the director of the institution informed the CGLPL that measures intended to provoke reflection on deprivation of liberty and put an end to the observed practices had been implemented. A note from the management was also issued as a precaution, under the terms of which the rooms accommodating voluntary patients cannot be locked and those of "involuntary patients can only be locked by medical decision of a psychiatrist […]”. While this note is likely to put an end to the abusive detention practices observed in the “incoming patients” and “COVID” units, it does not mention the situation of the patients hospitalised in the “Levallois-1” unit, to whom these provisions should also apply, just as they should apply to all of the hospital’s patients.

> With the confusion observed in Moisselles by the CGLPL between the legal regime of psychiatric seclusion and that of the health lockdown echoing various reports it had received concerning multiple mental health institutions, the Chief Inspector of Places of Deprivation of Liberty sent several recommendations of principle to the Minister of Solidarity and Health.

The refusal of a voluntary patient to enter a "COVID” unit cannot be regarded as a refusal of mental health care. It is therefore up to the psychiatrist, and to him alone, to assess individually whether such a refusal results from the patient’s psychiatric disease or their free will.

The confinement of patients who do not comply with the lockdown or preventive measures can only be based on a decision to isolate motivated by the immediate or imminent endangerment of the patient or others and must meet the conditions set out in Article L.3222-5-1 of the Public Health

Code[43]. In any event, such a constraint cannot be imposed either on a voluntary patient or for a period exceeding a few hours.

> In application of the general principle according to which no measure of deprivation of liberty may be taken or aggravated for organisational reasons, no measure of detention, sedation or restraint can be justified solely by the means available to the institution (accommodation in shared rooms, insufficient staff, lack of sanitary facilities in rooms, etc.).

Insofar as they impose exceptionally serious constraints on the patient concerned, the rules of the Public Health Code relating to involuntary care, seclusion and restraint should be systematically interpreted in a restrictive manner. As such, they should only be implemented in strict compliance with the text which establishes them, can only be applied in consideration of the patient's clinical condition as assessed by a psychiatrist and regularly reassessed, cannot have any other purpose than the stabilisation of the psychiatric crisis which led to their implementation, and should be limited in their nature and duration by the principles of necessity and proportionality.

Although the situation observed on 18 May at the Roger Prévot hospital seems to have ceased following the CGLPL's intervention, the issuance of emergency recommendations relating to this institution led the Chief Inspector to emphasise the absolute need to send guidelines to all mental health services in order to remove any ambiguity relating to the interpretation of the concept of health lockdown measures in hospital units.

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[43] *Article L.3222-5-1 of the Public Health Code: "Seclusion and restraint are practices of last resort. They can only be implemented to prevent immediate or imminent harm to the patient or others, based on the decision of a psychiatrist, taken for a limited period".*

Chapter 3

Action taken in 2020 in response to the CGLPL's opinions, recommendations and reports

1. Methodological introduction

As it now does every year, the CGLPL is using its annual report to ask ministers about the measures they have taken in response to the recommendations addressed to them three years earlier.

The following pages review these recommendations, set out the responses given by the ministers regarding the actions taken as a result, and provide the CGLPL's comments with regard to these responses.

The recommendations in question were, for 2017, taken from the following documents:

- the CGLPL's annual report for 2017;
- the thematic report on "Staff in places of deprivation of liberty";
- inspection reports for the penal institutions, mental health institutions, juvenile detention centres and places of detention for foreigners inspected during the year.

For reasons of volume, the ministers' responses with regard to the inspected institutions are only summarised in the appendix to this report; their full text will be posted on the CGLPL's website. In this chapter, these responses have merely been summarised by category of institution.

1.1 The CGLPL's adversarial procedures

With the exception of the annual report and the thematic reports, which are not subject to any adversarial procedure, the other recommendations have already been discussed with the ministers:

- opinions and recommendations are sent to them before publication and are systematically published with the responses of the ministers concerned if these are provided by the requested deadline;
- inspection reports have gone through two adversarial procedures: one with the institution and the other local authorities concerned when writing the draft report, and the other with the minister when writing the final report.

The CGLPL has different objectives during each of these adversarial phases:

- with the local authorities, the goal is to ascertain the reality of the findings and gather their opinion on the appropriateness of the recommendations; this exchange is taken into account, whether apparently or not, in the form of an amendment to the draft report;
- with the ministers before publication, the aims are to find out whether the CGLPL's recommendations have been adopted or rejected and obtain information on the actions that will be taken in response to the adopted recommendations;
- with the ministers after three years, the objective is to determine what has been done and how this has affected the fate of people deprived of liberty.

1.2 Best practices

The CGLPL's recommendations are given in association with "best practices" which also have the status of "observations" in the sense that the Act of 30 October 2007 establishing a Chief Inspector of Places of Deprivation of Liberty uses this term.

However, these "best practices" do not give rise to comments let alone to action plans on the part of the ministers, who are usually content to note them with satisfaction. However, they are reminded in each report that "these original practices that are likely to foster respect for the rights of people deprived of liberty can serve as models for other comparable institutions. The administration is requested to implement all useful measures (circulars, technical guides, training, etc.) to make them known and see that they are imitated".

Ministers are therefore requested to implement all useful measures to ensure that the best practices mentioned in the reports are known to and imitated by institutions comparable to the one that is the subject of the report.

In order to help the ministers implement this recommendation, the CGLPL intends to draw up a compendium of the best practices it has observed.

1.3 The declarative nature of follow-up to recommendations

The follow-up to the recommendations as presented here is based on purely declarative statements. Consequently, the ministers' responses should not be considered as validated by the CGLPL.

> During the follow-up to the 2016 recommendations, as presented in the 2019 annual report, the CGLPL had been pleased to receive all the requested responses in due time. This happy time is no more.

Follow-up to the 2017 recommendations was indeed late and incomplete. The ministers had been contacted by letters dated 10 March 2020 and were asked to respond by 31 October.

The Minister of Justice sent the CGLPL the following:

- on 28 December 2020, a complete response concerning juvenile detention centres;
- on 1 February 2021, a complete response concerning penal institutions[44];

On the other hand, he never provided a response relating to the three mental health institutions for which he had been consulted[45].

On 1 February 2021, the Minister of the Interior sent a complete response concerning detention centres for illegal immigrants.

On 27 January 2021, the Minister of Solidarity and Health sent a complete response concerning access to healthcare in penal institutions, and between 5 and 11 February, the response regarding the follow-up of the recommendations for 21 of the 27 mental health institutions visited.

As highlighted in 2019, follow-up to the CGLPL's recommendations by ministers remains a formal exercise, carried out hastily in response to the request and is therefore tedious. The difficulty of this work is merely a symptom of the absence of action plans following the CGLPL's inspections, or in any case of the absence of follow-up to these plans. Follow-up to the CGLPL's recommendations,

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[44] *Response preceded by several partial informal mailings.*

[45] *Psychiatric unit of the Vendôme hospital (Loir-et-Cher), psychiatric unit of the Hénin-Beaumont hospital (Pas-de-Calais), Vinatier hospital in Bron (Rhône).*

although now recurrent, seems to be seen as a surprise, and its annual occurrence does not make it any less unexpected or inconvenient.

> Like in 2019, the CGLPL reiterates that the aim of following up on its recommendations is not to engage in exchanges of information between ministers and an independent government agency; rather it is to evaluate and make public what has been done to change the fate of persons deprived of liberty. This presupposes that, before the formal exercise of following up on the recommendations, these have given rise to action plans decided on and monitored by the ministers.

It is once again asking that procedures be put in place, both to ensure that the CGLPL's recommendations are integrated into the action plans of the inspected units and to guarantee that the responses submitted to the CGLPL match with reality. The work required is comparable to that undertaken in the 2000s to ensure that the performance indicators submitted to Parliament as a schedule to the Finance Act were not a mere exercise in style but actually described a reality.

2. The recommendations made in 2017 regarding penal institutions

2.1 Action taken in response to general recommendations relating to penal institutions

2.1.1 *Recommendations published in the 2017 annual report*

The Minister of Justice indicates that the office of the Prison Administration Department (DAP) monitors, in connection with the internal audit mission, the recommendations made following the inspections. This helps compare the views and analyses of the various bodies and means of internal and external control.

> The CGLPL takes note of this but finds it unfortunate that ministerial responses to its inspection reports are now rare. It repeats the request that these responses explicitly mention the minister's agreement or refusal regarding the recommendations. This mention would also be likely to facilitate monitoring.

In response to the recommendation to observe a small size for the construction of new institutions and extend "trustee wings", the Minister of Justice sets out his strategy for the construction of institutions "in order to reduce prison overcrowding". For remand prisons, barring exceptions, the maximum capacity of these institutions is 700 places and several institutions with less than 250 places have been planned. Despite the significant reception capacity of these institutions, the accommodation wings and units are more suitable and the support services more developed in accordance with the planning guidelines.

He describes the project to build 16 support structures for release from prison (SASs) with a capacity of 180 places that are intended to primarily take in inmates serving short prison sentences.

He also provides for experimental prisons for empowerment and reintegration through employment (InSERRE), also with 180 places.

The SASs and InSERRE prisons operate on a model similar to the "trustee wings", i.e. with an "open door" regime and the creation of several community living spaces.

The CGLPL takes note of these projects, whose operating principles comply with some of its recommendations, but reiterates that prison overcrowding should be reduced not by increasing the number of prison places but by developing alternatives to incarceration.

In response to the request to carry out an epidemiological study of the prison population with regard to mental health issues, the Minister of Justice specifies that a report by the Inspectorate-General of Justice (IGJ) and the Inspectorate-General of Social Affairs (IGAS) on the structuring of mental healthcare provision and the evaluation of the first stage of the programme for Specially Equipped Hospital Units has been submitted to the Government and is being studied by its services. Improving knowledge on the state of health of detainees is listed as an objective of the health strategy for offenders. Longitudinal research will assess the prevalence of mental diseases and comorbidities among male and female detainees upon their arrival in detention. Changes in mental health, symptoms and the risk of suicide during detention as well as the associated factors will also be identified and analysed.

The CGLPL takes note of this.

A protocol has been planned to allow detainees to directly contact the French Emergency Medical Assistance Service in the event of a medical emergency during hours when health units are closed.

The CGLPL takes note of this development but expresses its concern regarding the cumbersome nature of the announced process, which it will assess during its inspections.

The CGLPL had recommended that measures to ensure respect for the dignity of detainees during medical extractions as well as respect for medical secrecy during medical consultations be the subject of a joint circular from the Ministries of Justice and Health; the ministers indicate that rules have been laid down and evaluation methods recommended, in particular in the methodological guide on healthcare for offenders.

The CGLPL takes note of these measures but observes in the field that despite nuanced theoretical evaluations, the measures applied in practice are most often extreme (use of handcuffs, presence of guards in consultation and treatment rooms, parsimonious granting of permissions to leave for medical reasons). It therefore requests that supervision and training measures be taken to guarantee the application of the rules that have been laid down.

The treatment of elderly or dependent people in conditions similar to those they would encounter in free environments is being sought through identification actions and preparation for release which promotes access to medico-social structures; the administration is also promoting transfers to suitable facilities and access to social rights; it is adjusting its infrastructure as much as possible. It can encounter difficulties in mobilising local personal assistance services.

The Minister of Health underlines that measures are being taken to better understand the state of health of offenders, better identify situations of disability, fragility or loss of autonomy among detainees, and help people with disabilities or loss of autonomy access compensatory benefits (personal autonomy allowance and disability compensation benefit).

The CGLPL takes note of these measures but emphasises that in many cases, the continued detention of elderly and dependent persons deprives the sentence of its meaning and recommends that they benefit from suspended sentences on medical grounds in order to be accommodated in medico-social facilities.

In response to the recommendation to provide a legal framework and increase pay for work in detention, to develop and open up vocational training and to create innovative mechanisms allowing detained persons to access a wide range of professional activities, the Minister of Justice indicates that the creation of the Agency for Community Service and Professional Integration (ATIGIP) is pursuing

these objectives. The ATIGIP and DAP are working on changing the legal framework applicable to work in detention and have developed tools for the spinning off of economic activity integration structures. Apprenticeship in detention has been possible since 2019 for all the work activities offered in institutions. From 2021, e-learning training experiments will be launched in several institutions in the fields of cooking and sales.

The CGLPL takes note of these measures, whose development, which now seems promising, it will closely monitor.

In 2020, for the first time, the prison administration organised recruitment competitions for locally assigned guards, created a retention bonus and introduced a provision stipulating that "guards shall remain assigned for a minimum period of two years to the institution where they were first assigned as trainees" as recommended by the CGLPL. These measures are supplemented by communication campaigns to promote the local competitions and reach different audiences, especially those with experience.

The CGLPL takes note of these measures.

The CGLPL had recommended that the possibility of unequivocally identifying each professional involved in the care of persons deprived of liberty be guaranteed by the continuous systematic wearing of a legible identification number; the Minister of Justice indicates that it is necessary that officers who have written professional documents be identifiable, and that in the absence of their name, their identification number shall be mentioned.

This measure does not comply with the recommendation of the CGLPL which again requests that a visible identification number be worn by all uniformed officers.

The DAP describes the simplification of canteen orders through the use of digital technology in detention but does not wish to follow up on the CGLPL's recommendation to experiment in a few institutions with a canteen system based on "in-store" purchases and electronic payment by means of an internal card.

The CGLPL takes note of this.

The Minister of Justice refuses to allow imprisoned persons to resell, donate or lend any of their property, including their computer equipment, after the equipment concerned has been checked and the reasons for this action have been verified, with the exception of book loans or exchanges.

The CGLPL takes note of this.

The Minister of Justice explains at length the measures taken to ensure that detainees who buy a product in the canteen have all the rights with respect to this product and its supplier under civil law and consumer law (proof of ownership, guarantee, transfer right, etc.) and indicates that it will fill in the remaining gaps in future contracts.

The CGLPL takes note of these measures and emphasises the importance of ensuring that prisoners who buy a computer in the canteen are able to benefit from the manufacturer's guarantee after their release by means of an invoice drawn up in their name.

The Minister of Justice reiterates that it is up to the head of the institution and not, as the CGLPL recommended, the sentence enforcement judge to assess *in concrete terms* the expenses required for permissions to leave.

The CGLPL takes note of this.

Cash assistance (amount and ceiling for resources taken into account) for people without sufficient financial resources is currently being reassessed. The Minister of Justice reiterates in this regard that during the first health lockdown, an exceptional telephone package was credited to all detainees, who also benefited from free access to voicemail and television.

> The CGLPL takes note of this and hopes that in this context, the situation of foreigners without social rights will be specifically examined.

Between 2017 and 2020, 49 family living units (UVFs) and 57 additional family visiting rooms were fitted out. Sixty-three penal institutions now have at least one of the two arrangements. All new buildings will also be equipped with UVFs or family visiting rooms.

> The CGLPL takes note of this.

Recognising that the physical separation caused by detention and the upheavals in the child-parent relationship and the relationship between the child's parents often complicates the exercise of this parental authority, the Minister of Justice indicates that the administration is implementing actions aimed at reducing these difficulties. Some examples of these are consultations provided by specialised professionals, the provision of information by the SPIP on possible legal procedures in the event of difficulty in asserting one's rights, the possibility of direct delivery or mailing of documents related to family life, family mediation schemes, "mediated" visiting rooms, support groups relating to parenthood, and special financial support for projects linked to the maintenance of family ties. He also reviews the existence of dedicated wings that take in young mothers detained with their children under 18 months of age.

> The CGLPL takes note of these measures.

The phone system in cells announced by the Minister of Justice in his 2017 response to previous CGLPL recommendations is being rolled out. It is supplemented by a video communication system that is also being deployed.

> The CGLPL takes note of this.

For more than 10 years, the partnership with the Red Cross has facilitated the organisation of a free, anonymous and confidential phone line. A comparable line has been tested with the association Petits Frères des Pauvres (Little Brothers of the Poor). However, the physical meetings with these associations recommended by the CGLPL have not been planned.

> The CGLPL takes note of this.

Controlled access to the Internet and the use of email for detainees are not provided as part of the Digital in Detention plan. This is limited to the objectives of improving service quality by making detainees and their relatives more independent in their requests (canteen modules, queries, etc.) and helping detainees prepare for their release by providing new services such as access to educational modules. The ban on Internet access also applies to minors.

> Without disregarding the great value of the "Digital in Detention" project, the CGLPL once again recommends providing detained persons with controlled access to the Internet.

Regarding the right to collective expression, the consultation mechanism in place in 2017 gave rise to approximately 1,050 detainee consultations compared to 688 in 2015, i.e. 632 additional consultations. Moreover, out of 183 penal institutions, 142 carried out at least one consultation of the prison population during the year. Specifically concerning minors, the prison administration coordinates, in collaboration with the Judicial Youth Protection Service (PJJ) and the national education system, consultations within the framework of Article 29.

The CGLPL takes note of these developments and hopes that they will continue.

The Minister of Justice affirms that intercom systems are systematically installed in new institutions and that investment operations also help equip older institutions depending on the technical feasibility of the operation.

The CGLPL takes note of this but repeats its alert regarding the malfunctioning of a large number of existing intercom systems.

In order to compensate for the shortcomings of certain Citizens' Advice Centres, the DAP provides training aimed at giving Prison Rehabilitation and Probation Counsellors and Directors practical and operational information regarding legal and administrative procedures.

The CGLPL takes note of this.

The CGLPL recommended ensuring that the provisions of the rules of procedures are compatible with library access for all, in particular prisoners who work and those who are placed in solitary confinement wings (QIs) or punishment wings (QDs). The Minister of Justice reviews the regulations applicable to the various situations and specifies in particular that detainees accommodated in QIs and QDs, although they cannot go to the media library, retain access to reading: they can be given books kept in the cell or in their locker room, or be offered a choice of books and newspapers or periodicals from a catalogue in the media library.

The CGLPL takes note of this.

The Minister of Justice indicates that women prisoners who wish to implement a medically assisted reproduction project can be supported by health units, which organise the necessary extractions and hospitalisations.

The CGLPL takes note of this.

The use of GENESIS for the traceability of requests is becoming widespread; the Digital in Detention project will supplement this functionality with the direct recording of requests by detainees.

The CGLPL takes note of this.

The prison population's need to access copies is evolving into the need to access a digital space for submitting documents. This topic will be examined as part of the Digital in Detention project.

The CGLPL takes note of this.

Detained foreigners may use their mother tongue, within the constraints of the security checks carried out when correspondence is exchanged. The digital portal will be available in French, English, Arabic, Romanian, Spanish and Portuguese. Ultimately, educational content in foreign languages will be directly available on the portal. Regarding practices that comply with the customs of countries of origin, no instruction prohibits them, subject only to the good order and safety of institutions.

The CGLPL takes note of this.

The DAP is conducting a reflection on experiments such as an interpreting contract or even the provision of translation tablets in order to avoid the use of fellow prisoners as interpreters. It has a telephone interpreting contract. Many documents are available in several languages. In addition, the DAP regularly carries out surveys on foreign detainees; the last assessment was undertaken in 2017. A nationwide survey is currently under way. This review will lead to the proposal of measures to improve the treatment of foreigners.

The ongoing survey will enable protocols, whether formalised with prefectures or not, to be assessed; the lessons learned will help support decentralised services in the signing of these protocols.

As part of the partnership between the DAP and the Cimade, a guide on the rights of foreigners intended for Prison Rehabilitation and Probation Counsellors (CPIPs) and prison staff was distributed in 2018 then updated in November 2019. This will be integrated into the initial training of CPIPs.

The CPIPs take all useful measures to concretely facilitate parole, subject to voluntary return.

The CGLPL takes note of this.

The Minister of Justice refuses to modify the Circular of 27 March 2012 on the relations of detainees with their defender on the grounds that it excludes foreign lawyers who are not nationals of the European Union, a State party to the European Economic Area agreement or the Swiss Confederation from the principle of free communication with their clients. He considers that it merely implements the Decree of 27 November 1991 organising the profession of a lawyer which states that the conditions for practising the profession of lawyer in France require being a member of a French bar association.

The CGLPL takes note of this.

2.1.2 *Recommendations from the thematic report on "Staff in places of deprivation of liberty"*

The CGLPL recommended that the reference staff of institutions be established in line with the actual workload of the officers, taking into account the actual occupancy of the premises and not their theoretical capacity and integrating the number of ancillary tasks, in particular their simultaneity. The Minister of Justice considers that the reference organisation chart is fixed and is not based on the random size of the prison population. The DAP's recruitment authorisations are based on the need to fill job vacancies and open new structures.

The CGLPL takes note of this response and asks that the next logical step be taken: limit the number of people in detention to the accommodation capacity of institutions.

The Minister of Justice indicates that reference staff are established based on the identification of all the positions and functions necessary for the safety, integration or reintegration of detainees, the safety of personnel, and the proper execution of the other missions of penal structures.

The CGLPL takes note of this response and asks that the next logical step be taken by reviewing the reference staff of those institutions whose organisation charts were reduced from the outset to take into account supervision productivity gains and which remain structurally understaffed.

The Minister of Justice indicates that absenteeism is taken into account when calculating the number of reference staff and that measures are being taken to reduce absenteeism.

The CGLPL takes note of this.

To counter the risk of staff settling into routine, the DAP organises continuous training, whose principles were renewed by a Circular of 22 November 2018 relating to the common training base for surveillance staff with regard to security.

The CGLPL takes note of this.

Initial training for prison administration staff systematically covers elements related to the status and rights of detainees. For CPIPs, this translates into a module that aims to integrate into their positioning the characteristics of the public taken in and, in particular, anchor their professional practice

in respect for human rights. For prison guards, it translates into sequences linked to professional positioning in a legal and ethical framework.

The CGLPL takes note of this.

The CGLPL recommends that professionals whose activity includes a security mission in contact with persons deprived of liberty benefit from training (compulsory and regularly updated) in the prevention of violence and the management of violent acts. The Minister of Justice responds to this recommendation by stressing the importance of security measures and specifies that modules related in particular to the prevention of violence and suicide prevention are offered in the context of initial and continuing training. Training focuses on topics such as non-violent communication, stress management, and providing feedback. These training sessions are often part of inter-regional plans to combat violence (and combine theoretical phases and simulation exercises).

Adherence to the code of ethics is also an objective of training. The Circular of 22 November 2018 relating to the common training base for surveillance staff with regard to security stipulates that officers in the sector must undergo at least five days of training per year in order to maintain their skills and knowledge relating to various topics including ethics. The DAP's internal audit mission (MCI) is finalising a methodological guide on its role as "guarantor of the ethics of prison staff" (reporting, training, leadership, identification of best practices, etc.).

The obligation to report failures to respect fundamental rights, reiterated in the code of ethics, is one of the lessons taught in initial training and during continuing education.

Lastly, the MCI is a control tool for this code of ethics: "Through its internal audit mission, it monitors and assesses the operation and performance of the decentralised services and the National School of Prison Administration, in conjunction with the Inspectorate-General of Justice. It sees that risks likely to affect their missions, objectives and operational activities are controlled. It provides them with advice and expertise. It is the guarantor of ethics for the officers of the public prison service".

The CGLPL takes note of this. It recommends implementing this training on a large scale, regularly coming back to it as part of continuing education, and effectively monitoring the acquisition of the skills which result from it.

The CGLPL recommended that authorities ensure that disciplinary policies do not have the effect of systematically giving precedence to security measures over respect for fundamental rights and that surveillance is seen not as a performance obligation but rather as a best-efforts obligation that officers have satisfactorily fulfilled when they have reasonably assessed the risks associated with a person's behaviour and taken appropriate measures, even if an incident occurs.

The Minister of Justice indicates in response that "The prison administration ensures that sanctions taken against prison guards who engage in violence are quickly pronounced and executed; prison guards are persons vested with public authority and as such, punishment for the violence they commit is aggravated because of their status".

It is regrettable that the Minister of Justice does not specify the nature of the obligation imposed on prison staff (best-efforts obligation or performance obligation).

The CGLPL recommended that a specially trained "fundamental rights adviser" be appointed in all places of deprivation of liberty; this adviser would be responsible for answering questions from professionals, helping them to assess situations, advising the head of the institution and ensuring that all necessary measures are taken. The Minister of Justice indicates that the structures of the central administration are responsible for responding to independent government agencies and that training in ethics is provided to all officials in schools.

These certainly commendable measures do not compensate for the absence of identified officials in each institution responsible for ensuring that fundamental rights are respected. The CGLPL therefore repeats its recommendation.

In response to the recommendation to set up a mediation function, organised in a manner tailored to each situation, the prison administration indicates that it has taken measures intended to develop communication and make sure staff are listened to, in order to prevent incidents and maintain security in prisons. In particular, it cites a training guide on dynamic security used by the ENAP. It also mentions several initiatives intended to ease tension in prison: respect modules, peer-support prisoners, facilitators, collective expression, relational mediation, restorative justice, etc.

The CGLPL takes note of these measures.

The Minister of Justice indicates that he ensures that a multidisciplinary approach to the care of persons deprived of liberty is promoted in the initial and continuing training of all the professionals who take part in it.

The CGLPL takes note of this.

The CGLPL recommended that associations and professional orders exercise vigilance in terms of ensuring that the fields of competence of each profession intervening in places of deprivation of liberty are respected, in order to avoid any ambiguity in accordance with its own ethical rules and, in return, that the operating procedures of places of deprivation of liberty be systematically adapted to organise multidisciplinary cooperation.

The Minister of Justice indicates that particular attention is paid to making information understandable so that everyone's ethical principles are respected; he states that the MCI's various control points such as the management of the single multidisciplinary committee (CPU), the provision of healthcare and the intervention of lawyers ensure the multidisciplinary nature of procedures.

The CGLPL takes note of this.

In response to the recommendation to organise collective training in places of deprivation of liberty, the Minister of Justice indicates that this is the role of the hierarchy and is developed in the form of tutoring or mentoring as well as through feedback.

The CGLPL takes note of these useful measures but stresses the advisability of setting up real lessons in collective behaviour which is not the same as the sum of individual behaviours.

In response to the CGLPL's recommendation, the Minister of Justice indicates that a 2018 circular relating to the common training base for surveillance staff with regard to security emphasises the importance of feedback. A list of significant incidents is published on a regular basis and serves as an educational medium for the development of training actions to analyse the context of each incident and how it was handled. The analysis of practices therefore provides input for both the initial training and continuous training of officers.

The CGLPL takes note of this.

Since 2016, the funds spent on the maintenance of penal institutions have increased. While they represented a budgetary volume of less than €100 million per year, they have amounted to nearly €130 million/year for the past four years.

The CGLPL takes note of this but observes during its visits that this effort remains insufficient.

In response to the CGLPL's recommendation to ensure that rest periods are organised in suitable facilities and that night shifts are closely monitored, the Minister of Justice indicates that penal

institutions have rest rooms and that night work shifts consist of work and rest sequences guaranteeing maintenance and knowledge of positions, vigilance and break times.

The CGLPL takes note of this.

The CGLPL recommended prioritising the handling of violence from the point of view of prevention and to do so, combining measures intended to prevent work overload with passive security systems; the Minister of Justice cites various examples of work carried out by the DAP. Its main objective is to promote the evaluation of prisoners, develop an individual approach that further empowers them, steer management methods towards a system of autonomy more conducive to reintegration, and position prison staff as real stakeholders by mobilising their experience and their knowledge of the prison population.

The CGLPL takes note of this.

In response to the recommendation to develop supervision, the Minister of Justice indicates that 66 staff support psychologists facilitate the work of prison officers in an anxiety-inducing context. This system is reinforced by a social telephone scheme that has been available to officers since 1 June 2013. It offers psychological support to staff experiencing situations that generate malaise at work. It is made up of clinical psychologists. These measures were reinforced during the 2020 health crisis.

2.2 Specific recommendations relating to penal institutions

In 2017, the CGLPL visited eight prison complexes[46], one long-stay prison[47], one detention centre[48], nine remand prisons[49], one prison for minors[50] and one open prison[51]. The Minister of Justice provided the actions taken in response to the recommendations relating to these institutions; a detailed presentation can be found in Appendix 4.

The CGLPL is delighted that, as it has repeatedly requested, new tools have been integrated into GENESIS to improve knowledge of the prison population.

The CGLPL finds it unfortunate that the Minister of Justice does not seem to realise the extent of his powers. Indeed, he responds to several recommendations as if he only had authority over the prison administration. Thus, with regard to prison regulation, the use of open regimes and the conduct of Assessment Boards, he merely indicates that these are matters for the judicial authority without manifesting any intention to take over the files.

None of the CGLPL's recommendations relating to telephone access will be dealt with on the following pages: indeed, between 2017 and 2020, telephones were deployed in cells, so that the recommendations made as part of the old system are no longer relevant.

The CGLPL also draws the Government's attention to the following points.

2.2.1 *Overcrowding*

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[46] *Beauvais (Oise), Caen (Calvados), Ducos (Martinique), Rennes-Vezin (Ille-et-Vilaine), Riom (Puy-de-Dôme), Toulouse-Seysses (Haute-Garonne), Valence (Drôme) and Vendin-le-Vieil (Pas-de-Calais).*
[47] *Saint-Martin-de-Ré (Charente-Maritime).*
[48] *Uzerche (Corrèze).*
[49] *Agen (Lot-et-Garonne), Amiens (Somme), Bayonne (Pyrénées-Atlantiques), women's remand prison of the Fresnes prison complex (Val-de-Marne), Rochefort (Charente-Maritime), Saintes (Charente-Maritime), Strasbourg (Bas-Rhin), Troyes (Aube) and Villepinte (Seine-Saint-Denis).*
[50] *Porcheville (Yvelines).*
[51] *Gagny (Seine-Saint-Denis).*

The recommendations relating to prison overcrowding, which in 2017 heavily penalised the treatment of people detained in remand prisons, gave rise to optimistic responses at the end of 2020 because the management of the prison population during the health crisis had reduced this overcrowding for a while. However, this situation should not be over-interpreted, on the one hand because it was short-lived and is fading considerably at the time of writing this report (the prison population started to rise again in September and increased by around 1,000 per month in the last quarter of 2020, and this trend has continued into the beginning of 2021) and on the other hand because the measures taken to reduce the prison population did not in fact concern all institutions, some of which have never experienced an occupancy rate below 150%.

For example, one of the institutions visited in 2017 still rules out any possibility of individual cells; an inter-regional directorate is experiencing such difficulties that it cannot stop making clearance transfers to institutions that are already overcrowded; and almost everywhere, beds are arranged in excess to avoid having mattresses on the floor.

Very few initiatives are being taken to bring the situation under control. One institution indicates that a prison regulation protocol aimed at controlling flows is being drafted between the judicial authorities, the Prison Rehabilitation and Probation Service and the management of the institution. One prison for minors reports an interesting initiative: it sends all the courts that refer minors to it a document entitled “STOP ECROU” when the number of prisoners exceeds 54.

2.2.2 *Personal safety*

Deprivation of liberty leads to a situation of dependence which alone makes the detained person vulnerable. It is therefore up to the administration to put in place the necessary measures to protect detainees from all forms of violence.

In this area, a few initiatives can be identified. For example, measures to prevent addictions or fight against items being thrown into prisons have been taken to limit trafficking, and a partnership with the justice and police services has been put in place; elsewhere, the individual control of passes, carried out every Sunday, is an opportunity to hold individual interviews which help detect any mistreatment taking place within the dormitory cells. In one prison for minors, the desire to limit interpersonal aggression has led it to modify circulation to limit verbal aggression and the splashing of liquids and also to toughen the disciplinary policy and make it easier to resort to legal proceedings.

Two more serious situations should however be mentioned: two prison complexes – Rennes-Vezin and Beauvais – marked by a "climate of violence" which led the CGLPL in one case to contact the Minister of Justice to request an intervention from the Inspectorate-General of Justice without this giving rise to a response, and in the other case to recommend strong measures to put an end to the inappropriate behaviour of certain professionals which was propagating a poisonous atmosphere.

In both cases, massive training measures seem to have been taken, and working groups have been implemented aimed at harmonising and reviewing the professional behaviours that generate the most disputes. However, the information received by the CGLPL regarding these two institutions does not suggest that the situation has been completely resolved. A new inspection the Beauvais prison complex was necessary in 2020.

The CGLPL reminds the Minister of Justice that it is his responsibility to ensure the safety of offenders; it deplores that the inspection measures it recommended in 2017 have not been taken and invites the Minister of Justice to personally ensure that the climate of violence observed in the Rennes and Beauvais prison complexes is improved.

2.2.3 *Means of restraints and searches*

During each of its inspections, the CGLPL makes recommendations aiming to ensure that means of restraint and intrusive control measures (full-body searches) are only used in compliance with the principles of legality, necessity and proportionality. Indeed, although prisoners are in theory classified into four escort levels, from weakest (accompaniment without means of restraint) to strongest (with handcuffs, shackles, prison escort and police escort) and the search regime is governed by legal provisions, the CGLPL noted in 2017 that the use of means of restraint was in practice the norm, in particular due to the systematic review of the escort level on the eve of an outing, and that the rules relating to searches were not well known, in particular because of vague motivations or initiatives poorly controlled by management.

The responses to the CGLPL's recommendations are reassuring in tone but evasive in reality, so that it is difficult to assess their reality. For example, it is asserted without any quantified data that restraint is managed in accordance with the regulations, that the escort levels of detainees are periodically reassessed, and that the methods of using means of restraint for pregnant women and during gynaecological examinations have been reviewed; elsewhere it is stated that escort levels are revised prior to any outing of a detained person and following Assessment Boards granting permissions to leave or additional sentence reductions; one institutions states that "the majority escort level is that of escort 1".

Sometimes shortcomings remain in the management of internal regulations; for example, it is said that "no memorandum has yet defined the levels of escort or how they are defined, but its drafting is one of the priorities listed on the roadmap of the new head of institution".

However, no institution has given any figures for assessing the proportion of detainees classified in each escort level or, above all, the means of restraint actually applied during outings: it is indeed not uncommon for detainees for whom no outing is scheduled to be classified in the "escort 1" level and for this level to be raised when an outing needs to be made. Only one of the institutions visited in 2017 indicated that a "note dated 1 February 2019 provides for the possibility, for detainees benefiting from permission to leave, of not using means of restraint in the context of a medical extraction" and stated that "because of their age or their criminal situation, certain detainees do not have to wear restraints". Even the prison for minors, in response to the CGLPL's criticism relating to the systematic wearing of handcuffs and sometimes shackles during medical extractions, reviews some theoretical principles without taking the trouble to affirm that it complies with them.

> The CGLPL calls for the identification not only of the escort levels theoretically applicable to each detainee but also of the nature of the revisions decided on the eve of outings and the measures of restraint actually implemented. It also reiterates the principle according to which no means of restraint should be applied to people who have voluntarily returned to the prison following an outing or during their incarceration.

With regard to searches, the responses received are comparable in terms of their general tone. Reference is made to internal memos, "compliance with regulations", "training measures", "a new framework for abusive practices", "awareness-raising on professional practices", regulatory equipment, renovation, and even the creation of search rooms. Concerning cell searches, which one institution indicates are still carried out in the absence of prisoners and staff, another institution mentions a good practice: the taking of photographs during cell searches carried out by officers from the local support and control team (ELAC). However, it remains worrying that the prison for minors is not seeking to limit the use of searches but is opening additional search rooms and is planning to open others still, because that which was designed when the prison was created has become insufficient. Similarly, one can wonder about the fact that in one open prison, no justification is given for the significant gap between the number of full-body searches carried out and the number of offences observed, without any conclusions seeming to have been drawn.

In general, we cannot be satisfied with the fact that the administration, in the name of "compliance with the regulations", i.e. the principle of legality, whose formal nature cannot be ignored, has not put into place any quantitative or qualitative indicators relating to the reality of its practices that would help assess compliance with the principles of necessity and proportionality which determine no less than the correctness of the restraint measures implemented.

> Restraint measures of any kind (handcuffs, shackles, body searches and cell searches) are serious attacks on the dignity of detainees; they can be cumbersome and therefore have the effect of making necessary measures such as medical extraction impossible, and therefore of undermining people ' s physical integrity.
>
> The correctness of these measures is subject to compliance with three complementary principles: legality, necessity and proportionality. It is up to the administration to demonstrate that it complies with these principles and put in place the necessary indicators for this purpose.

2.2.4 *Discipline*

Several CGLPL recommendations concerned the possibility of viewing video recordings of the events examined by disciplinary committees in order to strengthen respect for rights of defence. While one institution indicates that "video surveillance is systematically made available to the members of the disciplinary committee and that it is up to the disciplinary committee to make the recordings available to the detainee or their lawyer, except if their viewing is likely to jeopardise public or personal safety", another refuses, without explanation, to systematically present recordings of the events under investigation to the disciplinary committee.

> Video recordings of the events giving rise to an investigation by the disciplinary committee should be systematically presented to this committee.

2.2.5 *Access to healthcare*

The accessibility of healthcare in the institutions inspected in 2017 came up against a few well-identified difficulties: medical and paramedical staffing, both for somatic care and for mental health, the difficulty of scheduling medical extractions and their frequent cancellation, and admission difficulties in Specially Equipped Hospital Units (UHSAs).

Three years later, the demographic difficulties observed have only been resolved in a very few cases, even though some improvements have been made. Several institutions do not report any progress, or describe a lack of applications for advertised jobs, and deplore that the lack of staff still makes certain procedures impossible. Sometimes, partial adjustments are mentioned, for example "the recommended increase in medical staff has not taken place, but dental care has been improved". Others indicate that "the provision of psychiatric care within and outside the prison has been reinforced. Upon their release, detainees with psychological problems are systematically given the option to be monitored in a mental health centre (CMP) near their future place of residence". Elsewhere, the waiting time for a meeting with psychologists has been reduced from six months during the inspection to one to two months, but nothing is said about waiting times for an appointment with the psychiatrist. In some cases, we can note a real deterioration of the situation: "the home nursing care service (SSIAD) no longer operates in the prison, despite repeated attempts to follow up with it. A partnership project is under way with a local health centre".

The developments that have taken place with regard to extractions are very contrasting. In one of the inspected institutions, the CGLPL had requested an analysis of the reasons for cancelling medical extractions which, three years later, is still in progress without having produced any results worth mentioning. One institution states that it has been provided with an additional vehicle, dedicated to medical extractions, and that no extractions have since been cancelled due to lack of a vehicle. On the

other hand, in another institution, the number of vehicles available for extractions has been reduced and will not be increased before 2022 due to the cost of this measure; it therefore remains insufficient. In yet another, the number of cancelled medical extractions has decreased due to planning efforts, but cancellations can still occur because there is only one vehicle to perform them. Elsewhere, it has not been possible to increase the means devoted to medical extractions, but telemedicine applications are being set up.

Telemedicine, for which the CGLPL also issued recommendations, seems to be a serious avenue to explore for improving access to healthcare. It is promoted at national level and, for example, in one of the institutions inspected in 2017, it concerns orthopaedics, dermatology, pre-anaesthetic consultations, infectious diseases, and general medicine. Another institution hopes to develop telemedicine for anaesthesia consultations in order to limit pre-hospitalisation extractions.

Access to UHSAs continues to be difficult: one of them persists in being reluctant to receive prisoners from a long-stay security prison in the event of danger or a violent act and, for another, the analysis of cases of denied admission recommended by the CGLPL has not been carried out.

The Minister of Health did not fail to emphasise, for many institutions and using the same language, that he "remains vigilant as to respect for medical secrecy". This constant repetition underlines, more than it hides, the difficulty of making progress in this area. The presence of guards during consultations and care remains very frequent, sometimes even with the consent of nursing staff, or even at its request. The prison administration almost systematically indicates that surveillance during care is individually tailored to the profile of each prisoner but observes that “the near-systematic removal of means of restraint leads to constant surveillance in medical sectors that are rarely secure”. Only one institution states without further explanation that "guards now seem to be present during consultations on an exceptional basis, as deemed necessary in light of the circumstances and the detainee’s profile". In one case, it is indicated that "information and awareness-raising for hospital practitioners on the provision of healthcare to prisoners, recommended by the CGLPL, have not been put in place, but a national consultation seems to be under way to promote mutual understanding between institutions”.

> The CGLPL reiterates the terms of its opinion of 16 June 2015 on the treatment of detainees in healthcare institutions: “respect for medical secrecy is a right for patients. Pursuant to Article R.4127-4 of the Public Health Code, it constitutes an absolute duty for doctors, for whom it is an obligation. The CGLPL recommends that doctors be reminded of their legal and ethical obligations in this respect. Therefore, the CGLPL recommends that medical consultations take place without the presence of an escort and that supervision be indirect (out of sight and hearing of the detained patient) […] the number of extractions of detainees for the purposes of transfers to local health facilities is too high and could usefully be reduced by increasing the use of telemedicine or by adopting measures to encourage specialists to travel to penal institutions".

2.2.6 *Work and activities*

In 2017, many recommendations related on the one hand to the labour supply and on the other to the pay conditions of workers.

With regard to the labour supply, the situation does not seem to have changed much despite the prospecting undertaken; the necessarily marginal creation of general service jobs sometimes compensates for the difficulties encountered. The situation of women prisoners is even more worrying than that of men: in some places, they have lost all possibility of receiving vocational training; in others, any opportunities for work in workshops have disappeared.

On the other hand, the issue of measuring work hours and calculating pay seems to have progressed. One institution indicates that the deployment of GENESIS, the effective recording of working time for selected prisoners and the verification of individual situations by the head of prison

labour limit errors; another states that workers' wages have been raised and are now above the regulatory thresholds. Sometimes, general service is also affected by these advances. However, some shortcomings still remain: for example, hourly payment is still not generalised, so that the time slots devoted to the return of dangerous objects can lead to an unjustified loss of pay; or else detainees are still not involved in the determination of work paces and the compensation system has not, despite the CGLPL's recommendations, been adapted for people with low productivity. In some places, the creation of the Agency for Community Service and Professional Integration for offenders serves as an argument to justify the lack of follow-up to a CGLPL recommendation.

Lastly, we can note an interesting practice: the delivery of job descriptions to workers and, at the end of the work period, the issuance, on request, of a work certificate.

2.2.7 *Identity documents and residence permits*

In 2017, many institutions experienced difficulties in providing the people they were accommodating with official documents, identity documents and residence permits. This situation was a serious disadvantage for the exercise of various rights and above all for reintegration.

According to the information provided as follow-up to the recommendations, the situation has improved overall.

Protocols with prefectures have been signed and provide a clearer view of the administrative situation of detainees once they have been incarcerated; the banal but significant material obstacle of taking identity photos has been removed; the SPIPs are sometimes in charge of acting as a liaison between the detainee and the prefecture; elsewhere this role falls on the Cimade, and elsewhere still, an employee from the prefecture travels to take care of it. The various measures taken seem to have resolved the difficulties observed in 2017 fairly well, although a few black spots remain: one institution reports that despite the adoption of an agreement, processing times have thus far prevented a file from moving forward before the release of the person concerned, and another indicates that a protocol on the treatment of foreigners was signed with the prefecture in 2019 but states that there is not yet any specific provision for the management of residence permits.

> The CGLPL recommends that the Minister of Justice and the Minister of the Interior draw up a list of the good practices implemented to guarantee access to official documents for detainees; it advises them to refer to this list to resolve persistent difficulties once and for all.

2.2.8 *Release*

Continuity of support upon release from prison gave rise to many recommendations. These covered issues relating to civil status, social protection, continuity of care, work and accommodation. Many initiatives have helped address these difficulties:

- welcome booklet containing information about local accommodation options for outgoing prisoners;
- outgoing prisoners' wing developing appropriate activities;
- agreements with local partners: municipal centre for social action, departmental council, residence for the elderly and Secours Catholique;
- anticipation of the steps necessary for payment of the active solidarity income;
- organisation of housing solutions and human support;
- collaboration with Pôle Emploi and creation of a local integration committee;

- search for arrangements favouring a better balance between vocational training and education;
- “releasable prisoner” meetings in the presence of the Prison Health Unit (USMP), now with an extended multidisciplinary scope in the form of CPUs;
- certification of pre-release processes in terms of administrative, healthcare and medical coverage documents, accommodation or housing, and training.

However, all of these good practices can only be fully effective if they are covered by a comprehensive and coherent plan and if permitted by the economic and social environment of the institution; these two conditions are seldom met.

Lastly, it should be noted that several institutions reported difficulties in having psychiatric assessments carried out in situations where this prerequisite is essential for the granting of permissions to leave or sentence adjustments.

3. The recommendations made in 2017 regarding mental health institutions

3.1 Action taken in response to general recommendations relating to mental health institutions

3.1.1 *Recommendations published in the 2017 annual report*

The Minister of Solidarity and Health expresses his desire to use the CGLPL’s reports to guide the thinking of the central administration and, if necessary, set new work priorities.

In response to the CGLPL’s recommendation to strengthen educational work on the rights of patients placed in involuntary care and the organisation of their daily lives, the Minister of Health indicates that a guide entitled "Promoting and upholding the rights of healthcare users" was posted online and that specific measures were taken during the health crisis. He specifies that many institutions have launched discussions on freedom of movement and, more generally, on freedoms of daily life, but regrets that references are lacking. A "patients’ rights" sub-committee within the new National Committee for Psychiatry will also work on this topic.

The CGLPL takes note of these measures and invites the Ministry to read its *Minimum recommendations for respecting the dignity and rights of persons deprived of liberty*.

The Minister of Health indicates that he supports the recommendation to overcome the position of refusal adopted by certain prefectures to grant authorisations for short-term leave to patients.

The CGLPL is encouraged and asks, as stated in its recommendation, that the Minister of Health prompt an interministerial discussion with a view to defining a common doctrine on this point.

The CGLPL’s recommendation that a legal remedy be put in place against decisions to place patients in seclusion or under restraint has been implemented, despite the Government’s apparent reluctance, thanks to Decision no. 2021-844 of 19 June 2020 of the Constitutional Council, translated into law by Article 84 of the social security finance law for 2021 amending Article L.3222-5-1 of the Public Health Code. Implementing these new provisions hinges on the strengthening of communication

and training, which are an integral part of the support plan for institutions that will be deployed in the coming months.

> The CGLPL will be vigilant regarding the conditions in which the new measures are applied (see Chapter 1 above).

The CGLPL had expressed its wish to be consulted regarding any draft information documents intended for patients placed in involuntary care; the Minister of Health indicates that, despite the absence of a legal obligation to do so, it involves the CGLPL and its teams in discussions on the topic as much as possible.

> The CGLPL welcomes this but regrets that no draft information documents have been produced since this recommendation.

The strengthening of units providing permanent access to health care (PASS) in psychiatry was covered by a *Ségur de la Santé* measure at the end of 2020.

> The CGLPL takes note of this.

In response to the recommendation to develop an action plan on the rights and freedoms of involuntarily hospitalised patients that would go beyond simple freedom of movement and encompass all aspects of their interpersonal and daily lives, the Minister of Health replies that involuntary psychiatric care is the general rule and that it encourages institutions and all stakeholders in this field to extend rights and freedoms so as to encompass all aspects of an individual's interpersonal life and daily life (right to an intimate and sex life, digital access, telephone, etc.).

> The CGLPL reiterates its recommendation aimed at the new National Committee for Psychiatry.

The recommendation to evaluate the measures taken to inform people with mental disorders and those around them and to involve families in treatment did not give rise to any specific response.

> The CGLPL repeats its recommendation.

3.1.2 *Recommendations from the thematic report on "Staff in places of deprivation of liberty"*

The Minister indicates that 13 of the 15 recommendations on staff training made by the CGLPL during the 2017 inspections have been implemented. For nurses, the training plans provide for specific training in psychiatric care, particularly concerning individual freedoms, patients' rights and respect for privacy. They will be adapted following the implementation of the new legislation governing seclusion and restraint practices. As part of the new National Committee for Psychiatry, specific support will be provided to institutions to help them comply with the new legal obligations, in particular through the strengthening of training.

In 2019, an advanced practice nurse training programme with a specialisation in psychiatry and mental health was created. It aims to improve access to mental health and psychiatric care through a better distribution of procedures between nurses and doctors to better meet the healthcare needs of patients.

Concerning the initial training of doctors, the commitments of "Ma santé 2022" advocate an increase in the number of mental health internships during the third cycle of general medicine studies so that ultimately, all general practitioners have had experience in the fields of psychiatry and mental health.

> The CGLPL takes note of these measures and will be particularly attentive to the content of the training programme for advanced practice nurses with regard to patients' rights.

The CGLPL had recommended that the reference staff of institutions be established based on the actual workload of officers, taking into account the actual occupancy of the premises and not their theoretical capacity and integrating the number of ancillary tasks, in particular their simultaneity; the Minister of Health indicates that he published recommendations in September 2020 to "anticipate tensions in human resources and the impact of the epidemic rebound on working conditions" and plans to delegate additional appropriations in 2021 to allow additional staff to be recruited in involuntary care units. This last measure is linked to the implementation of new measures governing seclusion and restraint.

The CGLPL considers these measures to be insufficient in view of the current situation in psychiatry, which seems to have deteriorated since 2017. It draws the attention of the National Committee for Psychiatry to this point.

In order to combat high absenteeism, the Minister of Health took advantage of the 2020 health crisis to highlight the importance of quality of life at work for the staff of mental health institutions.

The CGLPL doubts that these measures are sufficient to deal with the deteriorating working conditions of nursing teams.

In order to prevent the risk of the least mobile officers settling into routine, the Minister of Health implements various training actions.

There are many training courses on the prevention of violence and the management of violent acts, and these courses are promoted. With regard to ethics, the Minister indicates that he “supports the idea of an open body in government agencies for this purpose”.

The CGLPL takes note of this support and invites the Minister of Health to take the necessary measures to translate this orientation into action.

There is currently no “fundamental rights adviser”. However, in order to best ensure respect for users’ rights, the Ministry of Health wishes to encourage good practices relating to patients’ rights in institutions and it was for this reason that it launched the label-competition on the “rights of healthcare users” which identifies and promotes good practices in the ownership of rights by professionals in the health, medico-social and social sectors.

The CGLPL repeats the recommendation to appoint a trained “fundamental rights” adviser in each institution taking in persons deprived of liberty.

In order to offer mediation in all public health, social and medico-social institutions, the Ministry of Health, by its order of 30 August 2019 "approving the mediation charter for the staff of public health, social and medico-social institutions”, has set up a national mediation system.

There are multidisciplinary training courses which also aim to promote collective learning; therefore, training is provided by relay trainers within teams.

Ethics committees are being rolled out; this will encourage practices to be analysed.

The CGLPL takes note of these measures.

In response to the recommendation to improve working conditions, the Minister indicates that 45 of the 73 recommendations made on this topic in 2017 during the CGLPL’s inspections have been implemented. In addition, an investment effort aimed at authorised psychiatric institutions should make it easier to maintain them.

The CGLPL takes note of this.

In order to prevent acts of violence, the National Observatory of Violence in Healthcare (ONVS) develops and disseminates tools and best practices and encourages the coordination of stakeholders in the field. The health crisis has raised awareness of the importance of psychological support for officers. This is why, in its recommendations of 8 September 2020, the Ministry of Health asked for the creation of a telephone helpline and the provision of psychological support to officers.

The CGLPL recommends making these measures permanent.

3.1.3 *Recommendations from the thematic report on "The fundamental rights of minors in mental health institutions"*

Several political plans set the objective of improving the care of children with a view to maintaining family ties.

Two calls for projects aim to strengthen the provision of psychiatric care for children and adolescents in the least endowed areas in order to also guarantee, when necessary, that adolescents are hospitalised in child and juvenile psychiatry and not in adult hospitalisation units. The deployment of coordination and orientation platforms for children with neurodevelopmental disorders and their extension to 7-12-year olds supplement them. Hospital-university positions have been created to this end and measures have been taken to develop research in child psychiatry. The Government would like for there to be at least one professor of child and adolescent psychiatry in each training and research unit (UFR), in order to improve the training of psychiatrists in the care of minors and develop access to the child and adolescent psychiatry option to increase the number of child psychiatrists.

The CGLPL takes note of these measures and will be particularly attentive to their consequences in the field, in particular with regard to the development of child psychiatry services and the possibility of hospitalising children in appropriate units. It regrets that the Minister of Health does not mention the creation of child psychiatry beds.

The desire for better coordination between the various social, medico-social, educational, health and judicial services working with minors is taken into account through territorial mental health projects (PTSMs), which aim to ensure continuity of care for children and adolescents, while preserving their development through schooling, family ties and their full integration into civil society. This led to the funding in 2020 of several child psychiatry schemes specifically dedicated to children entrusted to or placed in the child welfare (ASE) system or PJJ services. The health crisis of 2020 led the Ministry of Health to further emphasise the need for health, social and medico-social services to collaborate with one another.

The CGLPL takes note of these measures.

Legislators have given particular attention to the situation of minors subject to seclusion and restraint measures. The monitoring register for these measures now mentions the patient's age in order to be able to identify minors.

The CGLPL takes note of this but continues to recommend that the public authorities ensure that all minors effectively benefit from the rights conferred on them by law, which requires the availability of tools specially designed for this purpose and for this public.

The Minister of Health recognises the difficulties related to the reception of minors in mental health institutions, in particular due to minors being hospitalised with adults. The two calls for projects in 2019 and 2020 increasing the number of places in child and adolescent psychiatry units and in units for 16-25-year olds have contributed to reducing the hospitalisation of minors in departments for adults over the age of 25. These issues will also be addressed through the work of the child psychiatry sub-committee of the new National Committee for Psychiatry.

The CGLPL takes note of these measures and will see that they are implemented, in particular by monitoring the work of the new National Committee for Psychiatry.

In the current state of affairs, there are no plans to repeal Article R.1112-34 paragraph 2 of the Public Health Code which provides that "the admission of a minor whom the judicial authority, ruling on matters of educational assistance or in application of the texts governing juvenile delinquency, has placed in an educational facility or entrusted to an individual, shall be declared at the request of the facility director or guardian", but this issue could be addressed as part of the work to be carried out by the National Committee for Psychiatry.

The CGLPL will ensure this.

Article 7 of Ordinance 2019-950 of 11 September 2019 on the legislative part of the Code for Juvenile Criminal Justice repeals the provisions of the Ordinance of 2 February 1945 on juvenile delinquency, so that only admission subject to the same conditions as those provided for under the educational assistance procedure (limited duration, medical certificate) is possible.

The CGLPL takes note of this.

The Public Health Code still does not provide for the obligation to obtain both parents' agreement in the event that their child is admitted to a psychiatric care facility. On the other hand, the Ordinance of 11 March 2020 gives them the opportunity to contact the public or private practitioner or mental health team of their choice, whether inside or outside the psychiatric sector corresponding to their place of residence. In this way, health law does not completely ignore the choice of parents regarding the care of their child.

The CGLPL regrets that its recommendation is only partially implemented.

The CGLPL's recommendation that minors hospitalised at the request of their legal representatives be able to refer the matter to the Departmental Commission for Psychiatric Care and the Liberty and Custody Judge and they be informed of this possibility has not given rise to any proactive measures.

The CGLPL repeats its recommendation.

The Minister encourages institutions to comply with the CGLPL's recommendations to ensure that the decision to admit a minor patient to involuntary psychiatric care pronounced by the State representative be notified to the patient when their age or maturity allows it and systematically from the age of 13.

The same is true for the recommendation to ensure that the legal representatives of minors admitted by decision of the State representative receive all decisions, summonses and information relating to their child.

The same is also true for the recommendation that, whatever the mode of admission, information should be given to the legal representatives as well as to the minor concerning the disease, the various possible drug treatments, the various components of care, the operation of the unit and the rules of daily living, the existence of a seclusion room and how it is used, and the possible measures of support available to the whole family during and after hospitalisation.

The CGLPL would like for these recommendations to give rise to specific guidelines.

Neither the Minister of Health nor the Minister of Justice comments on the recommendation that the request addressed by the State representative to the Liberty and Custody Judge (JLD) be accompanied by social information so that the JLD, if necessary, may order a rapid social inquiry before ruling.

The CGLPL repeats this recommendation.

The CGLPL had recommended that minor patients be monitored under the close supervision of a doctor trained in child psychiatry; the Minister of Health refers to the "Ma santé 2022" commitments without responding specifically to the recommendation and indicates that child and adolescent psychiatry is thus part of the initial training of all psychiatrists.

The CGLPL repeats this recommendation.

With regard to the environment of patients, the Minister of Health indicates that 45 of the 73 recommendations on this topic issued by the CGLPL during its 2017 inspections have already been implemented and specifies that the same attention is given to the design and layout of care units for minors as to those for adults.

In response to the recommendations on calming spaces allowing minors who require it to be isolated without confinement, in comfortable conditions, on the non-use of seclusion for children under 13, and on specific training for child and juvenile psychiatry teams to prevent crises and respond to them without using seclusion, the Minister limits himself to referring to the new legislative provisions on seclusion and restraint without providing for any special measures for minors.

The CGLPL repeats its recommendations.

The recommendations for therapeutic activities to be correlated with the unit's medical project and for their conduct to be professionalised and monitored will be relayed to hospitals.

The CGLPL takes note of this but recommends firmer incentives from the Government.

The Minister indicates that many legal training courses are offered to staff as part of the continuing training plans of institutions.

The legal culture of the medical and paramedical staff that the CGLPL meets with does not always reflect this richness.

The Minister of Health agrees with the CGLPL's analysis concerning the fact that in the event that a child judicially entrusted to a third party – service, institution or natural person – is admitted, the hospital must obtain the placement decision and ascertain the parents' position with regard to the exercise of parental authority and, in the event of difficulty, refer the matter to the judge.

The CGLPL welcomes this convergence of views and would appreciate it being translated into an instruction.

In 2020, in order to foster the autonomy of patients, the Minister of Health published his recommendations on "respecting the freedom of movement of patients in psychiatric services during the lifting of the lockdown". The same was true for restrictions on visits and the monitoring of telephone conversations.

The CGLPL takes note of this but would like for the principles according to which restrictions on rights and freedoms must be individualised and modulated according to the patient's clinical condition, age, maturity and length of stay to be promoted and applied at all times.

The Minister of Health approves the recommendation that the wearing of pyjamas and the ban on wearing shoes should remain exceptional and specifies that of the six recommendations on this topic made by the CGLPL during the 2017 inspections, four have been implemented.

The CGLPL takes note of this and recommends that national guidelines be adopted to roll out these prohibitions.

The Minister of Health underlines that between 2017 and 2019, the Ministry of Education stepped up its efforts to welcome more children with disabilities in schools: twice as many students with disabilities have attended school since 2016 and there has been a five-fold increase in the number of accompanying persons. This approach will be amplified by 2022: schooling will be adapted in medico-social facilities and students will be able to continue their education in a teaching unit specific to the facility.

The CGLPL takes note of this and asks that the schooling of children received in psychiatry be systematic when their clinical condition allows it.

The issue of sexuality in mental health institutions remains the subject of many debates. The Minister of Health would like for children hospitalised in psychiatry to not be excluded from the measures taken to develop sex education in schools. In particular, he would like for the ethics committees of institutions and the educational staff of structures to work together in order to provide sex education, according to the child's age and ability to understand.

The CGLPL shares the wish of the Minister of Health and invites him to take the necessary measures to translate it into reality.

3.2 Specific recommendations relating to mental health institutions

In 2017, the CGLPL inspected 27 mental health institutions authorised to receive involuntary patients. The Minister of Solidarity and Health provided the actions taken in response to the recommendations relating to 21 of them[52] and failed to do so for the six others[53]. A detailed presentation of his responses can be found in Appendix 4.

At the CGLPL's request, the Vire hospital's (Calvados) authorisation to receive involuntary patients was withdrawn from it because it did not have the medical skills legally necessary for this activity and was not able to mobilise them. The recommendations relating to this institution have therefore become moot.

Among the recommendations made during certain inspections, one repeatedly concerned the verification of the suitability of foreign doctors working in psychiatry, particularly with regard to the use of French. The responses to this recommendation, obviously prepared by the inspected institutions, argued that it was a skill to be implemented at national level. The CGLPL therefore calls on the Minister of Health to do this.

The CGLPL also draws the Government's attention to the following points.

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[52] *Amilly-Montargis hospital (Loiret); Yonne psychiatric hospital in Auxerre (Yonne); Begard hospital - Fondation Bon Sauveur (Côtes-d'Armor); Cadillac psychiatric hospital (Gironde); Castelluccio hospital (Corse-du-Sud); Haut Anjou hospital in Château-Gontier (Mayenne); Paul Guiraud hospital group, Clamart site (Hauts-de-Seine); Dax hospital (Landes); Douai hospital (Nord); Hénin-Beaumont hospital (Pas-de-Calais); Lorquin psychiatric hospital (Moselle); Vinatier hospital in Lyon (Rhône); Meulan-Les Mureaux intermunicipal hospital (Yvelines); Nice university hospital (Alpes-Maritimes); Georges Daumezon hospital in Orléans (Loiret); Reims university hospital (Marne); Saint-Cyr-au-Mont-d'Or psychiatric hospital (Rhône); Sevrey psychiatric hospital (Saône-et-Loire); Tours regional university hospital (Indre-et-Loire); Vendôme hospital (Loir-et-Cher); Vire hospital (Calvados).*

[53] *Beaupuy clinic (Haute-Garonne); Forez hospital in Montbrison (Loire); Nancy psychotherapy centre (Meurthe-et-Moselle); Issy-les-Moulineaux university hospital (Hauts-de-Seine); Pointe-à-Pitre university hospital (Guadeloupe); Maurice Despinoy hospital in Fort-de-France (Martinique).*

3.2.1 *Admission status*

The CGLPL repeatedly noted the high and growing proportion of patients admitted to involuntary care by the directors of institutions, according to one of the simplified "emergency" or "in the event of imminent danger" procedures; conversely, it sometimes noted a good practice as being the low proportion of admissions of this type. Several types of actions were undertaken following these observations:

- vigilance of the admissions unit regarding the quality of the reasons for medical certificates;
- all emergency personnel have been made aware of the obligation to search for third parties before hospitalisation for imminent danger;
- two hospitals have created forms attesting to the vain search for a third party;
- a communication campaign aimed at referral partners was carried out to ensure compliance with the legal conditions for admission at the request of a third party in an emergency or for imminent danger.

Some institutions have therefore achieved encouraging results: in one, the number of patients taken in according to the "imminent danger" procedure remains well below the national average and is exceptional; in another, the rate of admissions at the request of a third party according to common law has again become higher (45%) than the rate of emergency admissions (38%); in a third, the number of admissions under this status decreased from 142 to 87 over a four-year period.

Elsewhere, the work carried out by the psychiatric emergency team to limit the use of involuntary care should be noted; it explains the low rate of this category of patients observed in one hospital.

3.2.2 *Material conditions*

The CGLPL's inspections never fail to give rise to recommendations relating to the accommodation of patients; these most often have consequences. The following should be noted in particular:

- several studies and work projects in progress to allow patients to lock their rooms in safe conditions with a "comfort lock" system;
- efforts made in terms of furnishing and fitting out collective spaces;
- the creation or extension of "Maisons des usagers" (user centres), sometimes described as "places of care" and sometimes only as "gathering places";
- an appropriate, varied range of physical and sporting activities with professional supervision.

Sometimes, larger-scale restructuring operations have been undertaken, in particular with the aim of removing dilapidated buildings from service or generalising accommodation in single rooms and the use of private bathrooms. A desire to improve the material living conditions of patients is never lacking, but budgetary constraints often lead to work being spread out over time.

3.2.3 *Daily constraints*

The constraints of daily life take various forms which are often grouped around obstacles to freedom of movement or violations of the privacy of patients.

Differences in the rules of living applied in units, which should be comparable because they receive patients suffering from the same diseases who are spread out based on a purely geographical criterion, continue to raise questions. Since it has not been demonstrated that increased constraints produce beneficial effects on the health or safety of patients, the CGLPL can only conclude that the lightest constraints are the only legitimate ones. Therefore, it invites all ethics committees to take up two essential issues: freedom of movement and the freedom of patients in matters of sexuality.

Several institutions indicated that they have started examining the issue of freedom of movement. This can give rise to more or less ambitious work undertaken by the ethics committee, increased freedom of movement accompanied by space planning efforts, simple easing of the rules, or an extension of outing times. Conversely, there are still cases where even access to open air in the units' courtyards remains highly regulated and there are even some institutions in which the freedom of movement of voluntary patients is still not ensured.

Only one of the institutions inspected in 2017 formally dissociated the status of involuntary care from accommodation in a closed unit and therefore did not hesitate to receive involuntary patients in an open unit. Conversely, some institutions persist in receiving voluntary patients in closed units, and to do so, they surround themselves with procedural precautions in the form of "consent to temporary hospitalisation in a closed sector" which barely hides an abuse of the patient's dependency.

One of the hospitals inspected stated that work had been carried out by the User Committee in order to harmonise the rules of living in all general psychiatry units; this work was validated by the public health institution medical committee in 2020. Others have relaxed certain rules of everyday living, such as those concerning access to tobacco, but the actions taken in response to the recommendations to relax the rules for wearing pyjamas remain timid, even though many institutions have given up this practice without suffering any inconvenience. For example, one institution indicates that the wearing of pyjamas is prescribed medically, often during the period of evaluation following the admission of certain patients or for safety purposes, but does not exceed two days, while another, reporting the same measure, takes the trouble to add that gowns "are used very rarely, depending on the supply". However, the CGLPL very firmly noted the serious attack on the dignity of patients constituted by the discharge of a patient wearing a hospital gown that was not closed in the back.

The CGLPL reiterates that the wearing of hospital gowns that are open in the back must be prohibited in all mental health institutions.

Lastly, the CGLPL has repeatedly noted that the question of sexuality remains excluded from any collective reflection on practices; it is only dealt with in fact, without any established doctrine and depending on the configuration of the premises or the personal sensitivity of the carers, who sometimes themselves are confronted, without being prepared for it, with situations whose unexpected nature adds to the difficulty.

The CGLPL systematically recommends that the ethics committee initiate a reflection on this point and refrain from providing guidance which, based on too limited a range of good practices, would be illegitimate. It merely reiterates the illegal nature of general and systematic prohibitions. In response to these recommendations, several types of measures have been taken:

- complementary approaches carried out in parallel: the drafting of an institutional framework, conferences-debates, etc.;
- several reflections on sexuality in ethics committees;
- a reflection of the ethics group on sexuality, freedom and vulnerability;
- training activities on the following topics: "How to approach sexual violence" and "Sexuality and psychiatry";
- training of trainers;

- a publication by an ethics committee on the subject of “Sexuality, consent and the protection of vulnerable people”;
- several institutions have also set up systems for the distribution of condoms or plan to do so.

Elsewhere, the CGLPL’s recommendations have remained unimplemented; either the institution declares that "the situation concerning sexuality has not changed, and the institution prioritises patient safety", or it indicates, more neutrally, that "institutional reflection on the question of the sex lives of patients has not yet taken place", or else it persists in the choice of "externalising" sexuality (hotel room or return home) or reserving it for institutionalised couples.

Lastly, we can note the practice of one institution where "the computer traceability of all rules and restrictions on freedom” testifies to real consideration of this dimension of care by the nursing staff; it will ultimately allow for an exhaustive analysis of practices.

3.2.4 *Departmental Commissions for Psychiatric Care (CDSPs)*

CDSPs are essential for guaranteeing the rights of involuntary patients. However, these collegial bodies operate in a very irregular manner, depending both on local medical and legal demographics and on the greater or lesser activism of the Regional Health Agency that serves as their secretariat. Between the date of the inspections (2017) and that of the follow-up to the recommendations (2020), a reform of the CDSPs took place despite the CGLPL’s recommendations to the contrary: judges were withdrawn from these bodies[54].

When the functioning of a CDSP is not satisfactory, the CGLPL does not fail to issue a recommendation. The measures taken in response are often disappointing: here, operational difficulties persist due to demographic difficulties; elsewhere, without any particular explanation, the CDSP has only come once over a three-year period; elsewhere still, it comes if needed but does not always carry out an annual visit. That said, certain institutions regularly visited by the CDSP underline the advantages they derive from it: through its lines of thinking, it helps put into place changes for constantly improved care, declares one of them.

3.2.5 *The Liberty and Custody Judge (JLD)*

The JLD also plays a major role in guaranteeing patients’ rights. His effectiveness depends closely on the quality of the cases presented to him and on the dynamism of lawyers. Following the CGLPL’s recommendations, several series of measures have helped, depending on the local situation, strengthen the role of the judge:

- court-appointed lawyers come to meet patients the day before the hearing in units, which reassures the patients;
- training is mandatory for lawyers before they can be assigned to JLD hearings in psychiatry;
- some institutions, which consider the presence of patients at the hearing as therapeutic, encourage it;
- the information sheets systematically sent to the JLD have been improved;
- legal representatives are systematically summoned to hearings;

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[54] *Act 2019-222 on 2018-2022 Justice Programming and Reform, Art. 102 and 109.*

- hearings grant an important place to dialogue and explanations, which sometimes compensates for the excessively solemn organisation of the courtroom (judges placed on a platform, dock, etc.);
- lawyers meet with patients in wards before hearings, including patients designated as "not hearable".

However, some difficulties remain despite the CGLPL's recommendations. For example, one institution has repeatedly asked the court to hold JLD hearings on the hospital's premises, but its requests have remained unanswered; elsewhere, the JLD does not produce his order in the hearing, which deprives him of an opportunity to explain its contents to the patient in an educational manner, as is often done.

3.2.6 *Seclusion and restraint*

The CGLPL has issued numerous recommendations concerning seclusion and restraint, which are practices intended to protect the patient or third parties against risks associated with their behaviour during a time of crisis.

In 2017, institutions already had the obligation[55] to implement a policy to reduce seclusion and restraint based on an analysis of their practices, which were themselves recorded in a register that had gradually been put in place during the previous year. While the formal obligation of recording was most often fulfilled, the real obligation – that of a reduction policy – seldom was. In 2020, the responses to the CGLPL's recommendations in this area still reveal difficulties and misunderstandings.

Three institutions persist, despite the law, in equating seclusion or restraint with care, speaking of "last-resort care" and the evaluation of "therapeutic" or "prescription seclusion".

Several institutions report purely formal measures such as the establishment of a register or its digitisation, or even the simplification of data collection; others go so far as to refer quite evasively to a reduction policy without describing the instruments or the results. We thus read that "the practice of seclusion remains a treatment of last resort", that "the topic of seclusion and restraint will be the subject of an ethical debate", that a "policy aimed at limiting its use is now being implemented", that "physical restraint is only exceptionally practised", and even that "annual results are taken into account for the implementation of institutional actions".

Details are given far less often. For example, in one institution, "a drop in the number of placements in seclusion and their average duration was noted between 2015 and 2016; since 2017, the number of placements as well as the average duration of seclusion have stabilised"; in another, "a process to reduce the number of seclusion rooms" is being put in place, accompanied by a "strict definition of seclusion rooms" and "updated protocols"; in another institution, comparisons are made "division by division and unit by unit". Elsewhere, "a reflection on calming practices with the provision of a de-escalation room" is being set up.

Sometimes, the measures taken are ambiguous to say the least. For example, "an email alert for seclusion durations exceeding seven days" is certainly a laudable initiative, but it reveals an intensive practice of seclusion that should raise questions beyond the implementation of this type of tool; elsewhere, we are pleased that "the use of seclusion and restraint is tending to decline and the use of ordinary rooms is also decreasing", but this is because "specialised rooms are now more readily

[55] *Obligation enshrined in Art. L.3222-5-1 of the Public Health Code by Act no. 2016-41 of 26 January 2016 on the modernisation of our health system.*

available" which, overall, does not bode well for a real reduction in the number and duration of measures.

The numerous recommendations relating to the equipment in seclusion rooms and the conduct of the measure generally give rise to corrective measures. For example, eight institutions report compliance work following the inspections. However, some measures are slow in coming, either because the scale of the work requires that it be spread out over time, or because the infrastructure precludes complete upgrading, including for access to toilets, or else because certain recommendations are subject to debate, such as the covering of door viewers or the choice of surveillance system.

The reception of detainees in mental health institutions continues to give rise to serious violations of their rights. As the CGLPL reiterates in almost all of its reports, nothing obliges a mental health institution to systematically place detainees in seclusion, and nothing allows them to be treated differently than other patients who have the same disease. Despite these recurring recommendations, practices are slow to evolve. While one institution declares that a working group bringing together doctors and nurses was set up in 2017 to improve the conditions of hospitalisation of detainees, we can be surprised that over a three-year period, it did not produce any results worth mentioning. Another institution does not have this sense of decency, affirming without hesitation that "the institution considers that it cannot apply the recommendation that detainees hospitalised without their consent should not be systematically placed in seclusion and should benefit from the same rights as other patients as well as those from which they benefit in prison. Indeed, it does not have the necessary means of security whereas it is subject to injunctions from the Public Prosecutor to prevent the risk of runaways". However, it is conceded that "fundamental rights such as access to healthcare, the right to decent living conditions, etc., are obviously respected". Elsewhere, in more nuanced terms, comparable results are reported: "it has not been possible to respect all the rights of the detained patients received due to a lack of information from the remand prison regarding the regime of visits and external liaisons for hospitalised detainees. However, the institution ensures the continuity of patient care as well as the respect of fundamental rights".

> The Ministers of Justice and Health are invited to put in place a protocol relating to the hospitalisation of persons detained in mental health institutions guaranteeing that these patients benefit from the rights of any patient placed in involuntary care, in particular with regard to access to activities and healthcare, as well as the continuity of rights linked to the status of prisoner.

Lastly, the CGLPL is frequently led to recommend that seclusion rooms should not serve as substitutes for ordinary rooms in the event of overcrowding. Institutions frequently encounter difficulties in implementing the recommendations on this point. One of them indicates that it has adopted an admission protocol in the event of overcrowding which prohibits admission to a seclusion room in such cases; another asserts that maintenance in a free ordinary room upon leaving a seclusion room is effective but that the transfer of secluded patients between units continues to depend on needs and capacities. Elsewhere, it is indicated that patient admissions to seclusion rooms instead of ordinary rooms are tending to diminish.

3.2.7 *Involvement of families in care*

Many inspected institutions have, following the CGLPL's recommendations, formalised procedures for designating trusted persons and implemented measures to reinforce this practice. They report mixed success. While, in one institution, nearly two thirds of patients have designated one, elsewhere, this possibility is still seldom used. On the other hand, formal acceptance of this role by the designated person is only rarely obtained, which deprives the designation of legal value but does not prevent the person from being consulted in practice.

Sometimes, institutions go beyond the requirements of the law, for example by inviting the trusted person to take part in the scheduled weekly interview between the referring psychiatrist and the patient. One institution does the same thing with guardians, who are invited to summary meetings.

The involvement of families in care can take various forms, often noted by the CGLPL as best practices. Reception areas are set up, low-cost accommodation facilities are offered to distant families, and psychological-educational programmes can even be proposed. For hospitalised minors, sometimes the unit organises a family visit to the premises and describes how the therapeutic project works and what its themes are, during or immediately prior to admission.

3.2.8 *Relations with the outside world*

In the absence of any legal provision restricting the ability of involuntary patients to have means of communication, these can only be limited because of their clinical situation, on the basis of a medical decision that is necessarily personalised and revisable. Consequently, the CGLPL is frequently led to recommend that patients' personal mobile devices be left at their disposal, that a telephone and Internet network be available, and that freely accessible landline telephones and desktop computers connected to external networks be installed.

Some positive steps are being taken in this direction. For example, free Wifi access is being gradually rolled out on all the sites of one hospital; elsewhere, authorisation for patients to use the landline telephone in their room and own a mobile phone or a computer is the norm and prohibition the exception; still elsewhere, telephone booths have been installed in closed units. Sometimes, the institution's response is broader and embraces the entire field of telecommunications: "patients keep their personal mobile phones, without any restrictions, subject only to their state of health. Internet access, through the provision of a computer and the browsing assistance that can be provided by the nursing staff, promotes the future employability of patients. The provision of a wireless Internet network, to which patients can connect from their smartphones, reinforces this dynamic".

However, there are still cases where more or less strict restriction regimes prevail. For example, "the hours at which telephones are made available to patients have been extended, but the use of personal mobile phones remains regulated", or "the possession of telephones is linked to the medical decision. However, in order to provide access to communication, a cordless telephone is given to any patient who wishes to place a call in the voluntary hospitalisation units. In the involuntary hospitalisation unit, a telephone booth is freely available".

The CGLPL reiterates that in the absence of legislative provisions authorising restrictions, patients in mental health institutions should have access to all the networks available to the public, and their status as "persons deprived of liberty" obliges the administration to take the necessary measures to ensure the effectiveness of this right.

4. The recommendations made in 2017 regarding detention centres for illegal immigrants

4.1 Action taken in response to general recommendations relating to detention centres for illegal immigrants

4.1.1 *Recommendations published in the 2017 annual report*

The Minister of the Interior indicates initially that he has responded to all the CGLPL's reports, whether they relate to inspections of detention centres and facilities for illegal immigrants, waiting areas or police custody facilities.

> The CGLPL notes that this is indeed the case but would like more detailed information concerning the acceptance or refusal of its recommendations.

In 2017, the CGLPL observed that the 45-day detention period was unnecessarily long because if forced deportation has not been possible during the first weeks, it will be almost impossible in practice, for lack of recognition of the national by their native country. The doubling of this duration, under study by the Government, would not only be a regression of fundamental rights but would also be pointless.

The Minister of the Interior recalls that this period was doubled by Act no. 2018-778 of 10 September 2018 on controlled immigration, effective right of asylum and successful integration. He adds that one CRA has three places dedicated to detained foreigners convicted of acts of terrorism for whom the duration of detention can be a maximum of 180 days. However, he specifies that the number of foreigners held in detention for more than 60 days has remained relatively low (4.8% of detainees in the first half of 2019). Lastly, he announces the prospect of 800 new detention places being opened by 2023.

> The CGLPL continues to consider that the period of 32 days of detention, prior to the 2011 act, is amply sufficient in the vast majority of cases and asks that we return to this period. The proportion of detention measures that are unnecessary because they are not followed by deportation is such that the CGLPL considers that it is unreasonable to open new CRA places; on the contrary, it deems that unnecessary detentions should be limited.

The CGLPL recommended implementing the necessary means (staff reinforcements, agreements, inspections, training, educational tools, good practice guides, standard documents, etc.) to guarantee complete and accessible written and oral information, in an intelligible language, and the free exercise of the missions of lawyers, the French Office for Immigration and Integration (OFII) and legal assistance associations in CRAs, including during peak activity periods. The Minister of the Interior reviews the missions of and means attributed to legal persons so they may inform foreigners of their rights and help them exercise them. He also reviews the existing remedies.

The CGLPL also recommended that obligations to leave French territory (OQTF) concerning detainees be notified under conditions allowing effective exercise of the right of appeal, i.e. when they immediately benefit from the presence of an interpreter and help from a legal aid association. On this point too, the Minister reviews the applicable regulations.

> Despite the fairly comprehensive existing regulations, the CGLPL considers that the rights to information and appeal of detained foreigners are not fully effective due to complex material conditions of exercise, the weakness of the resources allocated to this function, and various

obstacles such as the language and level of understanding of detainees. It is the responsibility of the administration to overcome these difficulties.

The list of lawyers from the bar with territorial jurisdiction is displayed in the living areas of CRAs when the bar has compiled such a list.

No response is given to the recommendation that before a JLD hearing, there should be spaces where the detainee and their lawyer can meet confidentially.

The CGLPL had maintained that it is necessary to preserve – throughout France, including in Mayotte – a 48-hour period for the presentation of persons placed in immigration detention to the Liberty and Custody Judge; the Minister reiterates that the Act of 28 February 2017 on substantive equality Overseas restored, for the territory of Mayotte, a period of five days for the intervention of the JLD and that this measure was confirmed by the Act of 1 March 2019 on the time limit for intervention by the JLD in immigration detention in Mayotte to take into account the specificities of this *département*.

The CGLPL maintains its recommendation.

The Minister of the Interior considers that all detained foreigners have the ability to access their held belongings as well as their luggage throughout the duration of their detention and until their departure.

The CGLPL observes many exceptions to this right during its inspections. The CGLPL maintains its recommendation.

The Minister affirms that visits to detainees are widely authorised and are not time-limited.

The CGLPL continues to believe that despite this statement of principle, this right may be subject to restrictions due to the lack of means available to implement it.

The Minister of the Interior maintains the ban on having a mobile phone equipped with a camera in CRAs. He indicates that the widespread deployment of Internet access in CRAs is not provided for by the regulations since it raises issues of security (tension, theft) and access control. However, a discussion is under way in order to set up a computer with Internet access in certain pilot centres.

The CGLPL considers the justifications provided by the Minister to be unfounded and maintains its recommendations.

The CGLPL recommended setting up, in a systematic and controlled manner, the equipment necessary to provide activities for people staying in CRAs. The Minister of the Interior affirms that improving conditions of detention is a priority of the Government in accordance with the recommendation of the Council of the European Union issued as part of the Schengen evaluation of France concerning its return policy and the increase in the detention period from 45 to 90 days. He mentions an investment programme of up to €5 million for this. Leisure equipment has been installed according to the configuration of the centres. For centres receiving families, specific equipment is intended for children. Lastly, activities accessible to all detainees are gradually being organised in the areas of sport, culture, education and well-being (yoga, make-up).

The CGLPL takes note of these measures.

Work on the development of the legal framework relating to the organisation of healthcare in CRAs resumed in March 2019. A draft order and an implementing instruction are being finalised. These proposals plan to specify the missions of the CRAs' medical units for the management of somatic and psychiatric diseases, the monitoring and dispensing of treatment, and the organisation of collective and/or individual actions for health prevention and promotion. Among the provisions resulting from

the Chief Inspector's recommendations, the systematic proposal of an interview with a health professional upon the arrival of detainees and the presence of psychologists within CRAs' medical units have been adopted.

The CGLPL takes note of these measures.

4.1.2 *Recommendations from the thematic report on "Staff in places of deprivation of liberty"*

The reference staff of the CRAs are mainly established according to their theoretical maximum occupancy. This method guarantees a sufficient level of staff throughout the year, regardless of variations in the number of detainees. The staff of the CRAs managed by the Border Police (PAF) increased by approximately 33% between 2017 and 2020 in order to take into account the increase in the number of places and the occupancy rate. The ramping up of the CRAs' missions over the 2017-2020 period was accompanied by awareness-raising aimed at the department heads in these structures to better understand the psychosocial risks resulting from the increase in workload.

The CGLPL takes note of this.

In response to the CGLPL's recommendation that any professional involved in the management of persons deprived of liberty should receive information on the status and rights of these persons, the Minister of the Interior indicates that the status and rights of persons deprived of liberty "should be mentioned in the update of the training intended for personnel carrying out CRA guard duties".

The CGLPL strongly hopes that this intention will materialise.

The CGLPL had recommended that professionals whose activity includes a security mission in contact with persons deprived of liberty benefit from training (compulsory and regularly updated) on the prevention of violence and the management of violent acts. The Minister indicates that the training programme on "preventing, maintaining or restoring order in CRAs" addresses certain specific situations of violence.

The CGLPL recommends that training in the prevention of violence be systematic and regular.

With regard to the ownership of rules of ethics by the staff of CRAs and their ability to assess situations that they need to report, the Minister of the Interior indicates that training sessions are organised each year for personnel exercising their missions within CRA registries and that the educational kit intended for patrol officers who will carry out their missions in CRAs is being overhauled and should be operational before the end of the year.

The CGLPL once again stresses these two dimensions of training.

No response is provided to the recommendation that the administration should ensure that disciplinary policies do not have the effect of systematically giving precedence to security measures over respect for fundamental rights and that surveillance should be seen not as a performance obligation but rather as a best-efforts obligation that officers have satisfactorily fulfilled when they have reasonably assessed the risks associated with a person's behaviour and taken appropriate measures, even if an incident occurs.

The CGLPL repeats its recommendation.

The Minister of the Interior indicates there is currently no training intended for "fundamental rights advisers".

The CGLPL repeats the recommendation to set up this training and appoint such an adviser in each CRA.

In some CRAs, the role of mediation advocated by the CGLPL is fulfilled by teams of plainclothes police officers who are always identified by a “police” armband. Their work is above all preventive and intended to create a calm and peaceful atmosphere in the detention area. These police officers are in the best position to defuse tensions and conflicts because of their proximity to detainees in living areas, especially during meals.

The CGLPL recommends reinforcing this practice.

The Minister of the Interior does not respond to the recommendations relating to the multidisciplinary approach to the care of persons deprived of liberty in initial and continuing training and the development of CRA procedures to organise multidisciplinary cooperation.

Collective training sessions taking place within teams are considered “difficult to set up”.

The CGLPL stresses this recommendation.

There is no response to the recommendation to set up procedures for analysing professional practices (failures as well as successes) and ethics committees.

The CGLPL repeats this recommendation.

Since October 2017, a survey on the working conditions of officers assigned to CRAs has been implemented; working time management measures have also been introduced, as has the traceability of exposure to occupational risks. Particular attention is paid to officers assigned to night brigades.

These measures are commendable but only partially respond to the CGLPL ’ s recommendation, which was to increase the resources devoted to the upkeep and maintenance of facilities whose poor condition places professionals and persons deprived of liberty in a situation that is often far below current standards, even the most modest.

To promote the involvement and capacity for initiative of professionals working directly alongside persons deprived of liberty, the CGLPL recommended increasing the sense of professional satisfaction by all possible means: empowerment, establishment of personal relations with the persons cared for, team cohesion, and awareness of participating in a clear service project. The measures mentioned by the Minister of the Interior contribute only very indirectly to this objective.

Observing that the issue of motivation is particularly important in CRAs (assignments rarely chosen, functions far removed from the main profession of police, feelings of dissatisfaction frequently observed during inspections), the CGLPL insistently repeats its recommendation to set up a policy specifically and explicitly oriented towards the professional satisfaction of officers.

The CGLPL recommends taking advantage of the renovation of the training kit for CRA guards to implement the following recommendation, which it is repeating: “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 with passive security systems while having enough available officers trained in psychological prevention of violence and, if required, physical restraint techniques. Team mixity is of key importance in preventing violence”.

It also repeats the recommendation to implement "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".

4.2 Specific recommendations relating to detention centres for illegal immigrants

In 2017, the CGLPL visited six detention centres for illegal immigrants[56]. The Minister of the Interior provided the actions taken in response to the recommendations relating to these six institutions; a detailed presentation can be found in Appendix 4.

Before making any other comments, the CGLPL reiterates its repeated request to put an end, once and for all, to the detention of children, which was observed in 2017 despite the legal and practical precautions mentioned in the Minister's response to its recommendations.

The CGLPL draws the Government's attention to the following points.

4.2.1 *Health of detainees*

The compatibility of detention with the state of health of detainees does not seem to be taken into account today as much as it was in 2017. While the issue of a systematic medical examination during placement in detention does not seem to have progressed, this is at best possible on request or guaranteed by free access to the medical unit – which is unfortunately not systematic – and is always replaced with a nursing interview. The systematic lifting of detention after several days of hospitalisation, noted as a best practice in one centre in 2017, now comes up against prefectures refusing to do so without a medical certificate.

The CGLPL reiterates that, in accordance with its minimum recommendation no. 109, "Hospitalisation of a detainee should lead to the lifting of the immigration detention measure, whenever they are unable to exercise their rights".

The psychiatric care of detainees, systematically recommended by the CGLPL, is also facing difficulties: in several cases, no procedure is planned to enable detainees to benefit from psychiatric care, but psychologists are present once or twice a week; elsewhere, consultations in the emergency and liaison psychiatry department of the regional hospital are the only possible forms of care. In only one centre, an agreement has been signed with the associated psychiatric hospital since the inspection, which means that no admission to psychiatric care is granted at the request of the CRA head as a third party.

Respect for medical secrecy also remains of concern and is still subject to several forms of violations: the use of another detainee or a police officer for interpreting purposes, the obligation to carry out certain injections in the presence of police (diabetes), and the non-confidential distribution of medications.

Lastly, continuity of care, upon admission and discharge, is not always guaranteed: here, only substitution treatments for narcotics and the use of medications prescribed for certain diseases are immediately monitored by medical staff; elsewhere, the medical department is notified of movements the day before, so that it can organise the transmission of treatments for one or more days, but this is not systematic.

[56] *Lille-Lesquin CRA, Metz-Queuleu CRA, Nice CRA, Paris-Vincennes CRA, Oissel CRA and Saint-Jacques-de-la-Lande CRA.*

The CGLPL invites the Ministers of the Interior and Health to immediately set up a general organisation for the provision of healthcare to persons placed in immigration detention, as they have promised.

4.2.2 *Privacy*

Breaches of privacy have been observed. Some result from the configuration of the premises and have sometimes, but not always, been compensated for by material measures such as the installation of blackout systems or doors, but it also happens that these breaches are caused by staff, as with the general prohibition of sexual relations in housing facilities that cannot be described as "public places" and the refusal to install latches on the doors of toilet stalls on the pretext of suicide risk.

The CGLPL asks the Minister of the Interior to give strict instructions on the need to arrange CRA facilities so that privacy can be ensured and also on the adaptation of the behaviour of police to this right.

4.2.3 *Activities*

Between 2017 and 2020, the maximum duration of immigration detention was increased in the most common case from 45 to 90 days, i.e. three months. Well before this measure, during each inspection, the CGLPL recommended fighting against boredom in CRAs. These recommendations, which long remained unimplemented, now seem to have been heard, at least in theory: circulars have been issued by the Minister of the Interior organising the installation of sports equipment and the presence of facilitators[57]. Logically, the responses to the recommendations issued in 2017 take this into account. Thus, the following actions are mentioned:

- the multi-sports grounds in the men's section and the women's-family area were refurbished at the end of 2019;
- each of the buildings in the men's section has a TV room; each building in the women's section has at least one TV room;
- work has been planned for 2021 to create an occupational building (men's section) and a recreational-cultural area (women's section);
- the CRA has been provided with books in French and foreign languages, game consoles, board games, toys for children and sports equipment;
- secure remote controls now allow detainees to control the television themselves;
- ultimately, all the rooms will be equipped with a television; the detainees will be able to change the channels directly on the television;
- leisure facilities have been installed;
- a sports instructor now comes in once a week and board game sessions are organised twice a week;
- various games are made available to detainees;
- sports and leisure facilities have been set up;

[57] *see CGLPL 2019 Annual Report.*

- two health isolation rooms are equipped with a television but not with books, for security reasons.

These measures, which were unimaginable only a few years ago and are a direct consequence of the increased duration of detention, are the sign of belated but real awareness of the need to fight against the boredom of detainees. The CGLPL takes note of these measures and will not fail to assess their concrete results during its next inspections. However, it has observed during its recent inspections that the measures taken are still very insufficient.

4.2.4 *Means of restraint*

As the CGLPL systematically reiterates, people placed in immigration detention cannot be considered *a priori* as dangerous and cannot, in any aspects of their care, be treated as delinquents: this applies in particular to full-body searches and the use of means of restraint. And yet it is not uncommon for the police forces – the guardians of detention centres for illegal immigrants – to apply rules in these centres to which they are accustomed in the name of public security or the judicial police.

Several reports noted in particular the random and unpredictable nature of the use of handcuffs.

The Minister of the Interior's responses on this point are evasive and show no desire to make progress in this area:

- "handcuffs are used in accordance with Article 803 of the Code of Criminal Procedure. Police officers have discretionary power and must act with discernment, method and professionalism, while respecting personal dignity and the principle of proportionality in consideration of the circumstances of the case";
- "according to a circular from the Minister of the Interior, this is a strictly regulated measure that aims to ensure the safety of the detained person and the police officers who manage their movement";
- "in general, as a rule, handcuffing is not used in Parisian CRAs. However, pursuant to the Circular of 14 June 2010 on the harmonisation of practices in detention centres and facilities for illegal immigrants and during escorting, officials assess the need to handcuff according to objective elements such as behaviour that is dangerous for the detainee or for others";
- "the random and unpredictable nature of this security measure, which strongly depends on the context, the personality of the detainee and their behaviour, appears incompatible with the effective implementation of a priori and a posteriori traceability";
- "the 'hands in front' transfer belt system has proven completely satisfactory. This system has therefore been implemented in the user units. Therefore, handcuffing behind the back for long trips is no longer used".

The CGLPL has very strong reservations concerning these responses.

The reference to Art. 803 of the Code of Criminal Procedure, which concerns the measures taken in the context of judicial investigations, masks neither the legal vacuum concerning the security measures applicable in CRAs nor the fact that this vacuum should prevent any measures of restraint from being used. A circular from the Minister of the Interior cannot fill it.

The assertion that the unpredictability of a measure precludes any traceability, including a posteriori traceability, casts doubt on the seriousness of its author because it would amount to removing all traceability from most police measures.

While it is in fact up to the police officer to assess the risks associated with a situation, it cannot seriously be argued that this assessment cannot be governed by criteria and procedures.

Lastly, although the "hands in front" transfer belt system is "completely satisfactory" according to the administration, its introduction should not cause the number of handcuffed transfers to increase. Rigorous monitoring is therefore necessary.

The CGLPL strongly calls on the Government to regulate the use of means of restraint in detention centres for illegal immigrants by providing for an appropriate legal regime, a procedural framework, a doctrine of use, traceability and a policy for controlling this use.

4.2.5 *Decision-making process*

In almost all of its inspection reports relating to detention centres for illegal immigrants, the CGLPL recommends simple measures that are often inexpensive and would have the effect of concretely and immediately improving the lives of detainees. However, three years later, these measures have not been taken and the Minister of the Interior has issued written statements whose casualness is perplexing:

- three years after the inspection, studies are still under way to replace a bench and an awning;
- in the sanitary facilities, no satisfactory solution has been found for the installation of hooks and soap dishes. A new study is currently in progress;
- the installation of a room outside the site for visitors has supposedly been referred to a local authority, but this authority does not seem to have been contacted;
- the possibility of writing for each detainee and the necessary correspondence materials will be made available when the occupational activities room opens;
- the purchasing and installation of a mailbox do not seem to be problems in themselves but remain linked to the implementation of a system for the pricing and postage of any mail.

The Minister of the Interior is invited to grant the necessary means so that simple day-to-day initiatives can be taken by officials in the field; it is also invited to put into place the necessary controls to fight against administrative inertia.

4.2.6 *Means of communication*

As these detainees are neither delinquent nor a priori dangerous but are simply prevented from coming and going for reasons of administrative convenience, there is no reason for them to be deprived of means of communication with the outside world. Moreover, the law does not provide for this. Therefore, the CGLPL systematically recommends that necessary measures to ensure their freedom of communication compensate for the unjustified restrictions that it observes locally.

A few timid measures have been taken or outlined following these recommendations:

- discussions are being held in order to deploy a computer station with access to the Internet; however, the criteria of robustness for the computer equipment seem difficult to satisfy;
- free telephone cards are given to needy detainees despite the difficulty encountered by the centre in obtaining such cards in shops;
- although detained foreigners do not have Internet access, they can check their e-mail from the Cimade's office;
- a mobile phone compatible with detention is provided by the OFII and detainees can access the contact lists of telephones left in the luggage room;

- for security reasons (physical and cyber security), technical opinions regarding the feasibility of Internet access equipment are expected.

Nevertheless, restrictions, even those without a legal basis, remain the asserted principle:

- "cell phones with camera systems are still not allowed in detention. A posteriori inspections of the phones could lead to a deterioration of the general climate. It is therefore preferable to maintain this prohibition";
- the wider deployment of Internet access, which raises security issues, has not been planned;
- detainees who have a mobile phone can use it freely, if it does not include a digital camera, in order to preserve the right to privacy;
- the ban on bringing smartphones into detention areas has been maintained.

The CGLPL reiterates its recommendations: it is up to the administration to take the necessary measures to ensure that the telephone network and the Internet are freely available to persons placed in detention using their personal terminals, which they should be able to keep; computers should be made available to those who do not have one. Persons placed in detention are subject to the rules of common law with regard to respect for the image rights of others; they should be reminded of these rules and sanctions are possible, in compliance with disciplinary law, in the event of malicious behaviour.

The CGLPL firmly reminds the Government that persons placed in immigration detention should not be subject to any restrictions on their right to communicate with the outside world that are not expressly provided for by a law which, like any measure limiting freedoms, should be interpreted restrictively.

4.2.7 *Release*

Persons placed in detention leave by forced return to a foreign State or by release which may be decided by the judge or the administration. In both cases, this measure can be brutal and can lack appropriate support.

The Minister of the Interior's responses to the recommendations relating to these points are as follows.

Concerning forced returns:

- rules relating to the conditions for informing detainees of their departure are still not formalised at national level;
- the organisation of departures, which requires that detainees be woken up during the night in a way that is intrusive and anxiety-provoking and is difficult to manage for the escorts, cannot be modified;
- the possibility of deportees spending a night in a CRA near the airport before their departure in order to avoid them being suddenly woken up in the middle of the night is not being considered;
- departure forecasts are displayed except when the persons concerned are psychologically unfit to receive this information, when their provision is likely to threaten public order inside or outside the CRAs, or in order to avoid any delaying strategy against deportation;
- only reasons relating to public order prevent detainees from being informed of their departure date (detainees who could harm their bodily integrity); informing the detainee and the medical unit is the principle;

- rules relating to the conditions for informing detainees of their departure are not formalised and this information is not traced.

The CGLPL asks the Minister of the Interior to provide a framework for forced returns through regulations that set out conditions for informing and transporting deportees and allow them to prepare for their arrival in the country of destination. In particular, these should include provisions to ensure continuity of care and provide the deportee with the means to survive for a full day in the country of arrival and reach the area of destination.

Concerning releases:

- it is not possible to make the administration responsible for escorting people released outside public transport operating hours to the train station;
- the creation of a public transport line is the prerogative of the local authorities.

However, some well-meaning measures are in place, for example when bus tickets are given to people released without financial resources when they leave the centre, and when associations are called upon to accompany released individuals.

The CGLPL requests that the release of persons placed in immigration detention be organised, including over time, so that they have the material means to reach a public transport network and the financial means to reach their place of establishment.

5. The recommendations made in 2017 regarding juvenile detention centres

5.1 Action taken in response to general recommendations relating to juvenile detention centres

5.1.1 *Recommendations published in the 2017 annual report*

The Directorate for Judicial Youth Protection (DPJJ) states that in 2017 it set up a management support unit, within which a project manager position is dedicated to monitoring the implementation of recommendations from external inspections, including those conducted by the CGLPL.

The CGLPL takes note of this.

In response to the recommendation to increase its control over CEFs, the DPJJ indicates that it has developed in-depth internal control but mentions neither the measures specifically taken with regard to CEFs nor the methods it uses to control the institutions managed by the authorised associations sector.

The CGLPL therefore invites this directorate to specify the methods chosen to specifically deepen the level of control over all CEFs.

Invited to more broadly roll out a best practice concerning the calming stays set up in one CEF, the DPJJ indicates that this practice is based on regional guidelines and is disseminated on National CEF Director Days. The establishment of a system for capitalising on best practices is also mentioned.

The CGLPL welcomes and encourages these meaningful measures.

Invited to put into place objective indicators for assessing transgressions, tools allowing the application of personalised and tailored sanctions, and awareness-raising actions for CEF staff

concerning the need to apply disciplinary rules in a way that is objective and predictable, the DPJJ reviews measures pre-dating the recommendation and indicates that these issues have been taken into account in training.

> The CGLPL considers that these measures meet the identified need but observes in its inspections that their effects remain very uneven.

The CGLPL recommended following up on the project to create a log of mail listing all the correspondence opened in CEFs and submitting this log for periodic control to the judicial authority; the DPJJ reviews the regulations pre-dating the recommendation. A 2015 note guarantees respect for the secrecy of correspondence and provides for the systematic logging of incoming and outgoing mail, while leaving room for a security check.

> The CGLPL reiterates its recommendation to specifically monitor the mail checked and to report on these checks to the judicial authority.

While the CGLPL recommended defining by regulation the minimum conditions for involving holders of parental rights in the care of minors, the DPJJ recalls the regulations pre-dating the recommendation resulting from the Social Action and Family Code and the various internal notes issued for its implementation.

> CGLPL continues to observe, during its inspections, that the involvement of families in care is very unequal and asks that measures be taken to strengthen it.

Lastly, the CGLPL recommended organising the psychiatric care of minors placed in CEFs at regional (PJJ regional directorate-ARS) or national level. Referring to a 2017-2018 study, the DPJJ confirms the prevalence of mental disorders and suicide attempts in the population cared for, as well as the difficulties in establishing links between CEFs and child psychiatry sectors. It also indicates that a mission of the Inspectorate-General of Social Affairs and Inspectorate-General of Justice relating to the care of minors in great difficulty has been planned for 2020. In addition, the DPJJ describes various local forms of cooperation, in particular its participation in local regional health projects, agreements with the ARSs helping to formalise partnerships with local psychiatric care services, and a multi-year agreement on objectives with the National Association of Homes for Adolescents (Association Nationale des Maisons des Adolescents).

> The CGLPL can only encourage these measures but notes that the psychiatric care of adolescents placed in CEFs still varies widely. Specific effort is therefore necessary.

5.1.2 *Recommendations from the thematic report on "Staff in places of deprivation of liberty"*

With regard to the staffing of places of deprivation of liberty, the CGLPL recommended that it be linked to the actual workload of the officers and that it take into account their ancillary tasks and the human dimension of care – even in cases where technology produces productivity gains – and the usually high absenteeism rate.

The DPJJ indicates that the reference staff in the CEFs take these dimensions into account and that the interregional directorates have the resources at hand to recruit replacement officers.

> The CGLPL takes note of these measures.

With regard to professional experience and training, the CGLPL recommended functional mobility within facilities or in appropriately sized employment areas, the systematic presence of a manager in isolated services, and measures promoting the maintenance and renewal of professional

knowledge, ethics and quality of practice. It also recommended specific training for officers on the rights of the people taken in and the prevention of violence.

The DPJJ indicates that it has strengthened the supervision of educational teams, set up a national inter-CEF training plan and integrated training on rights and the prevention of violence into the training provided at the French National Academy for Youth Protection and Juvenile Justice (ENPJJ).

> The CGLPL takes note of these measures and insists that they be extended – with monitoring of their effectiveness – to the authorised associations sector.

In terms of ethics, the CGLPL recommended greater ownership of the rules and the creation of open forums to promote this ownership, training for officers on their obligation to report observed violations of fundamental rights, and the establishment of appropriate protection for whistleblowers.

The DPJJ indicates that it created a college of ethics in March 2020 and introduced a training component devoted to the engagement and ethics of youth workers at the PJJ. It reiterates that its officers are subject to compliance with Article 40 of the Code of Criminal Procedure and that, for private-law employees, there is a comparable provision.

> The CGLPL takes note of these measures and recommends that the college of ethics work specifically on the rights of children deprived of liberty and the obligation to report ill-treatment by officers. It emphasises that all steps must be taken to ensure that children placed in facilities in the associations sector benefit from the same guarantees.

The CGLPL recommended creating a “fundamental rights” adviser position in all places of deprivation of liberty to respond to questions from professionals.

The DPJJ considers that this measure cannot be implemented but indicates that there are instructions allowing everyone to be given the necessary information in this area.

> The CGLPL considers that written resources are not sufficient in this regard and that a "fundamental rights" adviser should at the very least be identified in each regional or local directorate, in order to provide all officers with concrete answers to their questions on a case-by-case basis.

Whereas the CGLPL recommended studying the possibility of setting up a mediation function in each administration, the DPJJ indicates that there is an obligation to have a body for collecting user satisfaction in social and medico-social facilities.

> The CGLPL considers that this body does not meet the need for mediation and repeats its recommendation.

The CGLPL recommended ensuring a multidisciplinary approach to the care of persons deprived of liberty in the initial and continuing training of all the professionals involved, ensuring respect for the fields of competence of each profession, and formally organising multidisciplinary cooperation.

The DPJJ indicates that it has developed a national inter-CEF training plan with a multi-institutional and multidisciplinary focus. It refers to the documents organising its cooperation with the prison administration.

> The CGLPL takes note of these measures and asks that they be extended to all forms of multidisciplinary cooperation involved in the care of children (youth workers, teachers, caregivers, judges, security professionals, etc.).

The CGLPL recommended the development, by trainers working within teams, of a system of collective learning focusing on individual knowledge and procedures and the implementation of procedures for analysing professional practices (failures as well as successes); the DPJJ indicates that the CEF training plan provides for preparatory training prior to the opening or reopening of a site, and this training concerns all professionals and precedes the admission of young people. It also specifies that the establishment of bodies for analysing professional practices in placement facilities was rolled out at the PJJ in 2016.

The CGLPL takes note of these measures and recommends that the collective training of teams should also be considered as part of continuing education or provided on request in the event of difficulty encountered in a facility.

Concerning work rhythms, the CGLPL recommended vigilance with regard to night shifts to ensure that team cohesion, the maintenance of individual skills and compliance with rules for the handling of persons deprived of liberty are guaranteed during this particularly sensitive period. The DPJJ indicates that since 2016, it has been stipulated that all youth workers shall perform night shifts in rotation with day shifts and that some facilities specifically train youth workers in night-shift work for a certain period of time on a voluntary basis. On the other hand, it does not specify whether these options are actually used and does not assess them with regard to respect for the rights of children in custody.

The CGLPL takes note of these measures.

In order to strengthen the cohesion and involvement of teams, the CGLPL recommended that all measures be sought to provide a greater sense of professional satisfaction: empowerment, establishment of personal relationships with the people taken in, team cohesion, and awareness of participating in a clear service project.

The DPJJ indicates that it is committed to a particularly proactive policy in terms of health and safety at work.

However laudable this policy may be, it does not cover the entire scope of the CGLPL ’ s recommendation.

Considering that the physical risk inherent in deprivation of liberty should be clearly and systematically dealt with from the point of view of prevention, the CGLPL recommended combining measures relating to organisation and training and advocating in particular the mixing of teams as an asset for preventing violence. The DPJJ indicates that certain interregional directorates have developed a system for managing situations of violence providing a better understanding of crisis situations: it offers a psychological approach to violent situations and is aimed at professionals confronted with recurring situations of aggression. Team support mechanisms, calling on an external worker (occupational psychologist), provide reassurance and security for professionals affected by situations of violence. In 2019, a guide for the defence and protection of officers and a circular on functional protection were published.

Medical, psychological and psychiatric support can also be provided by interregional or territorial directorates for officers who are victims of violence in the course of their duties.

The CGLPL takes note of these measures and recommends implementing systems for managing situations of violence on a larger scale.

Lastly, the CGLPL recommended implementing means of supervision, i.e. the provision of freely accessible and confidential psychological support, independent of the hierarchy, for officers who feel they need it.

The DPJJ indicates that in 2020, as part of the health crisis, it set up a free mental health helpline available to all its officers. Based on an ethical charter providing for professional secrecy, respect for individuals and confidentiality, this system should be maintained even after the health crisis.

The CGLPL takes note of this.

5.2 Specific recommendations relating to juvenile detention centres

In 2017, the CGLPL visited five juvenile detention centres[58]. The Minister of Justice provided the actions taken in response to the recommendations relating to these five centres; a detailed presentation can be found in Appendix 4. In one of the centres visited, an operating audit in 2018 focused in particular on the points that had been addressed in the CGLPL's recommendations.

The CGLPL draws the Government's attention to the following points.

5.2.1 *Access to healthcare*

In all the centres visited, recommendations relating to access to healthcare had been issued. The CGLPL observes with satisfaction that in all cases, measures have been taken following these recommendations; these include:

- a youth worker responsible for the medical monitoring of minors has been identified;
- partnerships with associations enable health education actions to be taken;
- an infirmary has been created;
- healthcare protocols have been established for the educational team;
- precautions have been taken to prevent unauthorised persons from gaining access to medications;
- the confidentiality and traceability of the drug distribution procedure have been ensured;
- a health file is now prepared for each minor received and is clearly distinguished from their administrative file;
- medical files and documents have been protected in such a way as to respect medical and professional secrecy.

These initiatives, as well as others that can be found in Appendix 4, are those of the CEF management teams but are not set out in any technical document.

Conversely, there are some difficulties that have not been overcome. For example, one CEF still does not have a nurse, which it compensates for through external interventions, but the most frequent difficulty is that encountered by several centres in establishing a protocol with the child psychiatry services of the institution in their sector and, even when these services remain available in principle in case of need, this is detrimental to the monitoring of minors.

The Ministers of Justice and Health are invited to give the necessary instructions so that the psychiatric monitoring of minors placed in CEFs is systematically covered by local protocols.

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[58] *Forêt d'Orien CEF in Lusigny-sur-Barse (Aube) – February 2017 (2nd inspection); Saint-Paul-d'Espis CEF (Tarn-et-Garonne) – March 2017 (2nd inspection); Bruay-la-Buissière CEF (Pas-de-Calais) – April 2017; Pionsat CEF (Puy-de-Dome) – May 2017 (3rd inspection); Sainte-Menehould CEF (Marne) – June 2017.*

5.2.2 *Role of families*

Every time it inspects a CEF, the CGLPL is led to identify best practices or formulate recommendations relating to the involvement of families in care or the maintenance of family ties for minors.

Many steps have been taken in this area in response to the recommendations made. For example:

- work with families has been integrated into the institutional project;
- the role of families, the reality of which the CGLPL had observed while recommending that it be better formalised, has been mentioned in the juvenile handbook;
- the tenor of contacts between minors and their families has been reviewed with a view to better involving the latter in individualised projects;
- the letter sent to families when minors are received has been reviewed and completed in accordance with the CGLPL's recommendations;
- parents receive the welcome booklet given to the minor and are regularly involved and informed of their child's achievements;
- the authorisation forms returned by the holders of parental rights upon the arrival of young people have been reviewed;
- regular contact with parents has been included in the responsibilities of each lead youth worker;
- the terms of family visits have been reviewed to allow families to see their children from the first weeks;
- visits of the facility, in particular the child's room, are organised for families;
- young people are no longer deprived of telephone calls or physical contact with their parents for any reason other than the decisions of the referral judge.

In this area, the CGLPL has never observed any refusal of its recommendations and it has even noted that the teams pay close attention to all the advice that is given to them, in particular when this results from good practices noted in other institutions.

The CGLPL invites the Minister of Justice to disseminate a collection of best practices in CEFs relating to the involvement of families in the care of minors.

5.2.3 *Education and activities*

Despite the educational vocation of CEFs, the quantity and quality of teaching frequently give rise to problems. Nevertheless, following the CGLPL's inspections, several positive measures have been taken:

- an increase in the number of teaching hours;
- access to sporting activities for all;
- the use of local sports associations;
- immersion periods in high schools;
- classes with the Compagnons du Devoir association;
- local partnerships with general, technical or agricultural schools;

- the appointment of “integration advisers” in charge of a list of companies where young people can carry out internships;
- the use of more qualified youth workers.

However, it is regrettable that it is still very difficult to fill teaching positions.

5.2.4 *Means of restraints and searches*

Even though it is not systematic, it is not uncommon for the CGLPL to have to recall some fundamental principles regarding the management of restraint, in particular the prohibition of full-body searches and physical restraint. Following such recommendations, the responses provided do not mask the persistence of illegal local practices.

In some institutions, the measures taken are clear – for example, when the practice of searches has been discontinued and replaced with a visual check of the minor’s personal belongings, or when the institutional project clearly shows procedures linked to transgressions committed by minors, which allows the educational team to clearly identify levels of intervention, prioritise “remedial” sanctions and give minors the opportunity to propose steps to be taken in this direction.

Elsewhere, the terms of the response are more ambiguous, as when it is indicated that professionals from the institution have taken part in reflections relating to "punishment as an educational driver", which cannot be criticised, but also to “educational containment”, which is a concept whose content is poorly understood and whose legality seems uncertain.

Lastly, there are also cases where the administration is struggling to change local practices: “the CGLPL recommended that the use of restraint, which is prohibited by the national guidelines for judicial youth protection, be abandoned. One year after the inspection, this measure was still not effective. Subsequently, two texts recalling this prohibition were given to the employees against signature and were presented by the PJJ. Training in risk management and work on recommendations and good professional practices are implemented on a regular basis”. The recurring nature of these measures, their solemnity and the absence of information relating to their results hardly allow for optimism.

The Minister of Justice should take all preventive measures and order all useful sanctions so that the measures of restraint imposed on minors in CEFs are strictly compliant with the law, necessary and proportional. Any measure of restraint that is not expressly authorised by law is prohibited and any legislative authorisation of a measure of restraint should be interpreted restrictively.

5.2.5 *Release and continuity of care*

Several of the centres visited were experiencing difficulties in placing young people on their release and guaranteeing continuity of care in accordance with the notion of the best interests of the child. While one of them currently affirms it has "undertaken work, which is still in progress, to collaborate with the services of the open environment", another considers that placement extensions or renewals, with the agreement of the minor, remain necessary to complete discharge plans “due to lack of anticipation in discharge planning that is still to be deplored with default orientations, and also because of a lack of consultation with open environments".

Lastly, despite repeated requests from the CGLPL, the long-term monitoring of children admitted to CEFs remains impossible which means it is also not possible to evaluate the impact of these centres on youth outcomes.

The CGLPL firmly draws the Minister of Justice ’ s attention to the need to record and evaluate the outcomes of children placed in CEFs over time. To do this, it is necessary, on the one hand,

to effectively assist the centres in the search for out-of-home placements for minors after their release and, on the other, to assess the impact of the CEFs with regard to the outcomes of minors.

5.2.6 *Minors' files*

The professionalisation of CEFs is necessarily accompanied by rigorous monitoring of the outcomes of the minors detained in them. It is based, in a very real way, on the quality of the files of minors which should be kept on a regular basis, used in the management of educational plans and protected against any risk of indiscretion. The many recommendations issued by the CGLPL have, for example, given rise to the following measures:

- some aim to correct weak documents: by updating them, by making general improvements confirmed by an operational audit mission or by supplementing them with educational and psychological reports;
- others aim to make minors' files easily accessible operational tools: by updating them regularly, by integrating them into the minor's personalised project or by simplifying them according to the CGLPL's advice;
- others aim to involve minors in their own care, by having them participate in the drafting and follow-up of their records;
- lastly, others integrate third parties in this care, by involving the open environment in the initial drafting of the file or by compiling end-of-detention files submitted to the judges and the open environment.

Two responses from CEFs accurately describe the characteristics that a case file should have: "an operational document for care, regularly re-evaluated by the heads of educational services, presented to the parents and the partners of the PJJ and sent to the referral judge" that "provides an overall understanding of the minor's situation, for the purpose of establishing a diagnosis, designing action plans, evaluating them and keeping a record of the actions undertaken".

Chapter 4

Action taken in 2020 in response to the cases referred to the Chief Inspectorate

> In accordance with the prevention mission delegated to the Chief Inspector of Places of Deprivation of Liberty, processing case referrals helps to identify the existence of any violations of the fundamental rights of people deprived of liberty, and to prevent their re-occurrence. With this in mind, the inspectors in charge of the referrals conduct verifications of documents and send written requests 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 throughout the year bring to light, over and above isolated cases, failings and violations of the rights of people deprived of liberty that go beyond the scope of an institution or region and call for nationwide responses. While most of the inquiries initiated by the CGLPL concern specific institutions, several inquiries are sent each year to the Ministers of Justice, Interior and Health, or to some of their departments, particularly the Prison Administration Department for cross-cutting issues. They can provide an opportunity to identify issues raised in referrals concerning several institutions and cross-check the information from these referrals with the findings from inspections of institutions.

1. Referrals marked by the consequences of the health crisis

The processing of the referrals sent to the CGLPL in 2020 – which was not interrupted either because of the health crisis or because of the vacancy of the CGLPL position – was inevitably marked by the consequences of the health crisis in places of deprivation of liberty, where all of the dimensions and conditions of care were affected, to a greater or lesser extent and for varying lengths of time.

The reports received by the CGLPL throughout the year testified to the growing concerns of persons deprived of liberty in connection with the magnitude of the health situation. For obvious reasons, during the first lockdown, the CGLPL carried out relatively few inquires in response to the numerous referrals it had received. Some situations deemed urgent were rapidly reported to the administrations concerned, while requests for comments sent to the authorities mainly concerned issues of access to healthcare and rights. On the other hand, numerous inquiries were initiated in the second half of 2020, often in connection with the management of the health crisis.

> During the first lockdown, the referrals received by the CGLPL were mainly an opportunity for people deprived of liberty to voice their concerns with regard to the health crisis and its consequences, in particular concerning the material conditions of their care and the exercise of their rights. Ensuring access to healthcare and maintaining links with the outside world were at the heart of the majority of referrals received during this period. The general deterioration of the conditions of care in the various places of deprivation of liberty was also described in numerous reports.

With regard to access to healthcare, many people deprived of liberty – mostly detainees – expressed concern, on the one hand, about their healthcare due to the interruption of all movements internally and externally and, on the other, as to the risk of contamination to which they were exposed, in particular because of the close living conditions inherent in their mode of care and, as regards penal institutions, prison overcrowding. The glaring lack of available information on the evolution of the outside health situation was also a source of significant anxiety affecting all persons deprived of liberty.

The interruption of medical follow-up resulting from the lockdown measures in penal institutions had immediate consequences for the management and monitoring of chronic diseases, access to treatment and specialised care, and the performance of previously scheduled medical procedures, whether or not they required medical extraction. Sometimes, the health crisis sharply aggravated a situation which, in ordinary times, was already characterised by numerous shortcomings. This was particularly the case in CRAs where, in general, access to care is usually very difficult; the lockdown made it practically impossible. The CGLPL thus received a large number of testimonies from people identified as particularly at risk in the event of COVID-19 contamination, whose medical follow-up was not or no longer assured and whose conditions of care not only did not offer them the slightest protection against possible contamination but on the contrary, critically exposed them to it.

In this regard, it is worth highlighting the administration ' s initial shortcomings in setting up health prevention and protection systems in places of detention as brought to light by the referrals received. In penal institutions, while the entry into force of the lockdown immediately led to major restrictions on the rights of detainees, who found themselves deprived overnight of any possibility of movement and of access to almost all “services” normally accessible in detention, their access to protective equipment (masks, hand sanitiser, gloves) was not effective for several weeks. This situation was naturally a source of significant anxiety and tension within prisons. Similarly, the time taken by the administration to issue instructions requiring its officers to wear masks and gloves was taken particularly poorly by persons deprived of liberty: detainees legitimately questioned the heavy constraints imposed on them, while the people responsible for their care, who remained free to come and go between their workplace and their home, only wore a mask at random and served meals without wearing gloves.

There were also numerous reports of situations in which, despite one or more cases of COVID-19 contamination being detected, measures aimed at isolating people who tested positive and close "contacts" were implemented in different ways depending on the place concerned, when they were not simply non-existent. In some prisons, close contacts were not subject to any particular isolation measures, while other institutions applied preventive measures to asymptomatic prisoners that were deemed excessive in view of the risk they were intended to prevent and their consequences for those concerned: some were thus kept in solitary detention for several days without their personal belongings and without access to any services (laundry, telephone, shower), sometimes in unsanitary cells and without any disinfection between two assignments. In the CRAs in the Paris region, several reports concerned people who tested positive for COVID-19 and whose transfer to another CRA did not lead to any particular health measures being implemented, even though they had necessarily been contaminated during their detention (in light of its duration).

In general, the management of the health crisis in places of deprivation of liberty, as in the "free world", was characterised by a lot of trial and error and many ups and downs, whether they resulted from the temporary inertia of the administration (late instructions, uncertain protocols, etc.) or from more specific difficulties (special regimes, particularly vulnerable public resistant to health instructions, etc.). In the unprecedented and particularly anxiety-provoking context of an uncontrolled pandemic, these shortcomings could have been seen as understandable if they had not coexisted with a refusal to take certain common-sense measures likely to ease the pressure on the places concerned: release more detainees, close CRAs, develop outpatient hospital care, etc.; the discrepancy between the many hazards that affected the management of places of detention on lockdown and the absolute and immediate nature of the restrictions imposed on the people detained therefore led to numerous violations of their

fundamental rights. In this context, the CGLPL did not fail to note the irony of certain situations described in the referrals received: the extension of a measure of hospitalisation in involuntary psychiatric care ordered against a patient exclusively motivated by fear that he would not take appropriate precautions if discharged from hospital; the placement or continued detention of people identified by the UMCRA as particularly vulnerable in the event of contamination while the closing of the borders hindered their deportation; the refusal of a prison complex ' s management to give a detainee newspapers sent to him by post on the grounds that they could be given to him during a visit, when visits were suspended *sine die* and the library was inaccessible, etc.

> The psychological care of persons deprived of liberty was also seriously affected by the health crisis: in a particularly anxiety-provoking context, psychological treatment was purely and simply interrupted in most of the places concerned. Many detainees thus reported that they were unable, as soon as the lockdown was ordered, to consult a psychologist while, on this point too, they saw an already critical situation worsen, with the shortcomings affecting their psychological care unfortunately being constant and general. A few people subject to an involuntary psychiatric care measure drew the CGLPL ' s attention to the abrupt interruption of their treatment programmes.

The suspension of outward movements and visits in all places of deprivation of liberty was particularly difficult for the people detained there and led to a marked deterioration in the general atmosphere in these places; both collective tensions and individual anxieties were exacerbated. The lack of information provided to the detained population was, once again, a source of profound misunderstandings: in certain penal institutions, visitors were not informed of the suspension of visits before their arrival on-site, sometimes following a long trip, while some inmates were unaware that they could get extra phone credit; people detained or hospitalised involuntarily were not informed of the postponement of JLD hearings.

> The exercise of the right to maintain family ties by detainees deprived of visits was also particularly affected by the interruption in the distribution of mail and the numerous malfunctions affecting the use of telephones: limited access, saturation of lines, devices not recognising the code assigned for the granting of additional credits, detainees locked down in unequipped cells or, conversely, telephones installed in unusable cells, broken-down phone booths, etc.

In a number of penal institutions, the lack of information for detainees was also very significant with regard to the management of work, as detainees were not provided with any information regarding the suspension of activities, in particular the consequences of this interruption on workers ' compensation. Several inquiries were carried out with the prison administration, questioning the measures intended to offset the consequences, for detainees, of the interruption of their professional activities.

> In terms of access to rights, the slowdown in the functioning of justice and the exceptional regime resulting in this area from the health emergency were also very detrimental for all persons deprived of liberty. Their access to justice and the exercise of their rights of defence, in particular, were seriously compromised.

Detainees were deprived of any follow-up measures taken by the Prison Rehabilitation and Probation Service and of contact with their counsel, while all the hearings before the sentence enforcement judge (JAP) were cancelled. JLD hearings involving detainees were initially massively postponed (before the equally massive use of videoconferencing was put into place). Since legal aid associations were no longer present on-site, their exchanges with detainees only took place by telephone. While assessment sessions for detainees held by the National Assessment Centre (CNE)

were suspended, some reported the transmission of incomplete assessments to the JAP, despite their requests to have their assessment continued after the lockdown.

Regarding the material conditions of care, the many reports sent to the CGLPL concerned all aspects of life in places of deprivation of liberty. In CRAs, people who tested positive for COVID-19 were placed in isolation without access to drinking water and encountered major difficulties in accessing the courtyard and getting their meals, while detainees kept in the "common law" regime were deprived of visits and access to laundry and the safe, without receiving any information of any kind. Detainees were locked down in their cells almost 24 hours a day due to the closing of courtyards and were deprived of the possibility of eating in the canteen. In some healthcare institutions, people considered at risk in the event of infection were purely and simply isolated due to the absence of any protection available for other patients and for medical and nursing staff.

> While all of these issues continued to fuel the referrals received by the CGLPL during the second half of 2020, the period separating the two lockdowns (from 11 June to 31 October) also gave rise to numerous referrals questioning the maintenance, in all places of deprivation of liberty and particularly in prisons, of restrictions on liberty and health measures to which the free population was no longer subject.

In penal institutions, as previously indicated, the late or non-resumption of activities, visits and movements, as well as persistent difficulties in accessing healthcare and all prison services, generated a number of frustrations and misunderstandings. Random respect for precautionary and health measures by staff was also the subject of numerous reports, while the quarantine measures imposed on new arrivals and people returning from leave or an extraction gave rise to serious misunderstandings on the part of detainees and their relatives, since prison officers were now free to come and go.

With regard to detention centres for illegal immigrants, numerous referrals focused on the difficulties encountered by detainees in obtaining masks and on the consequences of the seven-day quarantine measures imposed on detainees who tested positive for COVID-19 or were considered to be close contacts, as these people were isolated without being able to receive visitors or access their personal belongings. As for new arrivals, they saw the exercise of their right to appeal significantly compromised by their belongings and documents being kept in the safe for several days for “decontamination”, without any prior notice. Several inquiries were carried out by the CGLPL with certain prefectures and the Minister of Health concerning healthcare for detainees in the context of the pandemic and the changing health protocols; several reports mentioned the disparate and random nature of the terms of their implementation: in one CRA in Ile-de-France, for example, testing for new arrivals was interrupted at the end of October, just before the detection of a cluster that resulted in several transfers to the Plaisir CRA, which at the time was exclusively reserved for detainees testing positive for COVID-19.

As soon as the new lockdown was ordered, the issue of the imbalance between the constraints imposed on persons deprived of liberty and the relative flexibility left to the free population was at the heart of many letters addressed to the CGLPL.

> In addition, while the topics mentioned in referrals received prior to November 2020 continued to generate numerous reports (the right to maintain family ties and access to healthcare in particular), a theme specific to the second lockdown clearly emerged from the referrals at the end of 2020 which concerned, in the context of a lasting health crisis, the terms under which health measures were implemented in places of deprivation of liberty and the consequences of these measures for the living conditions and rights of the persons concerned.

The conditions under which visits in visiting rooms were now taking place in penal institutions – reduced duration and frequency of visits, prohibition of all contact, including with children, separation

by means of Plexiglas plates up to 8 cm thick making exchanges inaudible, etc. – were thus described in many reports, as were the failure to reopen UVFs and family visiting rooms in certain institutions, differences in the application of quarantine measures from one institution to another, etc. The CGLPL conducted inquiries with various authorities on these issues.

The drastic restrictions placed on the rights of people hospitalised involuntarily, in particular with regard to permissions for leave, also gave rise to several referrals, including from members of the medical and nursing staff concerned about the seriousness of the violations of patients' rights. In particular, the CGLPL was contacted regarding several situations in which directors of healthcare institutions had been informed by the prefecture or the ARS that no permissions for leave would be granted to patients hospitalised at the request of the State representative. The Chief Inspector requested comments from the Minister of the Interior on these practices which were contrary to the regulations and which were particularly detrimental to patients' rights. This letter is still awaiting a response.

Referrals concerning detention centres for illegal immigrants were characterised by the persistence of malfunctions reported in large numbers from the start of the health crisis and reflected in particular the difficulties encountered in implementing health measures and protocols. For example, detainees and legal assistance associations working in CRAs reported – continuously from the end of summer 2020 – serious shortcomings in the health protection of detainees (no hand sanitiser available, wearing of a mask not mandatory in "living areas", meals eaten together, three or four people accommodated per room, random isolation measures, etc.) and significant violations of their right to appeal and defence in particular. Deficiencies affecting their healthcare were also reported in numerous referrals, as were violations of all their fundamental rights due to the implementation of health isolation measures.

> In general, the processing of referrals relating to the health crisis led the CGLPL to paint a particularly worrying picture in view of the unfavourable outlook relating to the health situation: most people deprived of liberty were insufficiently protected against possible contamination by COVID-19 – when they are not dangerously exposed to it – and were affected by health measures which also led to many violations of their fundamental rights. This situation was particularly unacceptable given the complete dependence of the persons concerned on the administration and the resulting accountability of the latter.

2. Nationwide concerns identified in referrals: some examples of case referrals in 2020

Every year, the high number of referrals received by the CGLPL 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 specific institutions, several general inquiries are submitted every year to the Ministers of Justice, the Interior and Health, or some of their departments, not least the Prison Administration Department (DAP).

> These inquiries are an opportunity to refer to these authorities all of the questions relating to the same theme, identified from an analysis of the reports raised in case referrals received from several institutions, and to cross-link the information from these referrals with the findings made during institutional inspections.

For the CGLPL, they are also often an opportunity to outline recommendations and propose legislative or regulatory amendments, and sometimes to suggest the dissemination of best practices.

At the time this report was written, some of the referrals already mentioned in 2019 were still pending an answer, while other inquiries, for which responses had been pending for a long time, saw progress in 2020, which will be addressed below.

2.1 Prisoners' right to vote

As early as 2017, the CGLPL had initiated discussions with the Minister of Justice and the Prime Minister on the measures implemented to allow prisoners to exercise their right to vote, in accordance with the announcement made in this regard by the President of the Republic in his speech delivered in Agen on 6 March 2018.

In 2018 and 2019, the Minister of Justice and the Prime Minister told the Chief Inspector that their joint reflection was focusing on postal voting, given the difficulty of setting up polling stations in prisons. They also announced that provisions to this effect would appear in the Act on 2018-2022 programming and that this voting method would be effective for the 2019 European elections and would thus allow detainees duly registered on an electoral list on 31 March 2019 "to choose to exercise their right to vote from prison". The mechanism announced provided for ballot papers to be sent to a central office of the Ministry of Justice, in charge of counting votes. The Prime Minister stressed that this new system would not only save the persons concerned from having to request permission to leave or to vote by proxy, but would above all allow them to exercise their rights and duties as citizens themselves, from prison. The provision of information to prisoners was announced without waiting for the vote on the Programming Act.

Following these exchanges and the European elections of May 2019, the CGLPL received at least two testimonies from detainees who, unlike in previous years, had been unable to obtain permission to leave to vote in the European elections, on the grounds that they could now vote from prison. However, these persons claimed not to have received the individual explanatory letter or the form allowing them to choose to vote by post. As such, they intended to appeal against the decision of the sentence enforcement judge, which had been made too late to allow them to request, if they were not allowed to leave, the ability to vote by post.

Based on these testimonies, the CGLPL requested, in September 2019, comments from the management of the prison concerned as to the methods for distributing the forms and explanatory letters which the authors of this referral had not been able to have in due time. Figures were also requested, in particular regarding the number of people who, having expressed the wish to do so, had actually been able to vote on polling day (by post, by proxy or through permission to leave), and also regarding the number of permissions to leave granted by the JAPs in the jurisdiction during the May 2019 elections and previous elections.

A letter from the same day was also sent to the Prison Administration Director, requesting information on the results obtained following the implementation, for the first time, of the postal voting system for detainees (statistics for each voting method chosen, by type of institution and in comparison with previous elections, and also elements relating, where applicable, to difficulties in implementing the new system). This letter prompted a response from the DAP dated 18 October 2019, indicating in particular that 4,550 detainees had voted in the 2019 European elections, while 1,093 had taken part in the 2017 presidential election. With regard to the difficulties encountered in the organisation of voting, the administration reported the need to promote the registration of detainees as voters (out of the 9,950 people who had expressed the intention to vote by post, 3,980 were not allowed to vote because they were not registered) and facilitate the process of issuing identity documents to prisoners, in particular by encouraging the intervention of prefectural services within penal institutions.

In June 2020, the DAP sent the CGLPL precise responses regarding the more specific situation of the persons having submitted the referral mentioned above and the methods used to organise voting in the institution concerned. It was indicated that the prison population had been informed "orally by

the personnel of the conditions for organising the vote, and also through the posting, as of 23 November 2018, of the document entitled ‘Did you know?’ that the DAP had sent to all institutions". Information relating to the subject of the vote had also been distributed in detention (posters, brochures made available in the library, educational activities carried out by the local educational adviser). In addition, a voting intention questionnaire was distributed in detention in mid-December 2018, in order to raise awareness among the prison population and conduct an initial census of the number of people wishing to participate in the election. In March 2019, each institution received, from the DAP, the list extracted from GENESIS of all adult prisoners as of 25 May 2019 who were French citizens or citizens of the European Union. "Thus, each detainee appearing on this list and accommodated [in the institution concerned] received a memo, a voting option form, and an information notice by post […]. These documents were handed over, in a personally addressed and sealed envelope, individually in cells, by the surveillance staff, or by SPIP staff […]". Persons wishing to vote by mail gave the option form, in person, to one of the prison officers delegated for this purpose. These then ensured that all persons who had expressed their intention to vote by mail had actually received the option form; 18 forms were sent to the DAP electronically. The procedures for holding the election were then set out in detail; it was specified that the two persons who reported to the CGLPL that they had not been informed of the procedures for organising the postal vote had indeed received the various documents and information mentioned above, as expressly noted in the JAP’s ordinances. Figures relating to previous elections were also contained in the DAP’s response.

In October 2020, the CGLPL informed the Minister of Justice of the observations and recommendations that this letter called for on his part, inviting him, firstly, to set up traceability mechanisms capable of verifying that each detainee wishing to vote by mail has the appropriate form and secondly, to ensure that *ad hoc* requests for permissions to leave be examined in due time with regard to the organisational timetables set by the DAP. The CGLPL also recommended that voting procedures be reviewed and that it should henceforth be possible for detainees, in the event of denial of their requests for permission to take leave, to reorient themselves towards voting by proxy or by mail.

Lastly, at the regulatory level, while Article 112 of the Act on involvement in local life and the proximity of public action of 27 December 2019 had facilitated voting for detainees (by providing in particular for the extension of the conditions of attachment to a municipality, registration on electoral lists and voting by post), the decree[59] implementing this article was published in the *Official Gazette* on 29 November 2020, which set out new obligations with regard to the provision of information to detainees wishing to register on electoral lists as well as procedures for voting by mail. The extension of detainees’ ability to take part in all elections also constitutes an essential contribution of this decree. Lastly, Organic Act no. 2021-335 of 29 March 2021 on various measures relating to the election of the President of the Republic also contains provisions aimed at facilitating postal voting by detainees during the presidential election.

2.2 Female lawyers, security gates and bras

At the end of 2019, the CGLPL was informed of several situations in which female lawyers wishing to visit clients detained in different prisons had encountered a particular difficulty in the event of the security gate being triggered: some of them were forced to remove their bra to enter the prison, sometimes after having unsuccessfully requested a control by a manual detector and without being able to access a suitable room when they decided to submit to this instruction.

[59] *Decree no. 2020-1460 of 27 November 2020 implementing Article 112 of Act no. 2019-1461 of 27 December 2019 relating to involvement in local life and the proximity of public action and relating to registration on electoral lists and postal voting for detained persons.*

In January 2020, the Chief Inspector sent a letter to the Prison Administration Director reminding him, after having underlined the infrequent nature of this type of incident in view of the number of lawyers visiting penal institutions every day, that under the terms of the Circular of 20 February 2012 on the maintenance of external ties for detainees, in the event of persistent triggering of the gate alarm, a control must be carried out via a manual detector, with the visitor ' s consent. In the absence of an *ad hoc* legal framework (with the 2009 circular governing relations between detainees and their lawyers being silent on this point), the CGLPL considers that these provisions should apply to court officers, who cannot in any case be subject to a less favourable regime than ordinary visitors. The Prison Administration Director was also asked to provide comments concerning the factors likely to explain this type of malfunction (inexperienced and ill-informed staff, for example) and the measures taken to remedy it.

In a letter dated 17 August 2020, the Prison Administration Director provided details on the individual situations mentioned in the referrals to the CGLPL and more generally on the access of lawyers to penal institutions. In so doing, he expressly described as a serious ethical breach the fact, for a prison staff member, of asking a visitor to undress in the event of persistent triggering of the alarm, specifying that such isolated breaches gave rise to a disciplinary review by the head of detention or by management "depending on the seriousness of the facts", or even a reprimand, and that an interview with the national disciplinary council could be considered in the event of repetition. Thus, in one of the two prisons in which an incident of this type had taken place, the management had reminded the staff of the rules applicable to visitor controls, before the issuance, in June 2020, of a guidance note reviewing and detailing the formalities of these controls.

In return, in a letter dated 27 November 2020, the CGLPL, while welcoming the firmness of the reminder thus issued with regard to principles, drew the Prison Administration Director ' s attention to similar incidents that had occurred in another prison, whose management allegedly confirmed to the lawyer concerned that in the absence of a manual detector available to the officers in charge of controlling visitors, she would only be allowed to access the prison on the condition of removing her bra. A precedent that had arisen a few months earlier had given rise to an exchange between the President of the Bar and the management of the prison, following which the solution proposed to female lawyers had consisted in allowing them to undress in the toilets of the family reception centre. Emphasising the particularly prejudicial nature of such a situation for the dignity of the persons concerned and the rights of defence of their clients, the CGLPL asked the Prison Administration Director to be vigilant as to the need to ensure that officers in charge of welcoming visitors have the equipment enabling them to carry out their duties in compliance with the applicable standards and principles.

2.3 Period poverty of women in prison

As early as 2013, the CGLPL had approached the prison administration concerning various issues relating to the methods used to distribute hygiene kits in detention and the contents of these kits. In 2014, it was told that the contents of the said kits were harmonised under a national contract that had been signed in 2011 for a period of four years and was then renewed for another four years. However, continuing to receive referrals reporting significant disparities from one penal institution to another, with regard to both the contents of the hygiene kits and the methods of their distribution, the CGLPL requested new comments from administration from the end of 2013.

In its Opinion of 25 January 2016 on the situation of women deprived of liberty, the CGLPL also reiterated that the principle of equality between men and women should apply throughout society – that on the "inside" and that on the "outside" – and also stressed the need to guarantee conditions for women deprived of liberty tailored to their specific hygiene needs: as such, they should have unrestricted access to the basic hygiene products they need.

In a letter dated 23 December 2016 and after numerous reminders (in 2014, 2015 and 2016), the Prison Administration Director again indicated to the CGLPL that the contents and methods of distribution of hygiene kits were governed, for all public and delegated management institutions located in mainland France and Corsica, by a national contract that had taken effect in February 2015 and by a note from the DAP dated 31 March of the same year.

As many referrals to the CGLPL continued to report difficulties with regard to the possibility of having hygiene kits renewed or their contents modified, a new request for comments was sent to the Prison Administration Director in April 2018. In a letter dated 16 October 2019, the latter informed the CGLPL of the modification of the contents of the hygiene kits distributed in detention due to the awarding, in July 2019, of a new public contract. These kits now contain more items. However, the methods used to distribute them have not changed. Personal hygiene kits for women contain 18 sanitary protection products, which are renewed each month. The DAP then reviewed the situation in each of the prisons cited in the 2018 referral, reporting widespread and strict compliance with the terms of the contract. Lastly, it was stated that the administration is "aware of the existence of period poverty, which is particularly significant among vulnerable populations such as female prisoners" and announced the creation of a working group "aimed at re-examining the relevance and the choice of the products included in the hygiene kit for women without sufficient resources and on the list of canteen products for all female prisoners".

Following on from these exchanges, the Chief Inspector, in a letter dated 10 September 2019, once again drew the Prison Administration Director's attention to the situation of period poverty affecting certain women prisoners and the particular difficulties encountered by these prisoners in accessing hygiene products tailored to their needs, considering that, as it stood, the system for distributing and purchasing these products undermined the dignity and physical integrity of detainees.

Returning to the various difficulties mentioned in many testimonies from women prisoners – kits not distributed, incomplete kits, insufficient variety and poor quality of the intimate hygiene products contained in the kits or accessible in the canteen, excessively high prices, difficulties, for the poor, in having their sanitary protection products renewed every month, etc. – the CGLPL reminded the Prison Administration Director of its recommendation to expand the range of products that can be received by detainees from the outside, all while emphasising that when it comes to personal hygiene, prisoners should not be forced to resort to outside help.

> The CGLPL considers that the personal hygiene products needed by women during their menstrual cycle are basic necessities to which access cannot be determined by financial criteria. The Inspector therefore recommended that the said products be distributed to all women prisoners, regardless of their resources, and invited the Prison Administration Director to consider setting up, in all prisons, the free monthly distribution of basic feminine hygiene products (sanitary pads and tampons), while maintaining the possibility, for women who can afford it, of making additional purchases through canteens.

This letter has so far remained unanswered, despite two follow-up letters sent to the prison administration. However, in September 2020, the latter informed the CGLPL that its services had distributed two documents intended to inform prison staff and the prison population about access to sanitary protection products in detention[60]. These documents state in particular that a selection of sanitary protection products is now available free of charge to all female prisoners and that the products available in canteens are "greater in number, of better quality, and sold at market price". The CGLPL

[60] *'DAP Infos' and 'Did you know?', 7 September 2020.*

can only welcome this development. However, it will continue to closely monitor this particularly sensitive issue concerning the care of female prisoners.

2.4 Procedures for issuing and renewing national identity documents in prison

During 2018, the Chief Inspector had referred to the Prime Minister the issue of difficulties identified in the procedures for issuing and renewing national identity documents (CNIs) for detainees.

In order to collect biometric fingerprints, which has been mandatory since 2017, a transitional system was put into place as part of the "next-generation prefectures plan" (2016), under which prefectural agents travel to penal institutions equipped with mobile collection devices (registration of the request, digitisation of supporting documents, collection of fingerprints). In the absence of consensus on equipping prison registries with such devices, it seems that some prefectures stopped sending agents to penal institutions, calling into question the transitional system put in place pending a permanent procedure.

In 2018, the Prime Minister told the Chief Inspector that he had asked the Ministers of Justice and the Interior to seek solutions to these difficulties. Emphasising the importance of effectively recognising the citizenship of detainees as part of the "prison plan" promoted by the Government, he affirmed his desire to ensure the lifting of obstacles to the issuing or renewal of identity documents.

In 2019, the Chief Inspector was informed by the Minister of the Interior of the continuation and widespread implementation of the transitional procedure for the recording of detainees' CNI requests by prefectural agents equipped with mobile devices; a joint instruction from the Ministries of the Interior and Justice disseminated in August 2019[61] specified its terms of implementation. Under the terms of this instruction, requests are now examined by the prison administration services before being collected in prison by the prefectural services; each penal institution is also required to draw up an agreement locally with the competent prefecture, setting in particular the timetable for interventions, the conditions for collecting information, the procedures for issuing documents, etc. The measures thus announced were supposed to be effective on 1 September 2019.

In the autumn of 2019, the Chief Inspector asked the Prime Minister for a copy of the instruction sent to the prefects; she also asked him for information on the state of deployment of the announced system and on the protocols already put in place in prisons and, where applicable, asked him to describe any difficulties encountered in their implementation. This request was transmitted to the Minister of the Interior, who sent the CGLPL the circular of July 2019, in a letter of 12 November 2019 setting out the stages of the system's creation, without however providing information as to the possible difficulties generated by its implementation or the number of penal institutions having entered into agreements with the prefectures concerned.

By letter of 26 June 2020, the Minister of Justice, for his part, specified that according to the assessment carried out jointly by the DAP's services and the Ministry of the Interior, "approximately 78% of penal institutions had undertaken work to develop a protocol with prefectures". He also reported persistent difficulties in some *départements*, “such as an insufficient number of mobile collection devices, in particular in Bouches-du-Rhône, Nord and Essonne”. Lastly, a new meeting was announced “in the first quarter of 2020 [...] to ensure the development of protocols and the effective issuance or renewal of CNIs for detainees”.

> The CGLPL will remain all the more attentive to changes in the situation in this area as it received, in 2020, several referrals testifying to the persistence of

[61] *Instruction of 28 July 2019.*

difficulties in certain prisons. For example, a person detained in the western part of France indicated, in April 2020, that the prefecture ' s agents had not travelled to the prison for many months, while a person detained in a prison located in Charente-Maritime said he was still awaiting, in June 2020, the issuance of a CNI requested in October 2019.

2.5 The deterioration of conditions of care for people placed in detention centres for illegal immigrants

In an open letter dated 26 June 2019, several associations drew the attention of the Minister of the Interior to the unprecedented deterioration of the situation of foreigners in detention centres for illegal immigrants (CRAs).

Many of the findings of these associations were in line with the observations made during the exercise of their respective missions by the CGLPL and the Defender of Rights who had already, on several occasions in previous years, alerted the public authorities as to the deterioration of foreigners ' detention conditions and its consequences in terms of violations of rights.

Considering that, on certain points, the response given to the associations in July 2019 did not seem to take their recent recommendations into account, the Chief Inspector and the Defender of Rights sent a joint letter to the Minister of the Interior dated 24 July 2019, once again expressing their strong reservations as to the extension of the legal duration of detention, and reiterating in particular their recommendations relating to the healthcare of detainees, the situation of unaccompanied foreign minors and the placement in detention of families with children.

In a letter of 24 January 2020, the Minister of the Interior sent the CGLPL detailed observations "aimed at addressing its concerns".

The Chief Inspector had expressed strong reservations with regard to the provisions of Act no. 2016-274 of 7 March 2016, which established the use of house arrest for illegal foreigners as a principle and made detention a measure to be used only on a subsidiary basis, fearing that the excessive number of derogations provided for by the legislature would render the principle meaningless. The sharp increase in the number of places in detention observed following the entry into force of the Act of 7 March 2016 confirmed her fears, while the announcement of the construction of additional places also confirmed the Government s choice to give priority to immigration detention over other less coercive measures.

Emphasising that this development was all the more worrying as it was accompanied by a constant tightening of the provisions relating to the deportation of illegal foreigners, the Chief Inspector also expressed deep reservations about the provisions of Act no. 2018-778 of 10 September 2018 increasing the maximum period of detention to 90 days, considering that they risked having manifestly disproportionate consequences in view, on the one hand, of the importance of the fundamental rights in question and, on the other, of the small gain in efficiency that could be expected as a result.

In response, in January 2020, recalling that the provisions in question had been validated by the Constitutional Council, the Minister of the Interior informed the CGLPL that they were not intended to keep people in detention "for this entire period" and were meant to apply only to detainees whose prospects of deportation "are hampered by their behaviour or the lack of consular cooperation, when the maximum period of detention of 45 days blocks the completion of the deportation procedure".

Both the Chief Inspector and the Defender of Rights had expressed their deep concern regarding the worrying situation of sick foreigners placed in CRAs and the urgent need to rethink the terms of their healthcare. However, the Minister of the Interior s response to the associations, according to which "sick people in detention receive systematic and appropriate care", did not seem to match the situation observed by the two institutions.

Indeed, the observations made by the CGLPL during the CRA inspections carried out since it was created and as part of several inquiries more specifically dealing with the health of detained foreigners revealed the significant difficulties encountered by these persons in accessing medical and nursing staff; these difficulties are linked to material considerations and also, in many CRAs, to insufficient medical and nursing presence. Neither the inspections conducted since the alert sent to the Minister of the Interior nor the referrals that the CGLPL continues to receive in this respect have enabled this finding to be changed.

These difficulties in accessing care are all the more alarming since the objective of implementing the deportation measure too often takes precedence over any real consideration for the state of health of the people concerned. Thus, the CGLPL is regularly and increasingly contacted regarding the situation of persons placed or maintained in detention centres even though their state of health is known to be fragile. Mental diseases, in particular, are extremely frequent and receive particularly poor care. In the absence of appropriate resources, they are often managed via security measures, in particular through the use of seclusion rooms. These shortcomings in the medical treatment of mental diseases contribute very largely to the deterioration of the conditions in which the people concerned are detained. The CGLPL has also observed, in recent years, an increase in the number of referrals concerning people placed or kept in detention despite disabilities or diseases; this clearly prevents their fundamental rights from being respected.

For these reasons, in their letter of 24 July 2019, the CGLPL and the Defender of Rights informed the Minister of the Interior of their wish to see a significant increase in the resources allocated to the operation of the medical units of detention centres (UMCRAs), especially in terms of personnel, and more particularly with regard to the psychiatric care of detained foreigners. They also recommended implementing measures to improve the accessibility of UMCRAs and introducing the systematic use of professional interpreters during medical consultations.

The two authorities also stressed that, with regard to persons whose state of health is incompatible with their continued detention, the reminder contained in the Minister s response to the associations, according to which the immigration detention of these people can be terminated at any time, did not take into account the weakness of the normative framework in this area, pointed out on several occasions by the two institutions. They therefore reiterated their requests for legislative or regulatory provisions to be adopted to define the procedures to be followed in the event that a foreigner s state of health is incompatible with detention.

Lastly, the two institutions underlined the fact that foreigners whose state of health could challenge their deportation find it difficult to assert their right to protection against deportation. The transfer, since 1 January 2017, of the management of the "sick foreigner" procedure from Regional Health Agencies (ARSs) to the OFII s medical department has led to a significant reduction in the safeguards granted for this reason. The procedure is also not well known to all stakeholders and is not at all transparent.

With regard to changes in the legal framework governing the organisation of healthcare within CRAs, the Minister of the Interior indicated in January 2020, as he had already done in his comments on the CGLPL s opinion of 17 December 2018, that the circular of 7 December 1999 relating to the health system set up in CRAs was being revised and announced the publication of a ministerial order.

In response to a request for information on the progress of the interministerial work thus announced, he confirmed, in a letter dated 21 December 2020, that a draft order was being finalised and that a draft instruction would be formalised at the same time in order to specify the conditions for its implementation. He also specified in this letter that the provisions directly resulting from the CGLPL s recommendations include "the systematic proposal of an interview with a healthcare professional upon the detainee s arrival or the presence of psychologists in the centre s medical unit".

He thus indicated, in January 2020, that a system where psychologists are on duty had "already been gradually deployed in all centres, whereas the presence of a psychiatrist is not necessary given the low number of medical extractions for psychiatric disorders", adding that "in practice, in the event of flagrant psychiatric disorders or disorders reported by the medical staff […], the detainee in question is transported to a psychiatric unit for examination or hospitalisation". Lastly, he specified that "there is indeed a normative framework since, when a detainee is hospitalised in a psychiatric unit, the detention measure cannot be maintained insofar as the person concerned is not a priori in a state of being able to access and assert their rights".

While, on this last point, the CGLPL and the Defender of Rights had already informed the Minister, in their letter of July 2019, that they shared his point of view, they did not fail to emphasise that detention measures against the people concerned by these situations were not systematically lifted in all the *départements*, judging by their findings in the field and the testimonies brought to their attention. For the same reasons, the Minister s assessment of the psychological care needs of the detained population is particularly surprising, given the frequency of reports describing the continued detention of people with known mental disorders and, indeed, the insufficient number of medical extractions performed for this reason: unlike the Minister, the CGLPL does not interpret this as a sign of the people concerned being in good health but rather sees it as one of the too many weaknesses affecting their healthcare.

With regard to the recommendation to give suspensive effect to the OFII s opinion on the compatibility of a person s state of health with their deportation, the Minister indicates that such a measure would not be appropriate: this opinion is generally issued very quickly and "the prefectures generally wait for the OFII s opinion before actually carrying out the deportation measure" which, as he recalls, is not binding on the prefectural decision. Here again, the CGLPL can only deplore the discrepancy between the assessment thus made by the Minister and the testimonies it regularly receives.

Attentive to developments in the situation in this area, the CGLPL is however delighted that its recommendations have been taken into account as part of the revision of the 1999 circular.

The CGLPL has repeatedly expressed its opposition in principle to the placement of children in detention centres for illegal immigrants. Like the Defender of Rights, it regularly observes that the placement of families with children in detention centres is far from being exceptional in practice, as evidenced by the figures published by the State-mandated associations. Moreover, the minors concerned are sometimes associated with adults who do not exercise any parental authority and are sometimes completely unknown to them, with the sole aim of enabling the administration to place them in detention for deportation purposes. This practice also caused the European Court of Human Rights to issue a judgement against France[62].

> Detention is never, under any circumstances, in the best interests of children. Detention – even for a short period, and regardless of the conditions – has

[62] *Judgement of 25 June 2020, Case of Moustahi v France, Application no. 9347/14.*

consequences for their well-being. It can lead to post-traumatic stress and the various disorders that are generally associated with it (anxiety and depression, and sleep, language and developmental disorders, etc.).

However, not only are children still placed in detention even though, in almost half of cases where families with children have been placed in detention, the families have ultimately been released and their deportation has therefore not been effective, but it also appears that only a few prefectures are responsible for half of placements of families with children in CRAs, which shows that for the majority of prefectures, families with children can be deported without being detained.

Therefore, the CGLPL and the Defender of Rights firmly reiterated, in their letter to the Minister of the Interior of 26 July 2019, their recommendations to purely and simply ban the detention of children in CRAs, calling for the only acceptable alternative which is house arrest.

Lastly, the Minister of the Interior s attention was drawn to the situation of unaccompanied young foreigners whose status of minor is disputed; these are often placed in a CRA as soon as they are refused eligibility for child welfare (ASE), without a children s judge having ruled on their situation.

With regard to the placement in detention of children with their families, the Minister argues that, pursuant to the provisions in force, such placements only occur "as a last resort, under limited conditions, […] over a period limited to preparations for departure, provided that the placement decisions clearly establish that there is a risk of escape and report on the search for a less restrictive solution or the failure thereof". Stating that such measures are not likely to undermine the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms, he adds that work is under way to examine the conditions under which procedural safeguards could be provided for by law in this area.

In fact, the Chief Inspector was heard in June 2020 by the National Assembly s Committee of Laws concerning a bill aimed at strictly regulating the detention of families with minors, recorded on 12 May 2020. On this occasion, she reiterated her opposition in principle to any placement of foreign minors in detention, all the more firmly since the proposed provisions, while they establish new guarantees for the rights of the families concerned, do not exclude the possibility of extending the period of detention of a foreign national accompanied by a minor, in particular "in the event of absolute urgency or a particularly serious threat to public order". The CGLPL has only too often had the opportunity to denounce the vagueness and imprecision of these notions and the risks of fundamental rights violations associated with certain decisions made on their basis.

With regard to fears of seeing an increase, because of the new minor assessment system (AEM), in placements in detention for unaccompanied youth declaring themselves to be minors, sometimes despite them being supported by child welfare, the Minister says such fears are unfounded. He thus argues that the said system is able to more rapidly and reliably assess whether a person is a minor, through the collection, on the one hand, of information useful to the *départements* responsible for the assessment and, on the other, of data relating to the persons concerned (civil status and fingerprints) and information transmitted by the *département* (results of the assessment, appeal, decision of the children s judge). It thus helps fight against fraud and "guarantees the protection of children, by reducing the workload and congestion of child welfare […]". Lastly, the Minister reiterates that the legislative provisions laying down the principle of the creation of the AEM file have been validated by the Constitutional Council.

3. Follow-up on referrals revealing violations of rights: a few examples from 2020

3.1 Consequences of hospitalisation in a UHSI or UHSA or at the EPSNF for people who are not imprisoned in the institutions attached to these structures

As early as 2016, the CGLPL had noted, in particular in response to the referrals received, that the change of prison ID number following these hospitalisations, regardless of their duration, was leading to various violations of fundamental rights for the persons concerned. Indeed, since their return to their original institution at the end of their hospitalisation is considered by the administration as a new assignment, they are assigned a new prison ID number, as confirmed by the DAP in a response to an inquiry carried out in 2020 concerning a person who was on the waiting list for sports activities and who, having been hospitalised for 45 days at the national public health institution at the remand prison of Fresnes (EPSNF), was informed on his return to his prison of origin that his requests submitted prior to hospitalisation had lapsed due to this change of prison ID number.

This situation directly affects the exercise by those concerned of many fundamental rights, the effectiveness of which is dependent upon the possession of a prison ID number. During their hospitalisation, the detainees concerned are obstructed in the exercise of their right to maintain family ties and the exercise of their rights of defence. An interruption in financial aid for people without sufficient resources is also sometimes noted, as are long delays in transferring credit from personal accounts, preventing people from eating in the canteen and adding funds to their telephone accounts. When the persons concerned return to the institution of origin, various difficulties may result from their "new" status of new arrival, which requires them, for example, to take steps to benefit from access to work, vocational training or socio-cultural activities, without taking into account any steps they may have taken prior to their hospitalisation, even though they had sometimes been on waiting lists for these same activities for several months. Also frequently delayed for the same reason are the processing of assignment referral files, requests for changes of assignment and sentence adjustment requests; the processing of requests for reduced sentences can also be affected.

In 2016, the Chief Inspector had requested comments from the Prison Administration Director on all of these points, questioning in particular the need for the change of prison ID number imposed on the persons concerned. Although this letter has remained unanswered, other inquiries initiated by the CGLPL on this subject with various directors of penal institutions, in response to referrals relating to the various consequences of this situation, have given rise to responses from the prison administration. Thus, as part of one of these exchanges, the DAP informed the CGLPL, in September 2020, of the experiment in progress at the Fleury-Mérogis remand prison, which was testing a "new ‘ short-term transfer ’ prison ID number system […] so that hospitalised detainees retain their prison ID numbers and maintain their ongoing applications and requests”.

3.2 Regulation of the use of electroconvulsive therapy for patients hospitalised involuntarily

Following a referral concerning a patient assigned to a hospital unit for difficult psychiatric patients (UMD) for whom electroconvulsive therapy (ECT) was being considered, the CGLPL requested comments from the institution ' s management regarding the procedures governing the use of ECT for involuntary patients. In particular, it asked whether use of this treatment is covered by specific protocols when it concerns a patient admitted under this hospitalisation regime, and whether the patient ' s consent to ECT is mandatory. Where relevant, the means implemented by the care team to ensure the free and informed nature of such consent were also questioned, as was the procedure by which the patient ' s relatives or trusted person are involved in the decision-making process. More generally, the CGLPL also requested information on the concrete conditions and procedures for implementing ECT, in particular on the associated decision-making process (collegiality, interdisciplinarity, multi-professionalism).

In response, the director of the institution in question informed the CGLPL that the ECT unit has a formalised protocol and an operating charter (both attached to his letter) and provided a particularly detailed response to the various questions asked in the inquiry letter.

With regard to informing patients and obtaining their consent, it is the responsibility of the practitioner in charge of their treatment to provide them with information that is clear, honest and suited to their degree of understanding. Patients also receive information on their state of health and their disease and its foreseeable evolution, in addition to a detailed description of the objectives of the ECT treatment and its implementation. This information is delivered orally to the patient during an *ad hoc* consultation or the personal interview. In addition, a personalised assessment of the benefits and risks of the treatment is carried out, of which the patient is expressly informed, and the therapeutic alternatives and the risks inherent in the sessions are evaluated. This benefit/risk assessment is included in a document issued prior to treatment. For UMD patients, it is specified that the information is provided during several interviews with the doctor and the nursing team and is regularly updated. Oral communication is favoured because it allows the doctor to adapt his explanations to the patient ' s personality and ensure that they are properly understood. An information document on ECT is also given to the patient, so that they can refer to it, think things through and discuss it with anyone of their choice. In this regard, the best practice recommendations for physicians drawn up by the HAS in June 2012 are taken into account. Viewing of a video relating to ECT treatment and an accompanied visit to the ECT unit can also be proposed. A reflection period of several days is observed between the time the information is given to the patient, the time they give their consent and the time the sessions begin. Mention is made of the provision of information and the collection of consent in the patient ' s file. Their written consent is required and kept on file, and a copy is given to them.

The director then indicates that the principle thus established of obtaining the patient ' s consent prior to the start of ECT sessions is not subject to any restrictions or exceptions when the patient is hospitalised under the involuntary care regime. ECT treatment is therefore never applied under restraint in the institution, unlike other treatments that may, under certain conditions, be administered under restraint as part of an involuntary hospitalisation measure. These patients are therefore not covered by specific protocols in relation to patients voluntarily admitted to the ECT unit.

The patient ' s trusted person or relatives are usually involved in the decision-making process, taking into account the patient ' s choices as to what they do or do not wish to reveal about their state of health and also considering any protective measures from which they could benefit. These persons are also asked to participate in decision-making in the event of an emergency, therapeutic impossibility or the patient ' s refusal to be informed. The information document of the National Agency for Health Accreditation and Evaluation is given to them and the viewing of videos is suggested; they can also be

invited to visit the ECT unit. For patients subject to a protective measure (guardianship, for example), the written consent of the guardian is required in addition to that of the patient. In case of disagreement, the guardianship judge is referred to.

Concerning decision-making methods for resorting to ECT treatment, the director indicates that the process starts with the submission of a request from the attending psychiatrist to the head of the ECT unit; the indication always has to be validated by a psychiatrist working in the said unit. For a patient assigned to the UMD, its relevance is assessed during regular multi-professional clinical meetings (generally bringing together psychiatrists, interns, nurses, psychologists, nursing assistants, health managers, pharmacists and social workers). The anaesthesiologist is also involved in the decision-making process. The ECT unit ' s team is also multi-professional and actively contributes to the benefit/risk analysis of ECT treatment.

> Noting that the procedures thus implemented testify to the reflection carried out within this institution and reflect efforts to respect patients ' rights, the Chief Inspector informed the director of her satisfaction in this regard: these procedures are indeed compliant with her recommendation contained in the thematic report on involuntary care according to which, "in the event of recourse to shock therapy, which is sometimes administered without the person ' s consent, it is necessary to provide for a collegial decision-making procedure and inform the trusted person so that the consent of the person or their representatives is better informed and heard".

The CGLPL emphasises in this same report that although this treatment often brings significant improvements that may only be temporary, it poses significant risks and is not unanimously accepted by professionals; it will nevertheless remain attentive to compliance, in other mental health institutions, of the principles thus set out, since other referrals indeed seem to indicate that such respect is unfortunately not always guaranteed.

3.3 Handling of inmates assigned to violent prisoners' units

Over the past year, the CGLPL has received several referrals relating to the conditions of detention in the "violent prisoners ' units" (UDVs) of several penal institutions.

The creation of these units results, in law, from Decree no. 2019-1504 of 30 December 2019, issued pursuant to Article 88 of Act no. 2019-222 of 23 March 2019 on 2018-2022 planning and justice reform, of which an article stipulated that detainees who may behave in a way that is "likely to undermine the maintenance of good order in the institution or public security" could be "assigned to specific wings to benefit from an appropriate care programme and be subject to a detention regime involving, in particular, reinforced security measures". Within the new Chapter Va of the Code of Criminal Procedure, entitled "Specific wings", created by the Decree of 30 December 2019 which determined the conditions for the implementation of these provisions, Article R.57-7-84-1 thus states that a violent prisoners ' unit is a separate area within a penal institution, where "adult prisoners who have a history of violence or a risk of acting violently, or have committed violence in detention can be placed […] if their behaviour undermines or is likely to undermine the maintenance of good order in the institution or public security". The following articles define the detention regime and the procedure for placement in these units, specifying in particular that such a placement is an administrative decision and not a disciplinary measure, that the individual cells and facilities therein are specifically fitted out to guarantee conditions of reinforced security, and that the persons detained there are subject to individualised security measures, which are regularly reassessed.

In principle, people detained in a UDV "take part in individual activities and, if their personality and behaviour allow it, in collective activities offered as part of their detention". They are also supposed

to retain "their rights to information, visits, written and telephone correspondence and the use of their personal account, subject to the adjustments imposed by security requirements". As for the placement procedure in a violent prisoners' unit, it states in particular that the person concerned should be informed in writing by the head of the institution of the reasons for their assignment, further to an opinion from the single multidisciplinary committee, when an initial placement decision in a unit or a renewal decision has been proposed. The person concerned may submit written or oral observations, in the presence or absence of a lawyer, within a time period that may not be less than 72 hours.

> The CGLPL, which has had the opportunity on several occasions to express its reservations as to the establishment of specific regimes in penal institutions, is particularly attentive in this regard during its inspection visits. However, it had already had the opportunity to observe, in particular during the inspections carried out in 2019, the creation, in certain prisons, of wings corresponding to the UDVs established by the aforementioned decree, prior to its entry into force. Their existence has therefore been "regularised" by regulation. This situation could only encourage it to be even more vigilant with regard to the implementation of the principles governing the operations of these units, which are now applied within a clearly identified legal framework.

The referrals received by the CGLPL in 2020 relating to the situation of persons detained in these units, which will be a useful basis for comparison with the findings made during future inspections of institutions having such units, seem to indicate that compliance with the operating rules and principles resulting from the Decree of 30 December 2019 is not guaranteed in all the prisons concerned.

The testimonies of detainees assigned to these units thus mainly describe particularly strict security measures – systematic handcuffing with each movement, frequent changes and regular searching of cells, night rounds with lights on every hour, etc. – and the total absence of reassessment regarding the situations and the security measures applicable to the persons concerned, although this is expressly provided for by the applicable provisions. They also mention the insufficiency, even the total absence of activities. A lawyer also informed the CGLPL that he had lodged an appeal with an Interregional Directorate for Prison Services (DISP) to obtain the lifting of the UDV placement measure for his client, on the grounds that he had not benefited from any of the guarantees provided for by the Decree of December 2019 (adversarial debate, notification of reasons and remedies, etc.).

With a view to an overall investigation on the conditions of detention in these units, the CGLPL has already requested comments from certain heads of institutions concerning their functioning. In this regard, information is required in particular on the access of persons detained in these units to socio-cultural, educational, professional and sporting activities, on the security measures implemented against them and in particular the terms of their review, the content of the evaluations to which they are subject, night rounds, and restrictions in terms of access to personal belongings and products purchased in the canteen. These investigations are also an opportunity for the CGLPL to remind the authorities concerned of its relevant recommendations and draw their attention to the need to ensure, as part of the care of the detainees in these units, strict compliance with the applicable standards and instructions.

3.4 Access to vocational training for prisoners

When preparing its Opinion of 22 December 2016 relating to work and vocational training in prisons, the CGLPL took an interest in the range of vocational training courses in detention and the conditions for carrying them out; it also considered the transfer of competence for their management to regional councils. Faced with a contrasting situation, in particular due to persistent obstacles affecting access to training, the CGLPL underlined the need to continue expanding the range of vocational training programmes designed for detainees and open them up to the outside world.

Access to a professional activity in detention pursues the essential objectives of reintegration, accountability and empowerment for persons deprived of liberty. However, in view of the visits carried out by the inspectors and the situations of which it is very regularly informed, the CGLPL already indicated in its opinion of 2016 that it was essential to guarantee a framework for prison work that would be sufficiently protective of the rights of workers and encourage the development of appropriate vocational training programmes.

In response to an investigation (dating back to 2018) relating to the interruption of training provided by an association in a prison in the western part of France, the DAP sent the CGLPL a summary table of the training courses offered throughout the DISP in question, from which several observations emerged: "qualifying" training is only accessible during the year to around 6% of the prison population and many prisons (in particular remand prisons and prisons taking in women) do not offer any such training. While pre-qualifying training and integration actions are indeed necessary, the range of available qualifying training seems insufficient to meet the needs identified in this area. Moreover, the tertiary sector is never represented.

The CGLPL therefore shared these findings with the prison administration and questioned it, in its capacity as administrative and financial manager of the "Agency for Community Service and Professional Integration for offenders", about the initial results of the work undertaken by this agency with national authority that is now responsible, among other missions, for revitalising and expanding the range of vocational training in detention. It also expressed its interest in the progress made possible in this respect by the pilot phase of the "Digital in Detention" (NED) portal in terms of information and access to training for detainees.

3.5 The processing of requests in detention

An inspection of an overseas penal institution in 2015 gave rise to recommendations relating to the failure to formalise the processing of internal requests from detainees and the difficulties they encounter in obtaining an interview with an SPIP officer in good time.

In January 2018, in response to a referral from a person detained in this prison that concerned his difficulties in obtaining the payment of his retirement pension, the CGLPL requested comments from the SPIP.

Taking note of the responses received from the prison administration during 2020, the CGLPL, in return, questioned the DAP about the actions taken, more generally, in response to its numerous recommendations aimed at remedying the malfunctions affecting the processing of internal requests noted in the vast majority of the prisons visited by its teams.

On this occasion, it reiterated its long-standing opinion that the rigorous and precisely regulated traceability of requests protects the fundamental rights of persons deprived of liberty and contributes to their autonomy. It also helps identify the grievances of the persons concerned and any malfunctions affecting the places question in order to put into place, if necessary, corrective measures in their organisation. To this end, procedures for collecting requests should be clearly set out and should mobilise the means accessible (writing materials, forms, electronic terminals, etc.) to the entire prison population (non-French-speaking, illiterate, disabled, vulnerable or isolated, who need special attention in this regard). The circuit for processing requests should also be clearly notified, both to detainees and to prison officers (identification of the competent service depending on the type of request, processing times), and should be accompanied by tools to monitor its evolution. In addition, timely responses should be provided to requests, the content of which should be detailed and relevant and meet objective criteria. In some situations, the said content should also be communicated orally.

With regard to the traceability of requests in the prison involved in the investigation at the origin of this exchange, the DAP ' s response indicated that no traceability was ensured by the GENESIS

software program, contrary to what had been announced in 2016 by the director of the prison, in response to another request for comments from the CGLPL.

The CGLPL therefore stresses, in its response to the DAP, that this situation clearly concerns several penal institutions, judging by the numerous testimonies which it regularly receives denouncing the administration ' s failure to respond to the internal requests of detainees and the fact that they are unable, in particular, to obtain acknowledgement of receipt. At least three prison directors were thus alerted by the CGLPL to these shortcomings in 2019.

The CGLPL also mentions, in its letter to the Prison Administration Director, the concordance of these testimonies with the observations made by its services during their prison inspections – lack of harmonisation, formalism, and tools for evaluating and controlling transmission channels, etc. – reiterating that all the institutions inspected in 2018 and 2019 are affected by these shortcomings, which inevitably generate frustration and tension within the prison population.

As a result, the CGLPL has issued many recommendations in this regard, which it once again repeats in its response to the DAP: use standardised *ad hoc* forms translated into several languages, put in place efficient mechanisms for recording requests and monitoring their processing, ensure that detainees (especially new arrivals) are properly informed of the procedures in force, improve the quality of the responses provided, and keep track of them.

Also emphasising the observed inability of the majority of prisons to establish statistics on the processing of internal requests (number of requests, processing times, responses provided, etc.), the CGLPL reiterated its recommendation relating to the creation of a tool for evaluating efficiency in the processing of requests. It is indeed essential to respond to the questions, requests and grievances of persons deprived of liberty within a reasonable time frame, in a way that is appropriate, comprehensive and intelligible. In the absence of a response, the person having placed the request should be able to appeal to a hierarchical authority. Any denial of a request should be explained and, if necessary, a reason should be given that may be questioned by the exercise of an appeal. Where applicable, the procedures and deadlines for such an appeal should be expressly indicated. Arrangements for the traceability of requests should be able to identify recurring difficulties and lead to an analysis of practices for the purpose of implementing corrective measures.

Lastly, once again questioning the implementation timetable and the potential of the "Digital in Detention" (NED) portal, one of whose objectives relates to the digitisation of certain internal management processes, the CGLPL recalls that it should allow prisoners to gain autonomy in certain aspects of their daily life.

In a letter dated 6 August 2020, the Prison Administration Director sent the CGLPL several answers to its questions.

First of all, he affirms that, as of 2013, a guide was published relating to the management of detainees ' requests in order to harmonise the practices of penal institutions; he also states that the GENESIS application, created in May 2014, ensures their traceability, from the referral to the response: the use of this tool by all institutions will contribute to the harmonisation of practices and to the updating of the 2013 guide, it being specified that the processing of requests constitutes “one of the three components of the extension of the certification scope”. The recording and reactivation of the request submission terminals installed in certain prisons, which allow detainees to send handwritten letters and oral complaints, are also announced.

The DAP then confirms that the purpose of NED is to facilitate the administrative management of detention "by digitising day-to-day operations through a ' detainees ' portal (digital educational module, electronic requests and ordering from the internal shop, information pages), a ' general public ' portal for relatives (visiting room reservations, information pages) and an ' officers ' portal (NED control and administration)".

Detainees will thus be able to submit their requests directly via the “detainees” portal, accessible in the activity room and in cells. As soon as their request is sent to the GENESIS application, they will instantly receive an acknowledgement of receipt in their account. Officers will be able to connect to the “officers” portal in order to view and control requests. Detainees will receive responses directly on the terminal via NED. The traceability of requests will thus be guaranteed, both for staff who will have access to the requests and responses in GENESIS and for detainees who will be able to view all their requests and the answers provided in their account.

To facilitate the processing of requests from foreign detainees, NED will be translated into six different languages and should eventually be equipped with an instant translator to facilitate exchanges with prison officers. On the other hand, no arrangements have been planned to date to guarantee access to the system for illiterate detainees, despite the announced objective of compliance with the General Accessibility Guidelines (RGAA).

Lastly, NED will enable statistics to be produced such as the number of requests and their processing time.

With regard to the timetable, it is specified that the NED system is currently in the experimental phase in three institutions: the Dijon remand prison and the Meaux-Chauconin and Nantes prison complexes. The pilot phase for the "detainees" and "officers" portals has been announced for the second half of 2020, for a period of nine months, it being specified that "they will be implemented gradually according to feedback from the pilot sites”.

Pending these developments, the CGLPL will remain vigilant, during its inspections of institutions and processing of referrals, as to any follow-up to its recommendations in this area.

3.6 The situation of the Alençon – Condé-sur-Sarthe prison complex

After two warders were assaulted, on 5 March 2019, by a detainee and his girlfriend, the Alençon – Condé-sur-Sarthe prison complex was blockaded from 6 to 21 March 2019, as part of a social movement initiated by staff to protest against their working conditions.

In 2019, the CGLPL received numerous testimonies from detainees alleging violations of their fundamental rights and of those of their relatives as a result of this blockade, which was all the more distressful for those detainees who had already been marked by the national social movements in 2018, which had also significantly affected the conditions of detention in the prison.

The referrals received by the CGLPL relating to the consequences of the blockade that occurred in March 2019 reported in particular that, throughout the duration of the said blockade, detainees were kept in cells 24 hours a day and deprived of exercise, canteen deliveries were not made except for tobacco on certain days, and rubbish was not collected for several days, while at the beginning of the movement, only one hot meal was distributed daily. Furthermore, no visits were reportedly allowed during this period, and detainees were also denied the ability to send or receive correspondence, including to lawyers and courts, and to access telephone booths.

Contacted by the CGLPL in March 2019, the prison administration indicated in a letter dated 2 October 2019 that basic services (rubbish removal and distribution of tobacco, two daily meals and medical treatments by staff from the health unit at mealtimes) had been provided from 7 March, in particular thanks to backup from Regional Response and Security Teams (ERISs) and officers from the inter-regional directorate and central directorate. On the other hand, the prison administration confirmed that visiting rooms and exercise had been cancelled but said that access to telephone booths had been maintained, while correspondence had been suspended from 7 to 18 March. By the end, the exercise yards having only resumed on 23 March, the inmates had remained confined to their cells for 17 days. All services and activities within the institution were gradually restored between 23 March and

15 April. Under these conditions, the CGLPL had considered that the conditions of detention during the blockade of the prison complex had been such as to violate the fundamental rights of the detainees.

In addition, from the end of the blockade, several reports were sent to the Chief Inspector indicating increased security measures put into place as a result of this social movement. In addition to the transfer of several detainees, these testimonies questioned in particular the systematic full-body search measures implemented under conditions and in ways that were sometimes seriously detrimental to the dignity and rights of the persons concerned (searches carried out in unsuitable and dirty facilities, in the presence of several officers, in full view of other inmates, etc.).

In addition, the Chief Inspector ' s attention was quickly drawn, still in the spring of 2019, to the use of new control procedures in the visiting rooms, which could also be seen as undermining people ' s dignity: systematic pat-down searches of adults and children, including young children, and the obligation for women wearing a veil to remove it without any access to a dedicated area and for persons accompanying children in nappies to change them under the supervision of a prison officer. The effective implementation of these measures was observed in June, then in July, by three inspectors visiting the prison complex as part of the preparation of a thematic report; only some of the internal memos at the origin of the said measures were provided to the inspectors.

In a letter dated 25 July 2019, the Chief Inspector informed the Minister of Justice of her deep concern about the situation at the Alençon – Condé-sur-Sarthe prison complex, questioning in particular the legal framework governing the security measures implemented since the previous March and alerting her to the tensions that had inevitably resulted from it and the consequences that the persistence of such a climate could entail.

While this letter has remained unanswered to date, throughout the second half of 2019 and then in the first quarter of 2020, the CGLPL continued to receive particularly disturbing referrals describing a continuous tightening of the security measures implemented within the complex, in particular with regard to visitors. For example, in addition to increasing restrictions on the objects authorised in the visiting rooms (visitors not allowed to bring children ' s toys and then, the following week, powdered milk, for example), several testimonies mentioned searches carried out by police officers, sometimes with dogs, strip searches imposed on visitors and even, in at least one instance, on a child, who was not accompanied by his parents but by a third person and was forced to undress to gain access to the visiting room.

All of the above led the CGLPL to carry out, in February 2020, an inspection of the Alençon-Condé-sur-Sarthe prison complex; the corresponding report is currently being discussed as part of an adversarial exchange with the relevant authorities.

Chapter 5

Assessment of the work of the Chief Inspector of Places of Deprivation of Liberty in 2020

1. The CGLPL's work was significantly disrupted in 2020

1.1 The health crisis

As soon as the general lockdown was announced on 17 March 2020, CGLPL staff were asked to work remotely. With the exception of adaptations necessary for the continuity of certain activities, the implementation of this measure did not pose any particular difficulty, since teleworking is part of the institution's usual organisational methods.

Exchanges with the authorities in charge of places of deprivation of liberty and ministers took place electronically. Only two series of measures required the occasional presence of officers at the institution's headquarters: the collection and sending of postal mail, which was essential due to the lack of Internet access for persons deprived of liberty, and accounting operations which could only be processed on the State computer network.

A regulatory watch enabled a critical analysis of government measures to be maintained and case law to be monitored, while in addition to inspections, ongoing relations were maintained with the health authorities and representatives of mental health institutions or patients' families.

Consequently, the CGLPL was able, on the one hand, to carry out its inspections and visits taking into account day-to-day changes in the standards and, on the other, to make known its analysis of their impact on the fundamental rights of people deprived of liberty.

Thus, with in-depth knowledge of the situation, the CGLPL intervened with the Government from the start of the lockdown in order to alert the three competent ministers to the risk of persons deprived of liberty being overexposed to the consequences of the health crisis; it then addressed the ministers as it carried out its inspections and received various reports. In addition, having set up bodies and procedures for monitoring and controlling the management of the crisis, the two parliamentary assemblies did not fail to request the CGLPL's opinion concerning matters falling within its sphere of competence. Lastly, the Chief Inspector of Places of Deprivation of Liberty never ceased to be present in the media to testify to the situation of persons deprived of liberty and reiterate her recommendations to guarantee respect for their fundamental rights.

1.2 A lasting vacancy in the Chief Inspector function

The Act of 30 October 2007 establishing a Chief Inspector of Places of Deprivation of Liberty stipulates that "The Chief Inspector of Places of Deprivation of Liberty shall be appointed […] for a period of six years. His or her term shall not be renewable". Therefore, as Ms Adeline Hazan had been appointed by Decree of 17 July 2014, her term automatically ended on 16 July 2020. However, her successor, Ms Dominique Simonnot, was not appointed until 14 October 2020.

In order to maintain a minimum level of service continuity, the CGLPL's Secretary General, who is vested with broad responsibilities for the management and operation of services in application of the institution's internal regulations, continued to exercise his functions by managing day-to-day

business, although this excluded the organisation of new inspections and the sending of final observations and recommendations to the Government.

Under these conditions, the CGLPL's work was deprived of three months of inspections in August, September and October; it was not possible to make up for this delay. On the other hand, the processing of the reports received was almost normal; only final observations were set aside and were quickly processed when the new Chief Inspector was appointed.

2. Institutional relations

2.1 Not related to the health crisis

2.1.1 *Public authorities*

Contrary to usual practice, due to the health crisis, the Chief Inspector was unable to meet all the authorities to which she ordinarily submits her annual report when it is published. She thus met neither the President of the Republic, nor the Prime Minister, nor the Minister of Justice, nor the President of the National Assembly. On the other hand, the annual report for 2019 was hand-delivered to the President of the Senate and the Minister of the Interior. It was also presented to the Law Committees of the two parliamentary assemblies.

When she took office in October 2020, the new Chief Inspector had quick meetings with the Minister of Justice and with the President of the National Assembly's Law Committee. However, the ordering of a new lockdown and the overloading of parliamentary calendars at the end of the year caused official meetings with the other ministers and with the parliamentary authorities to be postponed to 2021.

Nevertheless, the agenda of the assemblies, devoted in particular to the translation into law of two decisions of the Constitutional Council concerning the CGLPL (see Chapter 1), gave rise to numerous exchanges between the Chief Inspector and several members of Parliament and senators.

Lastly, as usual, the CGLPL was consulted as part of legislative work. For example, in June 2020, the Chief Inspector was heard by the Law Committee of the National Assembly as part of the examination of the bill aimed at regulating the immigration detention of families with minors and, in November, the Secretary General was heard by the Senate concerning the prison administration's budget.

Several exchanges were held on a regular basis with the Defender of Rights throughout the year; they related both to individual situations and to cross-cutting structural issues. The new Chief Inspector also met with the Defender of Rights on the day of her appointment.

2.1.2 *Non-governmental organisations*

The CGLPL maintained regular links with associations working in its area of expertise.

As far as prison is concerned, it spoke in January at the symposium organised by the Federation of Associations for Reflection-Action, Prison and Justice (FARAPEJ) regarding "*Ways of ending prison overcrowding*"; then, upon taking up office, the new Chief Inspector met with International Prison Watch (OIP), the Emmaüs France association, which manages reception facilities for externally placed detainees, the prison-justice department of Secours Catholique, and Little Brothers of the Poor.

In the field of mental health, the CGLPL took part in the general assembly of the National Union of Families and Friends of Mentally Ill and/or Disabled People (UNAFAM) in July; then the

new Chief Inspector met the president of the Circle for reflection and proposal of actions on psychiatry (CRPA) and the president of UNAFAM.

With regard to illegal foreigners deprived of liberty, a meeting of all the associations working in detention centres for illegal immigrants was organised in January 2020. Then, in February, the CGLPL took part in the 30th anniversary symposium of the National Association for Border Assistance for Foreigners (Anafé), an association that the new Chief Inspector met with in November. The new Chief Inspector met with the Cimade in December 2020.

2.1.3 *Professional organisations*

With regard to representatives of professionals working in places of deprivation of liberty, the health crisis prevented the Chief Inspector from meeting with trade unions as usual. However, several series of contacts were organised.

Meetings with lawyers were a major innovation of 2020; they were linked to the emergence of innovative case law on the protection of persons deprived of liberty, the desire to promote legal action enabling conditions of deprivation of liberty to be improved through the judicial process, and the CGLPL's intended support for the request of Chairs of the Bar to be able to visit the places of deprivation of liberty placed under their jurisdiction.

Therefore, at the beginning of the year, the Chief Inspector attended the general meeting of the Chairs of the Bar Conference; then, in June, she attended that of the National Council of Bars. As soon as she took office, the new Chief Inspector continued these efforts by meeting the President of the Paris Bar and then the Association of Lawyers for the Defence of Prisoners' Rights (A3D).

Other meetings with professionals took place as part of the assumption of duties of the new Chief Inspector who met with the National Association of Sentence Enforcement Judges (ANJAP), the Association of Healthcare Professionals Practising in Prison (APSEP), the Association for Penal Institutional Psychiatry (ASPMP), the French Federation of Psychiatry (FFP), the Association of Public Service Mental Health Institutions (ADESM) and the Conference of Psychiatric Hospital Public Health Medical Committee (CHS CME) Presidents. Meetings with all professional organisations and trade unions continued in early 2021.

In addition, the CGLPL was called upon to speak at the national congress of the National Federation of Associations of Directors of Institutions and Services for the Elderly (FNADEPA), which had expressed its interest in the issue of how the ageing and dependency of persons deprived of liberty are addressed.

2.1.4 *Education*

Despite the health crisis, some work continued to be carried out at universities and *grandes écoles*.

In the area of education, the CGLPL was successively involved in "Health issues in places of deprivation of liberty" as part of the "Health management and policies" Master's programme of the Institute of Political Studies of Paris, in the launch event for the "Sentence enforcement law" Master 2 programme at the University of Aix-Marseille, in the "Health and deprivation of liberty" theme within the "Health and personal protection law" Master 2 programme of the University of Cergy, in the training session for justice auditors on prison at the National School for the Judiciary (ENM) and, lastly, in a "Mental health" specialisation session at the French School of Public Health (EHESP).

The CGLPL participated in academic conferences, although very few were held. For example, it spoke at the "Rethinking work in prison" symposium organised by the French section of International Prison Watch (OIP-SF), the Centre for Critical Research on Law (CERCRID), the François Gény Institute (University of Lorraine), the Centre for Comparative Labour and Social Security Law

(Comptrasec, CNRS-University of Bordeaux) and the Institute for Legal Research on Businesses and Professional Relations (IRERP, University of Paris-Nanterre). It also took part in the Young Researchers symposium, devoted this year to the "Frontiers of deprivation of liberty", at Paris 1 Panthéon-Sorbonne University.

2.2 Institutional relations linked to the health crisis

2.2.1 *Contacts with the Government*

As soon as the lockdown was announced by the President of the Republic, the CGLPL made contact with the administrations that exercise authority over or are responsible for supervising places of deprivation of liberty (Ministers of Justice, the Interior and Health) in order to be kept regularly informed of the health measures put in place and of changes in the situation in the places of detention falling within their respective jurisdictions, and alerted them to the risks to persons deprived of liberty, either because they could be overexposed to the health risk or because the measures taken to combat the spread of the virus were likely to infringe their fundamental rights. Subsequently, the Government was questioned during the CGLPL's inspections.

When a second lockdown was decided in October, the new Chief Inspector of Places of Deprivation of Liberty asked the Ministers of Justice, Health and the Interior to take concrete measures to protect people deprived of liberty and their rights.

2.2.2 *Contacts with Parliament*

The Chief Inspector was heard three times by members of Parliament concerning the management of the health crisis and its impact on the rights of persons deprived of liberty:

- by the Law Committee of the National Assembly for detention management measures decided by ordinance;
- by a member of Parliament as part of an investigation into the situation of vulnerable people with regard to the health crisis;
- and by rapporteurs on the topic of "prisons and other places of deprivation of liberty", as part of the Senate audit mission on measures related to the COVID-19 epidemic.

Lastly, each member of the Law Committees of the National Assembly and Senate received a copy of the letters sent to the ministers by the Chief Inspector.

2.2.3 *Relations with professionals*

Throughout the crisis, the CGLPL maintained close relations with the health authorities and with representatives of mental health institutions or patients' families. Therefore, regular reviews were held with:

- the Ministerial Delegate for Mental Health and Psychiatry;
- the Chair of the National Conference of Psychiatric Hospital Public Health Medical Committee Presidents;
- the President of the Association of Public Service Mental Health Institutions (ADESM);
- the President of the National Union of Families and Friends of Mentally Ill and/or Disabled People (UNAFAM).

Lastly, exchanges took place throughout the period with associations working with people deprived of liberty and with those whose mission is to defend their rights.

2.2.4 *Public statements*

From the start of the crisis, the CGLPL feared that people deprived of liberty would be forgotten during the lockdown, i.e. that they would not be priorities for protective measures, would see their family relations and friendships weaken and would lose their access to the professionals in charge of them.

Therefore, the Chief Inspector of Places of Deprivation of Liberty, together with the Defender of Rights and the President of the National Consultative Commission on Human Rights, decided to alert public opinion by publishing a joint piece[63] entitled "For the protection of fundamental rights during the health crisis".

Subsequently, the main letters addressed to the ministers were made public.

2.2.5 *An initial assessment of the health crisis*

In July 2020, a general report on the CGLPL's work during the crisis and on the findings and recommendations it had issued was published under the following title: "The fundamental rights of persons deprived of liberty put to the test by the health crisis".

The CGLPL was subsequently called upon to participate in work to assess the effects of the health crisis, in particular by responding to the Inspectorate-General of Justice as part of a support mission relating to feedback concerning the business continuity plans implemented by the Ministry of Justice for the management of the "COVID-19" crisis, and by participating in a "Rights of mental healthcare users during the COVID-19 period" webinar organised with a view to improving practices by the very institution whose actions had led the CGLPL to publish emergency recommendations (Roger Prévot public health institution in Moisselles).

In the same spirit, the CGLPL took part in a meeting of the Regional Team for Europe of the United Nations Subcommittee on Prevention of Torture intended to take stock of health policies with regard to the rights of detained persons.

3. International relations

At the international level, the CGLPL's activities focused on exchanges on the applicable standards in the context of the COVID-19 pandemic. Many international institutions, at world or regional level and in particular at European level, made their voices heard in order to provide recommendations and recall the implementation of certain standards to prevent risks and limit violations of the fundamental rights of people deprived of liberty.

The United Nations did so through press releases and statements from various agencies, starting with the World Health Organization (WHO). On 15 March, the WHO issued interim guidance on COVID-19 preparedness, prevention and control in prisons and other places of detention. The detention of children was the subject of a statement by the Executive Director of UNICEF on 13 April,

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[63] *Opinion piece published in Le Monde on 20 March 2020.*

emphasising their vulnerability and calling for their release. With regard to immigration detention, the United Nations Network on Migration provided guidance to States in a document entitled “COVID-19 & Immigration Detention: What Can Governments and Other Stakeholders Do?”. This document includes recommendations such as to stop new detentions of migrants and to implement alternatives to detention.

The United Nations Subcommittee on Prevention of Torture (SPT) published “Advice to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic" in which it addressed its recommendations to States as well as to National Preventive Mechanisms. Regarding the implementation of the mandate on National Preventive Mechanisms (NPMs), the SPT highlighted the “do no harm” principle, while encouraging them to continue their activity as much as possible. Deploying electronic means of communication with persons deprived of liberty, monitoring the creation of new places of detention, strengthening ties with relatives of detained persons or civil society, and communicating about the NPMs’ actions were some of the recommendations issued by the UN body. The CGLPL also maintained a dialogue with the SPT regarding its modus operandi during the early stages of the pandemic and participated in a seminar organised in June 2020.

The European Committee for the Prevention of Torture (CPT) published a statement of principles relating to the treatment of persons deprived of their liberty. Thus, “whilst acknowledging the clear imperative to take firm action to combat Covid-19, the CPT must remind all actors of the absolute nature of the prohibition of torture and inhuman or degrading treatment. Protective measures must never result in inhuman or degrading treatment of persons deprived of their liberty”. It then set out 10 principles relating to respect for the fundamental rights of persons deprived of their liberty, applicable in all types of institutions, and reiterated that its action, as well as the independent control carried out by the NPMs, "remain[s] an essential safeguard against ill-treatment”. The CPT organised an online seminar in May 2020, during which the CGLPL was invited to share its experience.

Other stakeholders such as the association Penal Reform International quickly published guidelines on the management of COVID-19 in prison called "Health and human rights in prison". As for the Danish NGO Dignity, it worked on a document called “Global guidance and recommendations on how to prevent and manage COVID-19 in prisons”, a synthesis of recommendations issued by international organisations on the prevention and control of COVID-19 in prisons, to "streamline the copious amount of information generated daily on this subject" and help its partners to take quick and appropriate action in the context of the pandemic.

The CGLPL set up a watch to monitor the development of the pandemic in neighbouring countries and the measures implemented by administrations to address it. In addition, regular exchanges took place with the other national mechanisms for the prevention of torture, on methods for monitoring places of deprivation of liberty in this particular context.

At the same time, the CGLPL participated in various online seminars aimed at exchanging challenges and good practices between National Preventive Mechanisms; they were organised by the Association for the Prevention of Torture (APT), which also developed a virtual workspace allowing NPMs to discuss their practices and submit their questions to their peers. The APT also created an information hub that collected and organised information relating to deprivation of liberty in the context of the pandemic. Following a series of seminars, the APT published a document entitled “Guidance: Monitoring Places of Detention through the COVID-19 Pandemic”.

The CGLPL was invited by the APT to participate in the meeting on "What solutions for prisons in the context of a global pandemic?" organised by the Argentinian NPM with the participation of Adolfo Pérez Esquivel, Nobel Peace Prize winner, and Juan E. Mendez, former United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In November, it also provided its expertise during a webinar organised by the Geneva Centre for Security Sector Governance in conjunction with its Tunisian and Moroccan counterparts.

In July, the health situation gave rise to a visit by the CPT to France, which focused on the Bas-Rhin; this was its first after a break in March. The CPT verified the conditions of detention and the treatment of persons deprived of their liberty in different types of institutions, analysing in particular the measures taken to protect them and staff in the context of the health crisis.

Lastly, the year 2020 was marked by the historic ruling against France issued by the European Court of Human Rights in the case of JMB and Others v. France. As part of this case, the CGLPL submitted third-party comments in collaboration with the CNCDH (see Chapter 1).

Due to the COVID-19 pandemic, the activity of the United Nations treaty bodies was disrupted. In particular, the review of France by the UN Committee on the Rights of Persons with Disabilities, which was to be held in 2020, was postponed to a later date in 2021.

4. Inspections of institutions carried out in 2020

The CGLPL's trips to places of deprivation of liberty were interrupted by two major causes: the health crisis which hindered its inspections in March and April, then the vacancy of the position of Chief Inspector which, depriving the institution of any authority, led to a de facto interruption of service.

Under these conditions, its inspections took place as follows:

- normal operation from January to March[64];
- interruption in April and May except for emergencies linked to the health crisis and implementation of "remote monitoring";
- on-site inspections in June, in small teams, limited to the analysis of the management and consequences of the health crisis;
- inspections as usual in July;
- complete interruption from August to October;
- inspections as usual in November and December.

It should therefore come as no surprise that the target of 150 inspections per year set by the CGLPL was not achieved in 2020.

These inspections of the usual format were combined with the steps taken to monitor the situation of persons deprived of liberty with regard to the health crisis.

Three inspections were organised as a matter of urgency following the receipt of reports: those of two detention centres for illegal immigrants were brought to the attention of the Minister of the Interior in a letter that was made public; that of a mental health institution, where the findings made called for a position of principle, led to emergency recommendations that were addressed to the Minister of Solidarity and Health and published in the Official Gazette of 19 June 2020.

From the end of March and then more systematically in April and May, telephone interviews internally referred to as "remote monitoring" interviews helped maintain close contact with the administrative and medical authorities in all categories of institutions in which persons deprived of liberty can stay for long periods of time. Therefore, the CGLPL was able to monitor the situation of 71

[64] *As inspections are always conducted in the first two weeks of the month, those in March were completed before the lockdown began.*

institutions: 23 prisons, 28 mental health institutions, 10 detention centres for illegal immigrants and waiting areas and 10 juvenile detention centres.

In June, 14 "simplified" inspections supplemented the initial assessment of the health crisis: five penal institutions, five mental health institutions, two detention centres for illegal immigrants, one waiting area and one juvenile detention centre.

These inspections and interviews were conducted using a questionnaire prepared based on an analysis of the risks posed by the health crisis in terms of respect for the dignity and rights of persons deprived of liberty. The same questionnaire was used for all categories of places.

This set of measures enabled the CGLPL to publish an analysis report on 2 July entitled: "The fundamental rights of persons deprived of liberty put to the test by the health crisis".

During this period, the CGLPL endeavoured to ensure the continuity of its mission to protect the dignity and fundamental rights of persons deprived of liberty in compliance with the numerous and convergent recommendations that international institutions addressed to States and NPMs. The CGLPL also noted that the measures it took were fairly comparable to those adopted by other European NPMs.

4.1 Quantitative data

4.1.1 *Visits per year and per category of institution*

Categories of institutions	Total no. of institutions[65]	2008-2013	2014	2015	2016	2017	2018	2019	2020	TOTAL	including institutions visited once[66]	% visits over no. of institutions
Custody facilities	**4,059**	**296**	**55**	**58**	**52**	**48**	**53**	**60**	**34**	**656**	**585**	**14.41%**
– including police[67]	673	193	27	32	22	24	35	28	22	383	319	
– gendarmerie[68]	3,386	85	24	22	26	24	17	31	9	238	237	
– other[69]	ND	18	4	4	4	-	1	1	3	35	29	
Customs detention[70]	**179**	**25**	**11**	**5**	**2**	**3**	**4**	**1**	**4**	**55**	**52**	**29.05%**
– including courts	11	2	1	-	1	-	1	-	-	5	4	
– ordinary law	168	23	10	5	1	3	3	1	4	50	48	

[65] *The number of institutions changed between 2019 and 2020. The figures shown below were updated for penal institutions (as of 1 July 2020).*
[66] *The number of follow-up visits is respectively one in 2009, five in 2010, six in 2011, 10 in 2012, seven in 2013, 36 in 2014, 61 in 2015, 52 in 2016, 41 in 2017, 54 in 2018, 51 in 2019 and 39 in 2020. Due to certain structures closing down during this past decade, the number of places visited at least once can be greater than the number of institutions to be inspected.*
[67] *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.*
[68] *Data provided by the DGGN, January 2018.*
[69] *These are facilities of the central directorates of the national police (PJ, PAF, etc.).*
[70] *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 under ordinary law.*

Court jails/cells[71]	**197**	**64**	**4**	**9**	**10**	**11**	**7**	**8**	**7**	**120**	**109**	**55.33%**
Other[72]	**-**	**1**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**1**	**1**	**-**
Penal institutions	**187**	**179**	**31**	**27**	**26**	**21**	**22**	**22**	**10**	**338**	**200**	
– including remand prisons	81	92	14	12	10	8	8	11	4	159	97	
– prisons	59	35	8	9	7	8	8	4	4	83	48	
– detention centres	25	25	4	3	5	1	2	3	1	44	27	**106.95 %**
– long-stay prisons	6	7	1	-	1	2	1	1	-	13	7	
– prisons for minors	6	7	2	2	1	1	3	3	1	20	6	
– open prisons	9	12	1	1	2	1	-	-	-	17	14	
-EPSNF	1	1	1	-	-	-	-	-	-	2	1	
Immigration detention	**100**	**71**	**9**	**14**	**6**	**11**	**8**	**5**	**3**	**127**	**75**	
– including detention centres for illegal immigrants	23	38	6	7	1	6	4	4	1	67	31	**74.26%**
– LRA[73]	26	19	2	4	2	1	-	-	-	28	22	
– ZA[74]	51	14	1	3	2	4	4	1	2	31	21	
– Other[75]	-	-	-	-	1	-	-	-	-	1	1	
Deportation measure	**-**	**-**	**3**	**4**	**-**	**5**	**4**	**-**	**-**	**16**	**16**	**-**
Healthcare institutions[76]	**432**	**123**	**15**	**34**	**43**	**44**	**38**	**47**	**20**	**364**	**318**	
– including CHS	270	37	6	6	14	13	11	21	7	115	105	
– CH (psychiatric sector)		22	2	15	11	18	10	11	7	96	89	
– CH (secure rooms)	87	33	3	6	15	13	14	13	6	103	89	**73.61%**
– UHSI	8	7	1	4	-	-	-	-	-	12	7	
– UMD	10	10	-	3	-	-	-	1	-	14	10	
– UMJ	47	9	-	-	-	-	1	-	-	10	9	
– IPPP	1	1	-	-	-	-	1	-	-	2	1	

[71] The cases in which the cells or jails of the judicial courts and courts of appeals are located at the same site are not taken into account.
[72] Military detention facilities, etc.

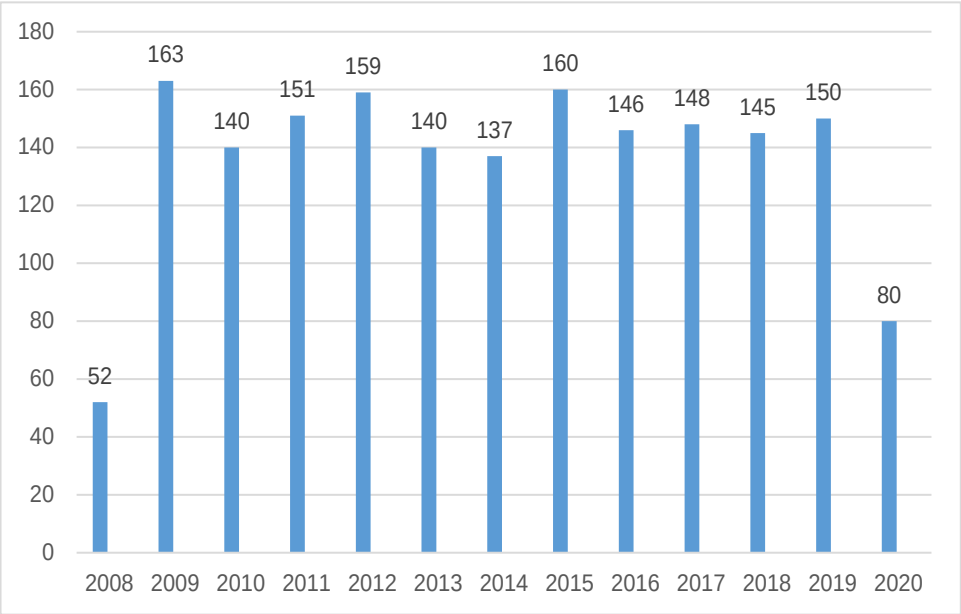
[73] The data indicated here comes from the 2016 joint report on detention centres and facilities for illegal immigrants drawn up by the six associations working in immigration detention centres. Detention facilities for illegal immigrants adjoining border police custody facilities were inspected in 2018 but counted under the category custody facilities.

[74] The number of 51 waiting areas is a rough estimate and should not be taken literally: almost all detained foreign nationals are held in the waiting areas of the airports of Roissy-Charles-de-Gaulle and Orly.
[75] In October 2016, the CGLPL monitored the operations to dismantle the Calais Jungle Camp.
[76] 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 UMJs (December 2014).

– UHSA	9	4	3	-	3	-	1	1	-	12	8	
Juvenile detention centres	**52**	**46**	**9**	**9**	**7**	**5**	**9**	**7**	**2**	**94**	**52**	**100%**
GRAND TOTAL	**5204**	**805**	**137**	**160**	**146**	**148**	**145**	**150**	**80**	**1771**	**1408**	**83.55%** [77]

4.1.2 *Number of visits*

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Number of visits	52	163	140	151	159	140	137	160	146	148	145	150	80



4.1.3 *Average length of visits (in days)*

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Juvenile detention centre (Centre éducatif fermé)	2	3	4	4	3.25	3.56	3.56	3.29	3.20	3.44	3.57	3.5
Court jails and cells	1	2	2	1.5	2	1.75	1.56	1.10	1.37	1	1.25	1.29
Penal institution	4	4	5	5	5	5.20	5.67	6.19	5.86	6.09	5.23	6.3
Custody facilities	1	2	2	2	2	2.33	1.93	1.49	1.79	1.58	1.27	1.32
Immigration detention	2	2	2	3	5[78]	3.11	2.57	3.50	2.82	2.75	2.60	2
Customs detention	1	2	1	1.5	2	1.95	2.20	1	1	1.25	1	1.25
Healthcare institution	2	3	3	4	4	4.52	4.20	3.45	4.07	3.84	4.68	3.85

[77] *The ratio is not calculated with the total of institutions visited at least once between 2008 and 2020, indicated in the previous column, but for 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. 645 visits for a total of 772 places of deprivation of liberty.*

[78] *Only the waiting area of Roissy was visited in 2013, over a five-day period.*

Deportation procedure	-	-	-	-	-	2	1	-	1.6	1.25	-	-
Average	2	3	3	3	3	3.33	3.04	3.12	3.11	2.99	3.07	2.78

In 2020, the inspectors spent:

- 77 days in hospitals (versus 220 in 2019);
- 53 days in detention facilities (versus 115 in 2019);
- 45 days in custody facilities (versus 76 in 2019);
- seven days in juvenile detention centres (versus 25 in 2019);
- six days in immigration detention (versus 13 in 2019);
- nine days in jails and cells of courts (versus 10 in 2019);
- five days in immigration detention (versus one in 2019);
- zero days on deportation procedures (as in 2019).

i.e. a total of 202 days in places of deprivation of liberty (versus 460 in 2019).

4.2 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**
2018	62	2	9	0	14	24	0	22	11	1	**145**

2019	69	0	7	0	14	33	3	19	5	0	**150**
2020	44	1	2	0	7	13	3	7	3	0	**80**
Total	**824**	**8**	**88**	**6**	**162**	**203**	**129**	**208**	**132**	**11**	**1771**

In all, 75.38% (1,335) of institutions were visited unannounced and 24.62% (436) in a scheduled manner. These percentages are to be adjusted according to the type of institution concerned. Visits conducted unannounced thus comprise the following percentages:

- 99.04% with regard to police custody facilities, court cells and customs;
- 93.62% with regard to juvenile detention centres;
- 92.31% with regard to detention centres for illegal immigrants, waiting areas and deportation procedures;
- 44.38% with regard to healthcare institutions;
- 38.28% with regard to penal institutions.

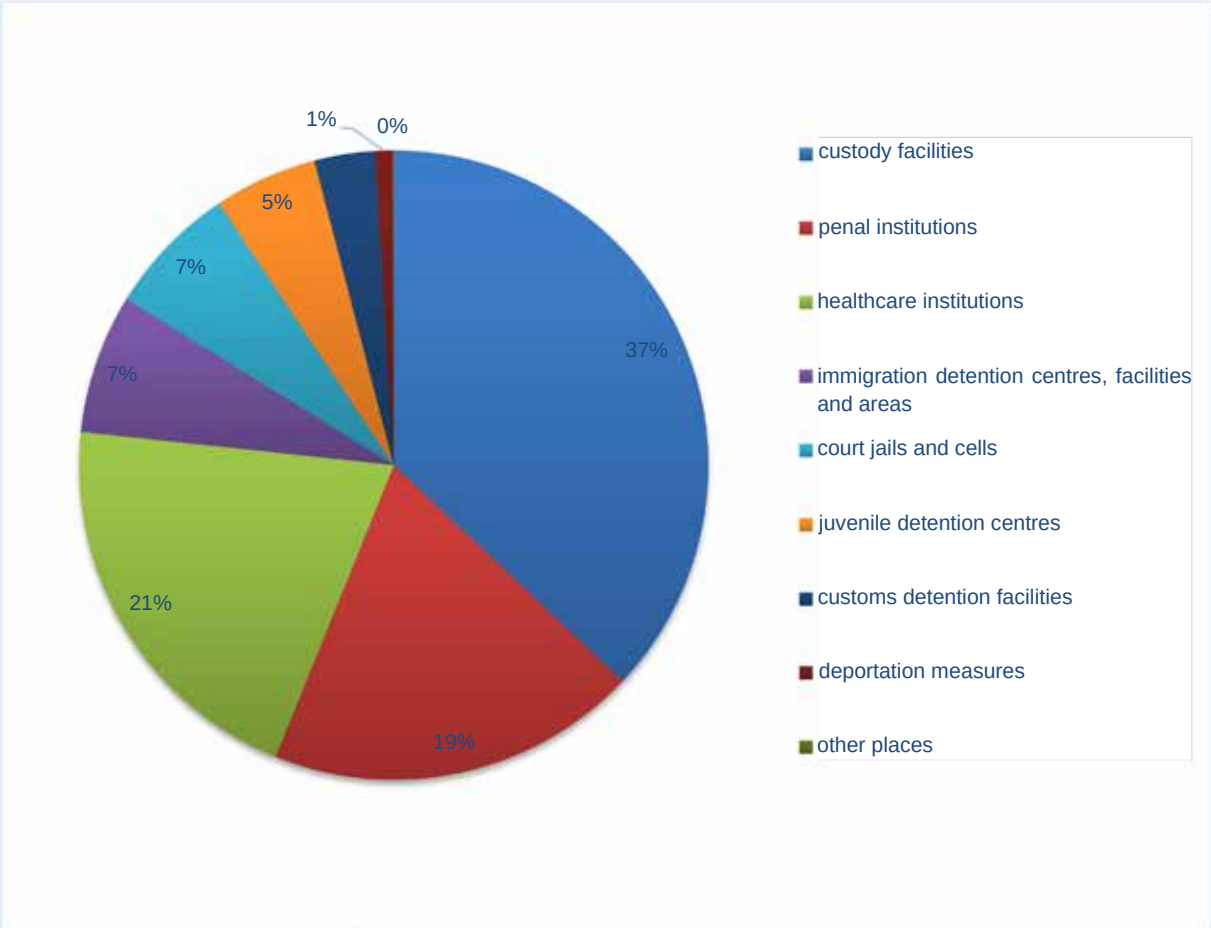
This distribution between scheduled and unannounced visits varies little from one year to the next. Visits to small institutions in which persons deprived of liberty spend only brief periods are always, in principle, unannounced. Visits to larger institutions, where persons deprived of liberty can stay for several years, are unannounced or scheduled depending on the circumstances.

4.3 Categories of institutions visited

A total of 1,771 visits have been conducted since 2008. They are distributed as follows:

- 37.04% concerned police custody facilities;
- 20.55% concerned healthcare institutions;
- 19.09% concerned penal institutions;
- 7.17% concerned detention centres and facilities for illegal immigrants and waiting areas;
- 6.78% concerned court jails and cells;
- 5.31% concerned juvenile detention centres;
- 3.11% concerned customs detention facilities;
- 0.90% concerned deportation measures;
- 0.05% concerned other places.

This distribution does not change much from one year to the next because past history plays an important role here.



5. Cases referred

Article 6 of the Act of 30 October 2007 as 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 of Liberty 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 inspections have been completed through correspondence or on-site, and after having received the observations of the competent authorities with respect to the denounced situation, the Chief Inspector may make recommendations to the person responsible for the place of deprivation of liberty concerned. These observations and recommendations may be made public.

> Unlike inspections of institutions, the processing of referrals received by the CGLPL was not interrupted in 2020 either because of the health crisis or because of the vacancy of the CGLPL position. During the latter, letters responding to referrals were signed by the Secretary General, as part of the management of day-

> to-day business, while the sending of letters likely to particularly engage the institution ' s responsibility was suspended pending the appointment of a new Inspector.

However, as the health crisis initially disrupted the methods of processing mail, various adaptations were necessary, in particular during the first lockdown. Indeed, during its first phase, the interruption of postal services and logistical and material difficulties initially limited exchanges with persons deprived of liberty to telephone reception (essentially used by detainees), which was never interrupted. As it was not possible to send or receive paper mail at first, emergencies were handled by telephone or e-mail. The electronic contact form on the CGLPL website, usually reserved for exchanges not relating to reports sent to the institution, was used more widely and served as a medium for numerous referrals, which were processed throughout the lockdown period. A specific contact form dedicated to referrals was then created.

In practice, the main difficulty lay in the possibility of reporting urgent situations to the authorities responsible for persons deprived of liberty. For situations falling within the jurisdiction of the prison administration, a procedure for centralised exchanges with the Office of the Prison Administration Director was quickly put in place in electronic form. For those falling within the jurisdiction of other services, in particular health units, the usual reporting procedures were only reactivated after it was announced that the lockdown would be extended. However, the exchanges undertaken in this context did not take the form of the investigations usually carried out by the CGLPL and were in most cases limited to simple reports.

After it was announced that the lockdown would be extended, a mail processing system adapted to the health constraints was put in place. Mail could be picked up and dispatched once a week by volunteer inspectors who could go to the institution's headquarters without using public transport. In addition, the internal validation circuit for response letters to referrals was digitised, which helped maintain an almost normal rate of file processing, enabling responses to be sent out weekly. This procedure was maintained until the end of the first lockdown and, after a transition phase, normalcy was restored by 22 June. The processing of referrals then functioned normally until the announcement of the second lockdown, at the end of October.

Because it was less strict, the second lockdown did not require any further adaptation of mail processing procedures. The members of the referral team, in charge of said processing, although carrying out a large part of their missions via teleworking, retained the option of regularly going to the CGLPL headquarters to carry out material mail receiving and sending operations. Similarly, the agents in charge of telephone reception were alternately present at headquarters and working remotely. Under these conditions, the processing of referrals was able to continue as usual.

5.1 Analysis of the cases referred to the CGLPL in 2020

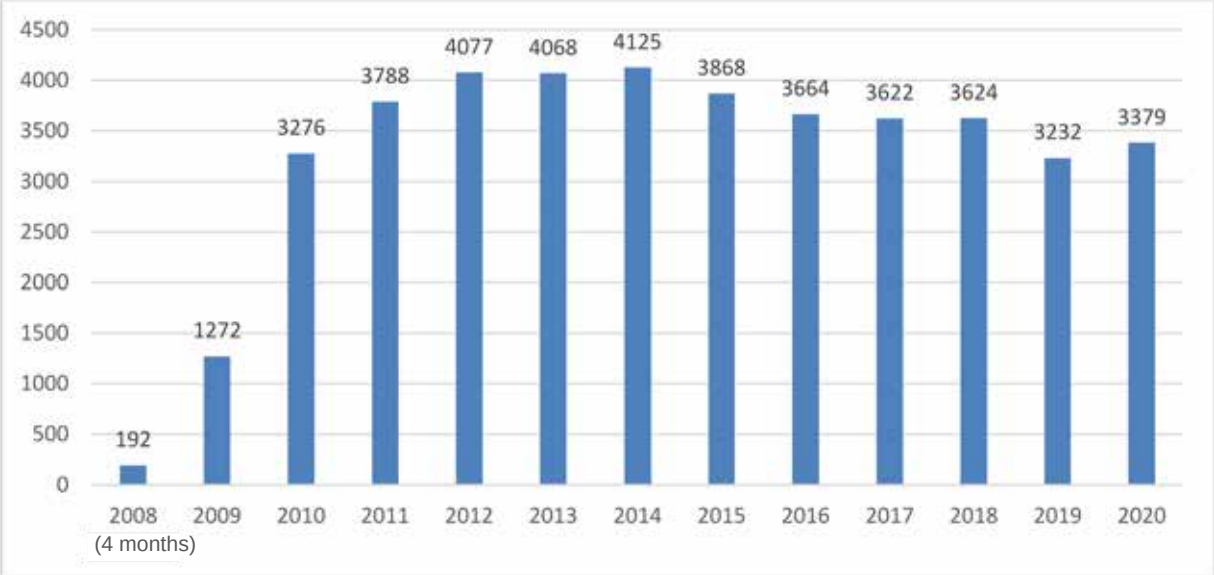
The year 2020 was once again marked by the persistence of significant delays in and by the absence of responses from the central administration to requests for observations addressed to the heads of penal institutions.

In addition, the rate of referrals relating to healthcare institutions has continued to increase to reach 13% and that relating to immigration detention has stabilised at around 4.5%.

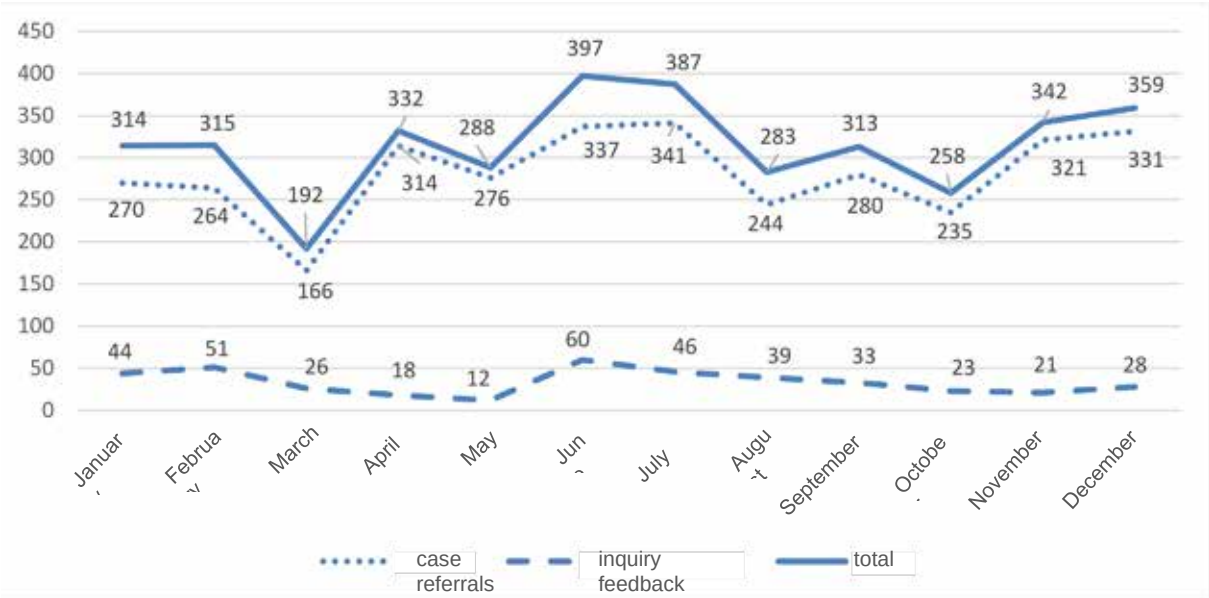
The percentage of case referrals from relatives of persons deprived of liberty has sharply increased, reaching its highest rate since 2011 at 19.18% of referrals received, which represents an increase of 50% compared to 2019. The pandemic and the lack of access to the online referral form in the absence of Internet access within penal institutions in particular, as well as the difficulties encountered by families in visiting their relatives deprived of their liberty during the spread of COVID-19, may in particular explain this significant increase.

5.1.1 *The letters received*

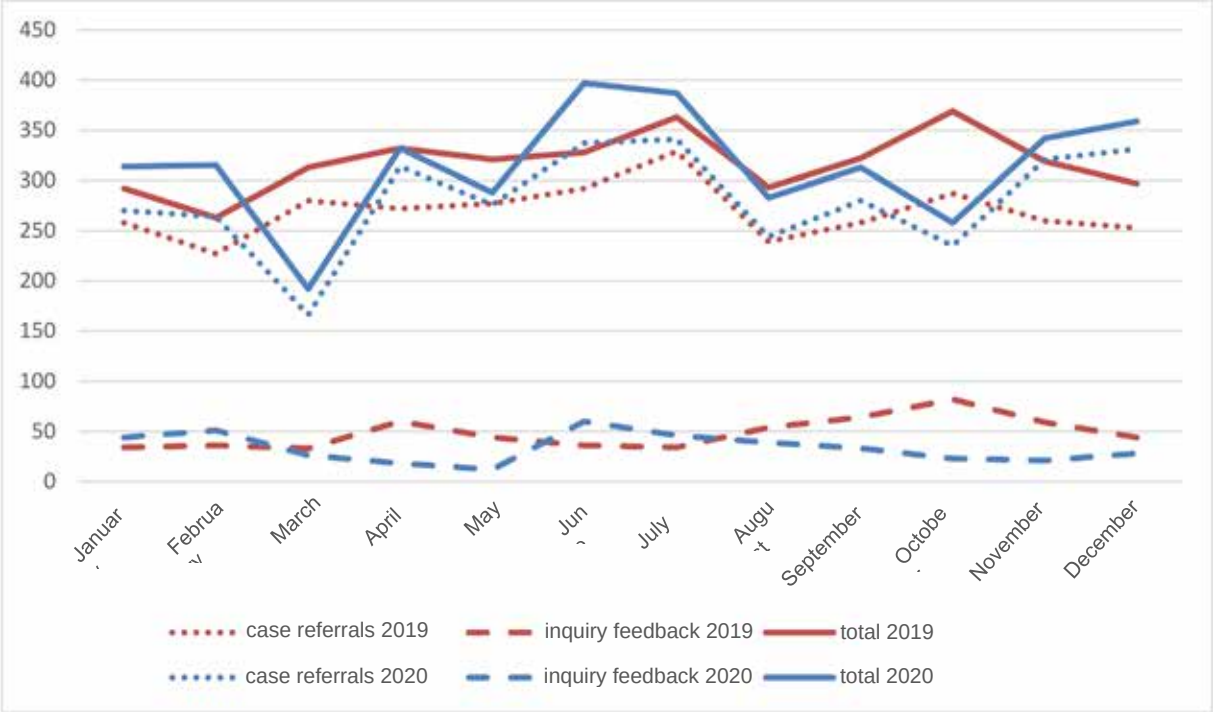
The number of case referrals is up slightly compared to 2019 (+4.55%). Out of all the referral letters received between 1 January and 31 December 2020, an average of two (2.02) concerned the same person's situation.



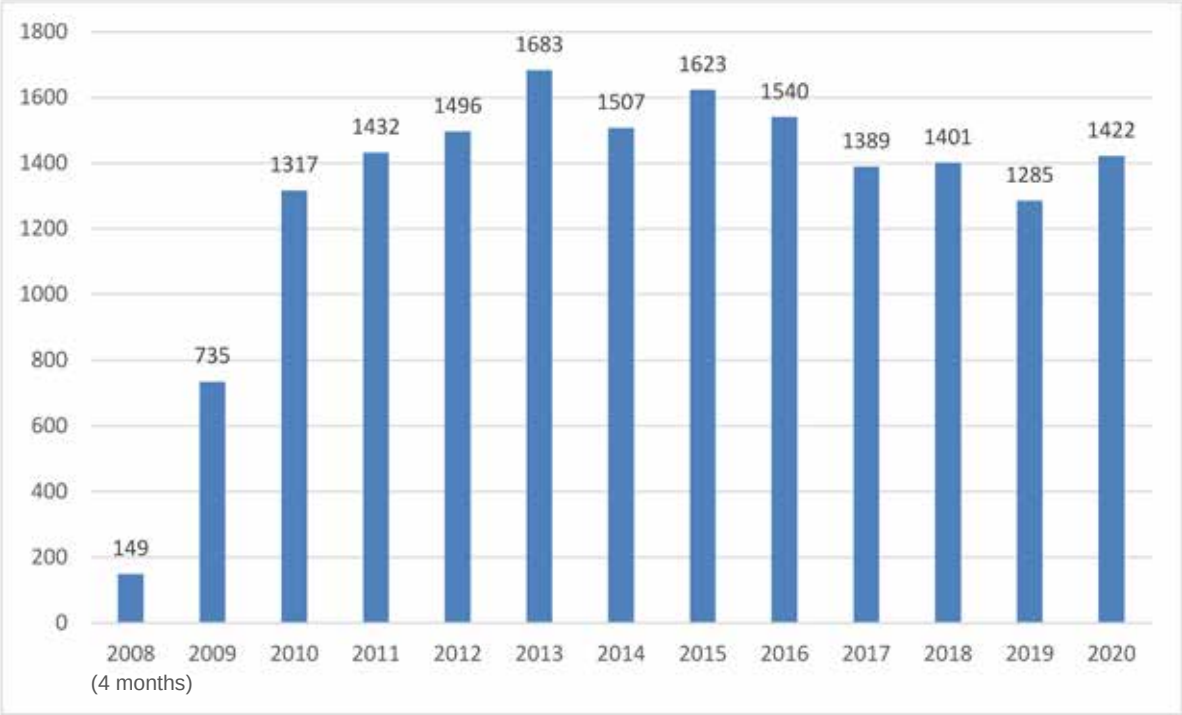
With the exception of letters bearing on the situation of someone whose identity has not been given or the situation of a group of individuals deprived of liberty, the 1,670 individuals concerned by referrals in 2020 include 1,410 men (84.43%) and 260 women (15.57%), a distribution equivalent to that of 2019.



[79] *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. A total of 3,780 letters reached the CGLPL in 2020, compared with 3,812 in 2019, representing a 0.8% drop.*



5.1.2 *Persons and places concerned*



[80] *The distribution is as follows: 1,158 individuals identified (961 men and 197 women), 179 groups and 85 unknown persons.*

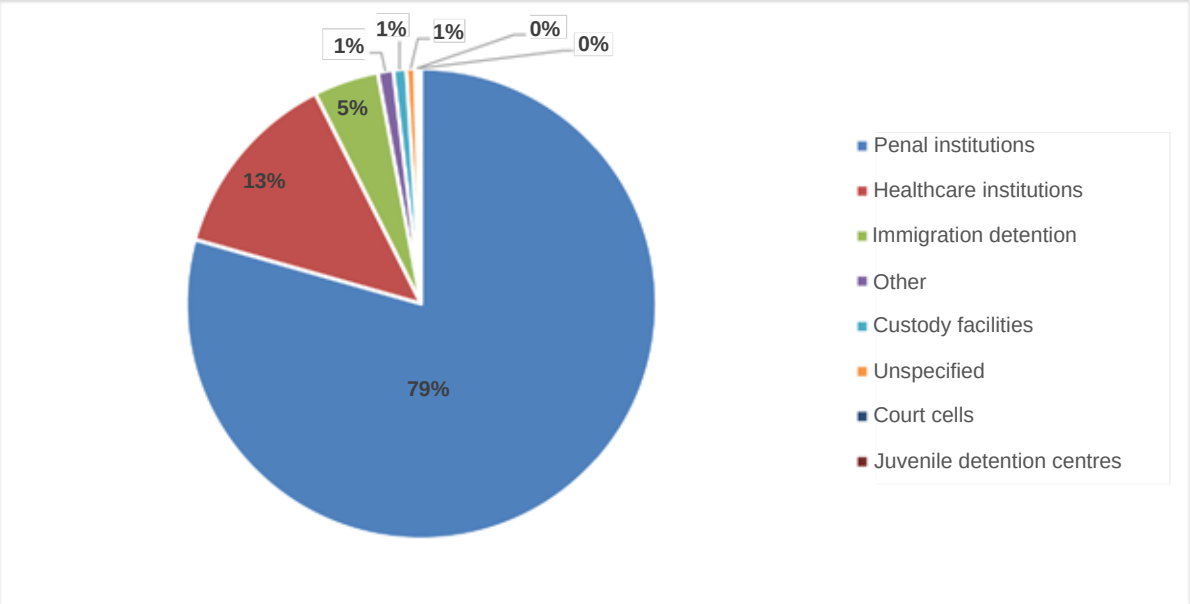
	Person concerned	Family / relatives	Association	Lawyer	Other[81]	Physicians / medical staff	IGA	TOTAL	Percentage
PENAL INSTITUTIONS	**1824**	**516**	**71**	**146**	**93**	**11**	**22**	**2683**	**79.40%** of PDLs
MA and qMA - remand prison and remand prison wing	658	167	17	92	38	4	12	988	36.82% of PIs
CD and qCD - long-term detention centre and long-term detention centre wing	563	154	25	15	11	1	5	774	28.85%
CP - prison with sections incorporating different kinds of prison regimes (wing not specified or other[82])	390	134	19	24	20	4	3	594	22.14%
MC and qMC - long-stay prison and long-stay prison wing	163	44	4	11	7	0	1	230	8.57%
Unspecified PI / all	19	10	4	2	15	2	1	53	1.98%
Hospitals (UHSA, secure room, UHSI, EPSNF)[83]	28	6	0	0	2	0	0	36	1.34%
CSL and qSL - open prison and open wing	2	1	0	1	0	0	0	4	0.15%
EPM - prison for minors	0	0	2	1	0	0	0	3	0.11%
CPA – centre for adjusted sentences	1	0	0	0	0	0	0	1	0.04%
HEALTHCARE INSTITUTIONS	**287**	**97**	**8**	**4**	**27**	**21**	**1**	**445**	**13.17%** of PDLs
EPS - public psychiatric institution	179	67	4	3	18	17	1	289	64.94% of HIs
EPS - public health institution psychiatric department	64	18	3	1	4	3	0	93	20.90%
EPS – unspecified / all	33	7	1	0	5	0	0	46	10.34%
UMD - unit for difficult psychiatric patients	11	3	0	0	0	1	0	15	3.37%
Private institution with psychiatric treatment	0	2	0	0	0	0	0	2	0.45%
IMMIGRATION DETENTION	**9**	**11**	**116**	**5**	**7**	**1**	**2**	**151**	**4.47%** of PDLs
CRA - detention centre for illegal immigrants	9	11	92	5	6	1	2	126	83.44% of ID
ZA - waiting area	0	0	15	0	1	0	0	16	10.60%
ID - other	0	0	5	0	0	0	0	5	3.31%

[81] *The "other" category includes 36 individuals, 27 participants, 16 fellow persons deprived of liberty, 14 staff members, 13 referrals from the Office of the President of the Republic, 11 unknown persons, 6 MPs, 5 trade unions, 5 judges, 4 professional organisations, 4 "other", 3 institution directors and 2 CPIPs.*

[82] *Including 11 referrals concerning National Assessment Centres (CNEs).*

[83] *Including 29 referrals concerning a UHSA, 3 concerning the EPSNF, 2 concerning secure rooms and 2 concerning a UHSI.*

LRA - detention facility for illegal immigrants	0	0	4	0	0	0	0	4	2.65%
OTHER[84]	**7**	**14**	**3**	**0**	**10**	**2**	**0**	**36**	**1.06% of PDLs**
CUSTODY FACILITIES	**12**	**3**	**0**	**9**	**3**	**0**	**3**	**30**	**0.89%** of PDLs
CIAT - police stations and headquarters	8	2	0	7	2	0	2	21	70% of custody facilities
Custody facilities – unspecified / other	2	0	0	2	0	0	1	5	16.67%
BT - territorial gendarmerie	2	1	0	0	1	0	0	4	13.33%
UNSPECIFIED	**13**	**5**	**0**	**0**	**1**	**1**	**0**	**20**	**0.59% of PDLs**
COURT CELLS	**1**	**1**	**0**	**5**	**1**	**0**	**0**	**8**	**0.24% of PDLs**
JUVENILE DETENTION CENTRES	**0**	**1**	**0**	**0**	**4**	**1**	**0**	**6**	**0.18% of PDLs**
TOTAL	**2153**	**648**	**198**	**169**	**146**	**37**	**28**	**3379**	**100%**
PERCENTAGE	**63.72%**	**19.18%**	**5.86%**	**5%**	**4.32%**	**1.09%**	**0.83%**	**100%**	



Category of place concerned	Statistics drawn up on the basis of the letters received as a whole[85]									
	2011	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**
Penal institution	94.15%	93.11%	90.59%	90.28%	88.91%	85.45%	84.15%	84.05%	82.15%	79.40%
Healthcare institution	3.48%	4.24%	5.88%	6.40%	6.75%	10.10%	10.27%	11.34%	11.29%	13.17%
Immigration detention	0.71%	1.10%	1.18%	1.21%	2.33%	2.51%	3.84%	3.06%	4.46%	4.47%
Other	0.79%	0.12%	1.16%	0.70%	0.26%	0.44%	0.22%	0.36%	0.49%	1.06%

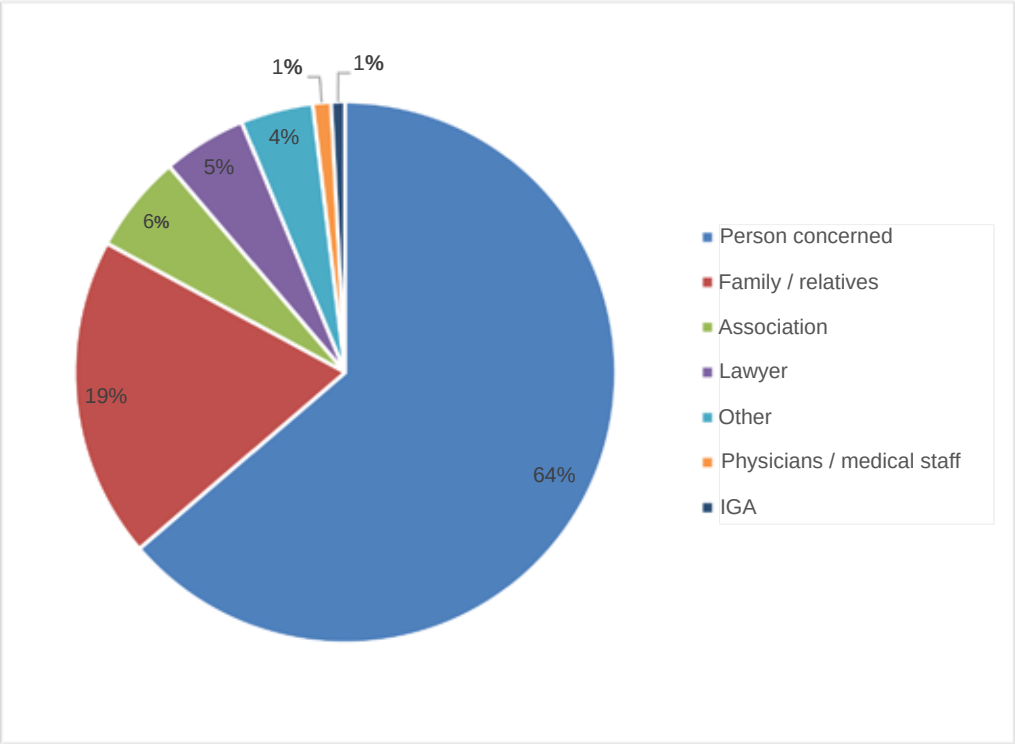
[84] *Including 20 letters related to EHPAD care homes and retirement homes.*
[85] *This table does not present the statistics drawn up in 2009 and 2010, which were based on the 1st referral letter and not on all of the letters received.*

Custody facilities	0.29%	0.74%	0.61%	0.80%	0.83%	0.87%	0.47%	0.69%	0.71%	0.89%
Unspecified	0.42%	0.47%	0.42%	0.39%	0.54%	0.44%	0.64%	0.36%	0.56%	0.59%
Cells	0.11%	0.07%	0.04%	0.03%	0.07%	0.03%	0.11%	0.11%	0.12%	0.24%
Juvenile detention centre (Centre éducatif fermé)	0.05%	0.15%	0.12%	0.19%	0.31%	0.16%	0.30%	0.03%	0.22%	0.18%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

In 2020, the increase in referrals concerning healthcare institutions observed since 2016 has been maintained, with such referrals now accounting for 13% of the total. The proportion of referrals from the people concerned by hospitalisation remains high (287 letters received versus 266 in 2019, i.e., a 7.89% increase).

The percentage of referrals bearing on immigration detention has stabilised at around 4.5%, with associations remaining the main source (116 letters received, so 76.82% of referrals concerning these places of deprivation of liberty).

With respect to penal institutions, the proportion of referrals sent by the relatives of detainees has continued to increased (516 letters versus 364 in 2019, i.e., an increase of 41.76%), while referrals from the persons concerned, while still in the majority, are slightly down (1,824 letters received versus 1,943 in 2019, or a decrease of 6.12%).



Category of persons referring cases to the inspectorate	Statistics drawn up on the basis of the letters received as a whole[86]									
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Person concerned	77.61%	77.90%	75.57%	71.10%	73.42%	69.92%	70.71%	72.79%	69.65%	63.72%
Family, relatives	9.37%	10.94%	12.81%	13.04%	10.75%	12.5%	11.79%	9.91%	13.37%	19.18%
Association	3.02%	2.97%	2.93%	4.39%	4.29%	5.18%	6.52%	5.41%	4.86%	5.86%
Lawyer	2.85%	3.68%	2.58%	3.49%	4.70%	4.61%	4.64%	5.08%	5.20%	5%
Physician, medical staff	1.24%	0.76%	1.20%	1.25%	0.70%	1.45%	0.90%	1.24%	1.21%	1.09%
Independent government agency	0.79%	0.81%	0.96%	1.79%	1.40%	2.16%	1.33%	1.02%	0.96%	0.83%
Other (fellow prisoner, participant, private individual, etc.)	5.12%	2.94%	3.95%	4.94%	4.74%	4.18%	4.11%	4.55%	4.76%	4.32%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

The rise in referrals from relatives of persons deprived of liberty, all places combined, is significant in 2020 (648 letters received versus 432 in 2019, i.e., an increase of 50%).

There has also been a decrease in the number of referrals from the people concerned (2,153 letters received compared to 2,251 in 2019, i.e. a decrease of 4.35%), an increase in referrals sent by associations (198 letters received compared to 157 in 2019, i.e. an increase of 26.11%) as well as a stabilisation in the number of referrals from lawyers (169 letters received compared to 168 in 2019), medical personnel (37 letters received compared to 39 in 2019) and other IGAs (28 letters received compared to 31 in 2019).

5.1.3 *The situations raised*

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 (29.05%), these grounds only account for 16.54% of all the problems addressed to the CGLPL between 1 January and 31 December 2020 with a bearing on psychiatry.

In view of the small number of letters received concerning police custody facilities and juvenile detention centres, the primary grounds for the referral of cases presented below only concern penal institutions, healthcare institutions and immigration detention.

[86] *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.*

Order of grounds 2020	Psychiatric hospital grounds	Person concerned	Family / relatives	Other[87]	Physicians / medical staff	Association	Total	% 2020	% 2019	% all grounds combined (primary and secondary) 2020
1	PROCEDURE	91	33	6	1	0	**131**	29.05%	24.80%	16.54%
	Dispute of hospitalisation	70	18	4	0	0	92			
	Liberty and Custody Judge procedure	9	6	2	0	0	17			
	Non-compliance with procedure	5	3	0	0	0	8			
	Guardianship procedure	2	4	0	1	0	7			
	Other	5	2	0	0	0	7			
2	PREPARATION FOR RELEASE	58	11	1	3	0	**73**	16.19%	12.53%	10.33%
	Discharge from hospitalisation	41	5	0	0	0	46			
	Preliminary discharge	9	5	1	3	0	18			
	Other	8	1	0	0	0	9			
3	SOLITARY CONFINEMENT	16	13	3	4	6	**42**	9.31%	8%	8.61%
	Duration	3	4	1	0	5	13			
	Grounds provided	2	4	1	2	0	9			
	Conditions	4	4	0	0	0	8			
	Other	7	1	1	2	1	12			
4	ACCESS TO HEALTHCARE	24	6	2	2	0	**34**	7.54%	12.53%	14%
	Access to psychiatric care	12	4	1	0	0	17			
	Seeking consent	5	0	0	0	0	5			
	Health prevention	0	1	1	2	0	4			
	Other	7	1	0	0	0	8			
5	RELATIONS WITH THE OUTSIDE WORLD	8	9	1	1	0	**19**	4.21%	-	8.76%
	Visits	2	4	0	1	0	7			
	Telephone	4	1	0	0	0	5			
	Other	2	4	1	0	0	7			
6	RESTRAINT	10	3	0	1	2	**16**	3.55%	-	3.97%
	Duration	3	1	0	0	2	6			
	Other	7	2	0	1	0	10			
7	MATERIAL CONDITIONS	9	2	2	1	0	**14**	3.10%	2.93%	5.91%
	Hygiene / upkeep	4	0	1	1	0	6			
	Food	3	0	0	0	0	3			
	Other	2	2	1	0	0	5			
8	PATIENT/STAFF RELATIONS	8	4	2	0	0	**14**	3.10%	6.13%	5.31%
	Confrontational relations	6	0	1	0	0	7			

[87] *The "other" category includes 9 referrals from individuals, 4 from lawyers, 3 from unknown persons, 3 from hospital directors, 3 from professional organisations, 2 from judges, 2 from fellow patients, 1 from an IGA, 1 from a participant, and 1 "other".*

	Use of force	1	3	1	0	0	5			
	Other	1	1	0	0	0	2			
9	LEGAL INFORMATION AND ADVICE	7	3	1	1	0	**12**	2.66%	5.33%	5.99%
	Exercise of remedies	4	1	0	1	0	6			
	Access to lawyers	3	0	1	0	0	4			
	Other	0	2	0	0	0	2			
10	ASSIGNMENT	4	4	0	4	0	**12**	2.66%	7.73%	3.29%
	Assignment to inappropriate unit	0	3	0	3	0	6			
	Readmission after UMD	3	0	0	1	0	4			
	Other	1	1	0	0	0	2			
-	UNSPECIFIED	17	2	4	0	0	**23**	5.10%	3.73%	2.17%
-	OTHER GROUNDS[88]	36	11	7	7	0	**61**	13.53%	16.27%	15.12%
	Total	288	101	29	25	8	**451**	100%	100%	100%

In 2020, the three primary grounds for referring a case regarding healthcare institutions are procedures, preparation for release and solitary confinement.

Since 2010, the main primary grounds has been procedures – particularly dispute of hospitalisation. In 2020, all grounds taken together, the main ones are procedures, access to healthcare and preparation for release. Since 2016, procedures and access to healthcare have been in the first positions.

As in 2018 and 2019, the persons concerned as well as their families and relatives primarily referred cases to the CGLPL about procedures, and medical staff about placement in solitary confinement.

Order of grounds 2020	Immigration detention grounds	Association	Family / relatives	Person concerned	Other[89]	Total	% 2020	% 2019	% all grounds combined (primary and secondary) 2020
1	ACCESS TO HEALTHCARE	42	4	6	3	**55**	37.42%	18.75%	22.70%
	Health prevention	32	0	2	2	36			
	Access to hospitalisation	2	4	0	0	6			
	Access to somatic care	2	0	2	1	5			
	Other (specialist care, treatment, etc.)	6	0	2	0	8			
2	PROCEDURE	16	2	0	1	**19**	12.93%	11.81%	10%
	Dispute of procedure (judicial, administrative, other)	14	2	0	1	17			

[88] *Letters concerning the other grounds are not enough in number to be significant. They pertain to relations with the CGLPL (7), internal order (6), activities (5), the right to vote (4), worship (2), handling of requests (2), self-harming behaviour (2), the financial situation (2), staff working conditions (1), relations between patients (1) and other grounds (29).*

[89] *The "other" category includes 5 referrals from lawyers, 2 from an independent government agency, 2 from participants, 2 from trade unions, 2 from MPs, 1 from a physician and 1 from a private individual.*

	Other	2	0	0	0	2			
3	DETAINEE/STAFF RELATIONS	10	2	1	1	**14**	9.52%	7.64%	5.40%
	Violence	10	1	0	1	12			
	Racism/discrimination	0	1	1	0	2			
4	LEGAL INFORMATION AND ADVICE	8	0	0	2	**10**	6.80%	5.55%	11.27%
	Remedies	4	0	0	2	6			
	Other (access to lawyer, etc.)	4	0	0	0	4			
5	MATERIAL CONDITIONS	6	0	1	1	**8**	5.44%	11.81%	18.57%
	Hygiene	3	0	0	0	3			
	Accommodation	1	0	1	1	3			
	Food	2	0	0	0	2			
-	OTHER GROUNDS[90]	30	3	1	7	**41**	27.89%	44.44%	32.06%
	Total	112	11	9	15	**147**	100%	100%	100%

In 2020, the three primary grounds for referring a case regarding immigration detention are access to healthcare (in particular preventive actions in the face of the COVID-19 epidemic), procedures and relations between detainees and staff (mainly to denounce violence by officers). In 2019, these grounds were access to healthcare, preparation for release (and mainly unfitness for detention due to state of health) and procedures.

All grounds taken together, the main ones are access to healthcare, material conditions and legal information and advice.

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 8.58% of the primary grounds for letters received between 1 January and 31 December 2020, this percentage goes down if its positioning is considered in light of all the reasons, when it only represents 5.72% of all the difficulties brought to the CGLPL's attention in 2020. The percentage of the fifth primary grounds for referral, material conditions, is even more frequent when all of the reasons are looked at together, accounting for 12.17% of all difficulties brought to the CGLPL's attention in 2020, i.e. the highest percentage.

[90] *Letters concerning the other grounds are not enough in number to be significant. They pertain to preparation for release (5), self-harming behaviour (4), internal order (4), transfers (4), relations with the CGLPL (2), the working conditions of association staff (2), extractions (2), solitary confinement (2), internal assignments (1), relations with the outside world (1), relations between detainees (1) and other grounds (13).*

Order of grounds 2020	Penal institution grounds	Person concerned	Family / relatives	Lawyer	Other[91]	Association	IGA	Total	% 2020	% 2019	% all grounds combined (primary and secondary) 2020
1	ACCESS TO HEALTHCARE	182	91	26	18	10	2	**329**	12.22%	12.20%	12.08%
	Access to somatic care	54	30	6	5	4	0	99			
	Health prevention	40	22	5	3	2	0	72			
	Access to specialised healthcare	26	10	6	5	0	1	48			
	Access to hospitalisation	23	18	4	2	0	0	47			
	Access to psychiatric care	17	3	1	1	1	0	23			
	Other (paramedical devices, consent to treatment, access to medical records, etc.)	22	8	4	2	3	1	40			
2	RELATIONS WITH THE OUTSIDE WORLD	170	94	7	12	7	0	**290**	10.77%	10.73%	11.53%
	Correspondence	54	12	1	0	2	0	69			
	Access to visiting rights	22	30	1	4	3	0	60			
	Visiting room conditions	22	29	1	3	1	0	56			
	Telephone	34	11	2	1	0	0	48			
	Other (marriage, family visiting rooms and UVFs, etc.)	38	12	2	4	1	0	57			
3	TRANSFER	159	57	8	5	1	1	**231**	8.58%	9.79%	5.72%
	Requested transfer	99	30	3	2	1	1	136			
	Administrative transfer	22	10	4	1	0	0	37			
	Conditions of the transfer	20	14	1	2	0	0	37			
	Other (including international transfer)	18	3	0	0	0	0	21			
4	PRISONER/STAFF RELATIONS	156	33	9	10	12	5	**225**	8.36%	10.92%	7.18%
	Confrontational relations	73	11	3	3	1	2	93			
	Violence	36	18	6	4	10	3	77			
	Discrimination/racism	28	2	0	0	1	0	31			
	Disrespect	14	0	0	2	0	0	16			
	Other	5	2	0	1	0	0	8			
5	MATERIAL CONDITIONS	169	21	6	9	8	5	**218**	8.10%	8.37%	12.17%
	Accommodation	47	6	6	6	4	1	70			
	Hygiene/upkeep	37	8	0	3	4	2	54			
	Canteens	36	2	0	0	0	1	39			
	Cloakroom/search	20	1	0	0	0	0	21			
	Other (television, food, etc.)	29	4	0	0	0	1	34			
6	INTERNAL ORDER	131	37	25	7	6	3	**209**	7.76%	7.17%	9.39%

[91] *The "Other" category includes 20 participants, 20 individuals, 14 fellow prisoners, 13 referrals from the Office of the President of the Republic, 11 physicians, 7 staff members, 7 unknown persons, 4 MPs, 4 "other", 2 professional organisations, 2 CPIPs and 1 judge.*

	Discipline	39	22	7	3	3	1	75			
	Body searches	28	9	12	2	2	1	54			
	Other (cell searches, use of force, security devices, etc.)	64	6	6	2	1	1	80			
7	PREPARATION FOR RELEASE	132	46	8	7	5	1	**199**	7.39%	7.39%	6.67%
	Adjustment of sentences	62	37	7	5	5	0	116			
	SPIP/Preparation for release	34	5	0	1	0	0	40			
	Other (administrative formalities, relations with external bodies, etc.)	36	4	1	1	0	1	43			
8	ACTIVITIES	112	9	3	6	4	0	**134**	4.98%	4.43%	7.21%
	Work	68	7	2	3	1	0	81			
	IT	21	1	0	0	0	0	22			
	Other (education, training, sociocultural activities, etc.)	23	1	1	3	3	0	31			
9	PROCEDURES	80	17	6	2	2	0	**107**	3.97%	4.65%	3.75%
	Dispute of procedure	32	8	3	0	0	0	43			
	Execution of sentences	26	4	1	0	1	0	32			
	Other (revelation of grounds for imprisonment, procedural questions)	22	5	2	2	1	0	32			
10	RELATIONS BETWEEN PRISONERS	70	22	3	4	2	1	**102**	3.79%	3.68%	3.73%
	Physical violence	29	12	1	2	1	1	46			
	Threats/racketeering/theft	25	8	0	1	1	0	35			
	Other	16	2	2	1	0	0	21			
11	OVERSIGHT (CGLPL – request for interview, visits, etc.)	85	6	4	3	0	0	**98**	3.64%	2.36%	1.46%
12	INTERNAL ASSIGNMENT	71	13	6	1	2	0	**93**	3.45%	3.19%	2.68%
	Cell assignment	32	8	2	1	1	0	44			
	Differentiated regime (including Respecto)	27	4	2	0	0	0	33			
	Other ("new arrivals" wing, loss of property, etc.)	12	1	2	0	1	0	16			
13	SOLITARY CONFINEMENT	57	16	11	0	2	0	**86**	3.19%	2.70%	2.80%
	Solitary confinement duration	10	7	6	0	0	0	23			
	Conditions in the confinement wing	16	1	2	0	0	0	19			
	Other (solitary confinement on judicial grounds, de facto solitary confinement, incompatibility, etc.)	31	8	3	0	2	0	44			
14	LEGAL INFORMATION AND ADVICE	35	6	10	4	2	1	**58**	2.15%	2.55%	2.09%
	Access to lawyers	10	3	8	2	2	1	26			
	Other (social rights, access to personal data, means of remedy, etc.)	25	3	2	2	0	0	32			
15	SELF-HARMING BEHAVIOUR	35	13	3	2	2	0	**55**	2.04%	2.10%	2.07%
	Hunger/thirst strike	13	5	2	0	1	0	21			
	Suicide/attempted suicide	14	5	0	0	0	0	19			
	Other (self-harm, death, etc.)	8	3	1	2	1	0	15			
16	FINANCIAL SITUATION	41	7	0	0	1	0	**49**	1.82%	2.10%	2.51%
	Taking poverty into account	13	1	0	0	0	0	14			
	Personal account	12	0	0	0	0	0	12			
	Transfers/money orders	7	4	0	0	1	0	12			
	Other (guarantee funds, civil parties, deductions, etc.)	9	2	0	0	0	0	11			

-	OTHER[92]	144	31	10	15	6	3	**209**	7.76%	5.66%	6.96%
	TOTAL	1829	519	145	105	72	22	**2692**	100%	100%	100%

In 2020, the primary grounds for referring a case regarding penal institutions are access to healthcare (in particular preventive actions in the face of the COVID-19 epidemic), relations with the outside world and transfers. In 2019, access to healthcare was also in the lead, followed by relations between prisoners and staff and relations with the outside world.

In 2020, all grounds combined[93], the primary grounds are material conditions, access to healthcare and relations with the outside world. Although placed in a different order, these have been the same primary grounds since 2017.

Furthermore, it can be noted that the number one reason for cases being referred to the CGLPL by the persons concerned and lawyers is access to healthcare; families and relatives primarily refer cases about relations with the outside world, and associations about relations between prisoners and staff (mainly denouncing violence by prison officers). Referrals from IGAs concern material conditions and also relations between prisoners and staff.

[92] *The "Other" category includes 109 "other" letters, 41 for an unspecified reason, 28 concerning the processing of requests, 12 concerning extractions (medical and judicial), 8 concerning religious practices, 7 concerning staff working conditions and 4 concerning the right to vote.*

[93] *i.e. the primary and secondary grounds included.*

5.2 The consequences

5.2.1 *Overall data*

	Type of action taken	Total 2020	Percentage 2020	Percentage 2019
Verifications (Article 6-1 of the Act of 30 October 2007)	Referral of case to the authority by letter	481	22.51%	24.91%
	Number of on-site verification reports sent[94]	3	0.14%	0.13%
Subtotal		**484**	**22.65%**	**25.04%**
Responses given to letters not having given rise to the immediate opening of an inquiry	Request for details	740	34.63%	37.46%
	Information	689	32.24%	27.82%
	Other (consideration for visit, passed on for reasons of competence[95], etc.)	107	5%	6.73%
	Lack of competence	117	5.48%	2.95%
Subtotal		**1653**	**77.35%**	**74.96%**
TOTAL		**2137**	**100%**	**100%**

As part of the verifications undertaken, the CGLPL sent the following letters between 1 January and 31 December 2020:

- 481 letters to the authorities concerned (as compared to 577 in 2019);
- 393 letters to persons having referred cases, informing them of the verifications conducted (442 in 2019);
- 228 letters to authorities to which the cases were referred, informing them of actions taken in order to follow-up on the verifications (277 in 2019);
- 170 letters to persons having referred cases, informing them of actions taken in order to follow-up on the verifications (208 in 2019);
- 315 reminder letters (419 in 2019);
- 87 letters to persons having referred cases, informing them of reminders issued (152 in 2019).

The CGLPL thus sent 3,330 letters between January and December 2020 (as compared to 3,802 in 2019), i.e. an average of 278 letters per month (as compared to 317 in 2019).

The decrease in the number of reminders sent out in 2020 (which had started in 2019) should be considered in light of the follow-up procedure set up by the Prison Administration Department

[94] *One on-site verification report was sent to three authorities concerned.*

[95] *Including 27 to the Defender of Rights.*

(DAP). This centralisation follows a memo implemented on 26 July 2017[96] which led to longer response times and a particularly high rate of "non response", which remains problematic in 2020.

In 2020, the proportion of verifications addressed to prison directors was 48%. 87% of these verifications were still pending a response on 31 December 2020[97]. More than half of the verifications sent in 2019 also remained unanswered.

An increase in the rate of "non response" can be noted (this rate was 51% as of 31 December 2019), and the average response time over the last two years has been five months (with a 62% "non response" rate), whereas it was three months in 2017, when these responses came directly from heads of prisons.

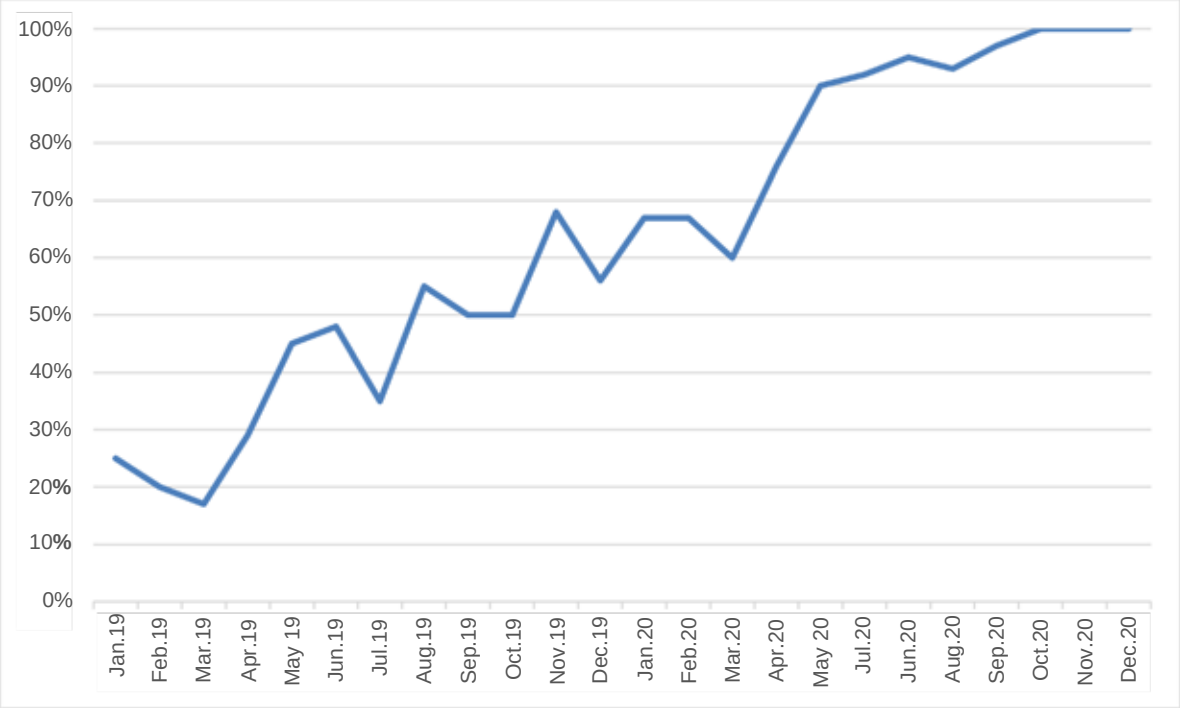
Date	No. of prison management inquiries	No response[98]	% with no response	Average time to receive a response
January 2019	12	3	25%	286 days (9 months)
February 2019	25	5	20%	313 days (10 months)
March 2019	24	4	17%	247 days (8 months)
April 2019	28	8	29%	237 days (7 months)
May 2019	22	10	45%	230 days (7 months)
June 2019	29	14	48%	145 days (4 months)
July 2019	23	8	35%	146 days (4 months)
August 2019	20	11	55%	163 days (5 months)
September 2019	24	12	50%	140 days (4 months)
October 2019	24	12	50%	76 days (2 months)
November 2019	37	25	68%	109 days (3 months)
December 2019	27	15	56%	113 days (3 months)
January 2020	9	6	67%	91 days (3 months)
February 2020	12	8	67%	97 days (3 months)
March 2020	15	9	60%	119 days (3 months)
April 2020	46	35	76%	91 days (3 months)
May 2020	20	18	90%	87 days (2.5 months)
June 2020	12	11	92%	64 days (2 months)
July 2020	21	20	95%	42 days (1 months)
August 2020	15	14	93%	71 days (2 months)
September 2020	30	29	97%	17 days (0 months)

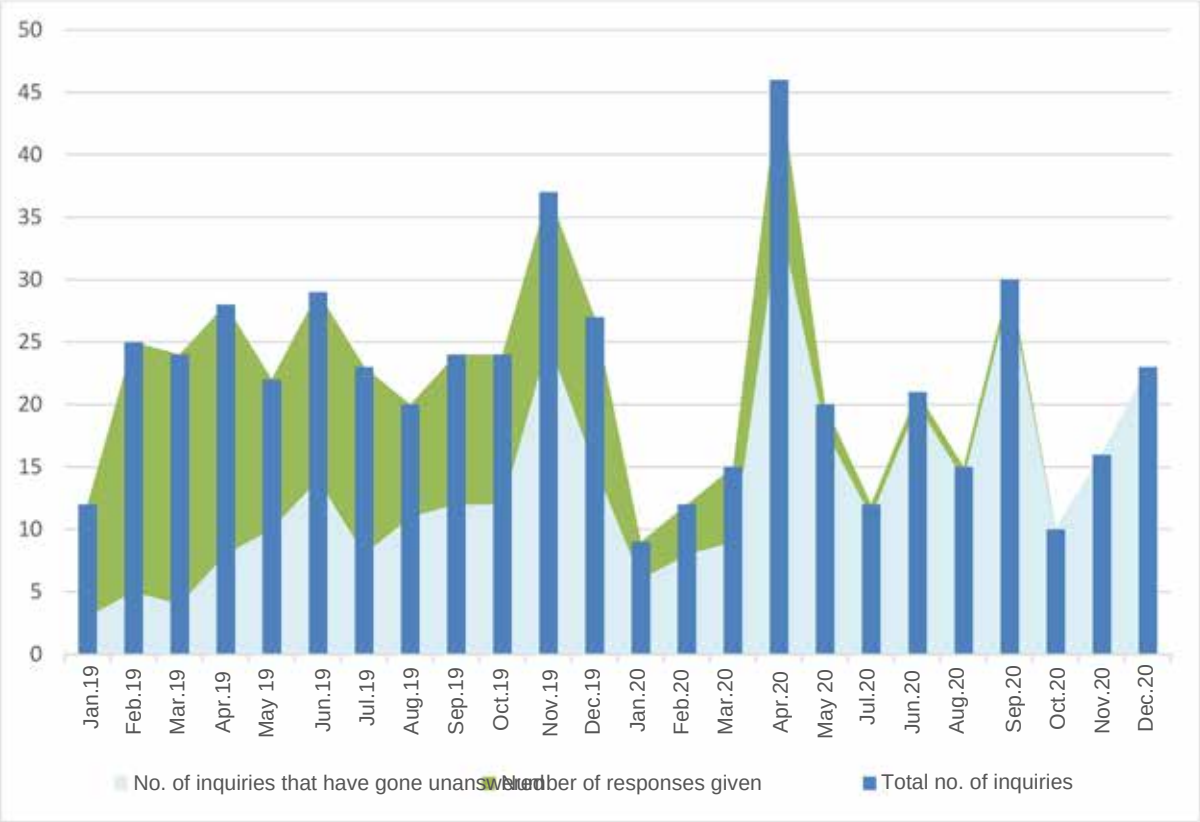
[96] *This DAP memo provides that, for individual referrals to the CGLPL, the Prison Administration Director shall now be the only party to sign off on responses.*

[97] *Over the last six months of the year, so since July 2020, 97% of the 115 verifications sent to prison directors have not received any response.*

[98] *Some inquiries were closed with no further action taken.*

October 2020	10	10	100%	*Not applicable*
November 2020	16	16	100%	*Not applicable*
December 2020	23	23	100%	*Not applicable*
Total	**524**	**326**	**62%**	**177 days (5 months)**





As of 31 December 2020, the CGLPL had replied to 492 letters of referral addressed to it during 2019 (i.e. 17% of its replies) and to 2,472 letters that arrived in 2020 (i.e. 83% of its replies).

Length of response time	Number 2020 (Jan. – Dec.)	% 2020	Number 2019 (Jan. – Dec.)	% 2019
0-30 days	655	16.92%	913	21.90%
30-60 days	557	14.39%	928	22.26%
More than 60 days	1752	45.26%	1459	35%
Response pending	765	19.76%	719	17.25%
Cases not taken up[99]	142	3.67%	149	3.57%
TOTAL	**3871**	**100%**	**4168**	**100%**

[99] *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.*

For letters replied to in 2020, this reply was received within 60 days for 31.31% of them. In 2019, this rate was 44.16%. The average response time in 2020 is 79 days (i.e. 2.5 months). In 2019, this response time was 62 days (i.e. 2 months).

5.2.2 *Verifications with the authorities*

In view of the institutions concerned and the issues raised in the cases referred[100], 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 (SMPRs).

Type of authority referred to	Number of referrals	Percentage 2020	Percentage 2019
Head of institution	**279**	**58%**	**64.58%**
Prison director	229	(47.61%)	(53.12%)
Director of a hospital facility	26		
Director of a detention centre for illegal immigrants	15		
Police station	7		
Gendarmerie	1		
Other director	1		
Medical staff	**110**	**22.87%**	**17.88%**
Physician in charge of health block, SMPR	97	(20.17%)	(15.45%)
Physician in a detention centre for illegal immigrants	11		
Other physician	2		
Central administration	**27**	**5.61%**	**4.34%**
DAP	26		
Other central management	1		
Decentralised management	**18**	**3.74%**	**3.82%**
DISP	7		
Prefecture	6		
ARS	4		
Other	1		
SPIP	**17**	**3.53%**	**5.21%**
Minister	**15**	**3.12%**	**1.74%**
Minister of the Interior	6		
Minister of Justice	5		
Minister of Health	4		

[100] *See above, analysis of the cases referred to the CGLPL.*

Judge	**9**	**1.88%**	**1.56%**
Other	**6**	**1.25%**	**0.87%**
TOTAL	**481**	**100%**	**100%**

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 of the analysis to the authorities referred the information which they have brought to the attention of the CGLPL.

In 2020, 311 new inquiry case-files were opened (versus 342 in 2019), of which 44 were closed as of 31 December 2020 (versus 52 in 2019). Among the inquiry case-files that were opened earlier:

- 338 were still in progress as of 31 December 2020 (versus 365 on 31 December 2019)[101];
- 231 had been closed during the year (versus 196 in 2019).

The following statistics pertain only to the inquiry case-files that were newly opened (unless specified otherwise).

Category of persons	Total 2020	% 2020	% 2019
Person concerned	163	52.41%	57.89%
Family / relatives	53	17.04%	12.87%
Association	30	9.65%	8.48%
Lawyer	26	8.36%	7.89%
Own-initiative referrals (CGLPL)	18	5.79%	3.22%
Fellow person deprived of liberty	6	1.93%	1.17%
Unknown person	4	1.29%	-
Physicians/medical staff	3	0.96%	1.17%
Other	8	2.57%	7.31%
Total	**311**	**100%**	**100%**

Place of deprivation of liberty	**Total**	**% 2020**	**% 2019**
Penal institution	**257**	82.64%	83.63%
MA – remand prison (or remand wing)	97		
CD – long-term detention centre (or long-term detention centre wing)	75		

[101] *To be compared with the low response rate to the inquiries sent in 2019 to heads of prisons: 43% of the 2019 inquiries were not answered in 2020.*

CP – prison with sections incorporating different kinds of prison regime (or unspecified wing or other)	55		
MC – long-stay prison (or long-stay prison wing)	20		
All	7		
Hospitals (UHSAs, EPSNF)	3		
Immigration detention	**28**	9%	7.31%
CRA – detention centre for illegal immigrants	28		
Healthcare institution	**20**	6.43%	7.02%
EPS – public psychiatric institution	9		
EPS – public health institution psychiatric department	8		
UMD – unit for difficult psychiatric patients	1		
EPS – all or other	2		
Custody facilities	**4**	1.29%	1.75%
CIAT – police stations and headquarters	2		
BT – territorial gendarmerie	1		
Police custody – other	1		
Court cells	**1**	0.32%	0.29%
Other	**1**	0.32%	-
Total	**311**	100%	100%

275 inquiry case-files were closed between January and December 2020 (versus 248 in 2019). The average length of time taken by inquiries was 15 months (versus 12 months in 2019).

The increase in inquiry times should be considered in light of the delay in responses received on the part of prison directors with regard to verifications.

Duration	Number of case-files 2020	Percentage 2020	Cumulative percentage 2020	Cumulative percentage 2019
Less than 6 months	39	14.18%	14.18%	20.56%
From 6 to 12 months	89	32.36%	46.54%	54.44%
More than 12 months	147	53.46%	100%	100%
Total	**275**	**100%**	**100%**	**100%**

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.

Immigration detention grounds	Total
Access to **healthcare** (health prevention, treatment monitoring, etc.)	15
Material conditions (food, etc.)	3
Self-harming behaviour (suicide, hunger strike)	2
Unfit for detention (health condition)	2
Legal information and advice (legal aid, remedies)	2
Prisoner/staff relations (violence, etc.)	2
Other	1
Total	**27**

Psychiatric hospital grounds	Total
Solitary confinement (conditions, duration, etc.)	6
Legal information and advice (access to lawyers, etc.)	3
Material conditions (hygiene/upkeep, etc.)	2
Preparation for **release**	2
Self-harming behaviour (circumstances of death, etc.)	2
Other (assignment, restraint, procedure, relations with the outside world, etc.)	5
Total	**20**

Penal institution grounds	Total
Access to **healthcare** (prevention, somatic, specialist, psychiatric, etc.)	74
Relations with the **outside world** (correspondence, telephone, etc.)	33
Material conditions (accommodation, hygiene/upkeep, canteens, etc.)	22
Transfer (requested, administrative, conditions of transfer, etc.)	23
Internal order (discipline, body searches, security devices, etc.)	21
Preparation for **release** (administrative formalities, adjustment of sentences, etc.)	14
Prisoner/staff relations (violence, confrontational relations, etc.)	11
Relations between **prisoners** (threats/racketeering/theft, physical violence, etc.)	11
Activities (work, IT, education/training, etc.)	9
Solitary confinement (grounds, conditions, duration, etc.)	9
Financial situation (taking poverty into account, personal account, etc.)	8
Internal **assignment** (assignment to a cell, differentiated regime, etc.)	6
Self-harming behaviour (suicide/attempted suicide, etc.)	5
Procedures (dispute of procedure, etc.)	4
Processing of **appeals** (absence of response, etc.)	4
Other (legal information and advice, extractions, etc.)	8
Total	**262**

Fundamental rights	Penal institution	Immigration detention	Healthcare institution	Custody facility	Total 2020	% 2020	% 2019
Access to healthcare and prevention	77	13	1		**91**	28.89%	17.25%
Physical integrity	37	8	3	2	**50**	15.87%	18.71%
Dignity	30	2	5	2	**39**	12.38%	17.54%
Maintenance of family ties, relations with the outside world	28		1		**29**	9.21%	11.11%
Property rights	18	1	1		**20**	6.35%	3.51%
Legal information and advice	12	2	2	2	**18**	5.71%	5.56%
Moral integrity	13		1		**14**	4.44%	4.68%
Integration/preparation for release	13				**13**	4.13%	2.92%
Access to work, activity, etc.	9				**9**	2.86%	4.97%
Confidentiality	6				**6**	1.90%	2.92%
Freedom of movement	1		4		**5**	1.59%	3.51%
Equal treatment	4				**4**	1.27%	2.63%
Right to information	4				**4**	1.27%	1.75%
Right of defence	2		2		**4**	1.27%	0.58%
Right to individual expression	2				**2**	0.63%	0.58%
Privacy	1				**1**	0.32%	0.58%
Freedom of conscience	1				**1**	0.32%	-
Other	4	1			**5**	1.59%	1.16%
Total	**262**	**27**	**20**	**6**	**315**	**100%**	**100%**

The case-files newly opened in 2020 primarily concerned, for penal institutions and detention facilities for illegal immigrants, issues relating to access to healthcare. For healthcare institutions, respect for the dignity of persons deprived of liberty is the fundamental right mainly targeted by the opening of new inquiries.

5.2.3 *Verification findings at the closing of the case-file*

In order to report the findings of verifications carried out with the authorities concerned, 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 following data show that violations occurred (even partially) in 64.36% of the inquiry case-files (versus 58.87% in 2019).

In 44% of case files, the problem has been resolved: either for the person, or for the future, or in a partial manner (versus 40.72% in 2019).

Lastly, as regards the actions taken, the CGLPL sent recommendations to the authorities called upon in 25.82% of cases (versus 20.97% in 2019). Corrective measures resulting from the inquiry addressed by the CGLPL to the authorities concerned were taken in 9.09% of cases (versus 9.27% in 2019). No special follow-up was given by the Chief Inspectorate in 44.73% of inquiry case-files (versus 47.98% in 2019), 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 their individual situation, or because the response was received too late and thus gave rise to no follow-up.

Out of the 275 case-files closed in 2020, the following results were obtained:

Results of the inquiry		Number of case-files	% 2020	% 2019
Violation of a fundamental right	Violation proven	127	46.18%	37.10%
	Violation not proven	98	35.64%	41.13%
	Violation proven partially	50	18.18%	21.77%
Total		275	100%	100%
Result for the person deprived of liberty	Unknown result	60	21.82%	22.98%
	Not applicable	60	21.82%	22.58%
	Problem solved	53	19.27%	18.55%
	Problem solved for the future	41	14.91%	8.06%
	Problem not solved	34	12.36%	13.71%
	Problem partially solved	27	9.82%	14.11%
Total		275	100%	100%
Actions taken up by the Chief Inspector with the authorities concerned	No particular follow-up	123	44.73%	47.98%
	Recommendations	71	25.82%	20.97%
	Call for vigilance	56	20.36%	21.77%
	Corrective measure taken by the authority or implementation of a best practice	25	9.09%	9.27%
Total		275	100%	100%

6. Resources allocated to the Chief Inspectorate in 2020

CGLPL figures at a glance

59 members of staff, including 31 permanent employees

87% officers in charge of inspection duties, including:

- 48% permanent inspectors;
- 52% external inspectors, with public service collaborator status;
- 7% management staff;
- 5% officers in charge of support duties.

63% are women and 37% are men

- 56 years old: average age (47.5 years old for permanent employees)
- 3 years of seniority on average
- €5.3m in overall budget (€4.2m in staff appropriations and €1.05m in operating appropriations)

2020 was a year of transition. Adeline Hazan's term expired on 16 July 2020. After several months of vacancy, Dominique Simonnot was appointed Chief Inspector on 14 October 2020.

6.1 The diversity of the institution's human resources

The institution relies on employees recruited for permanent positions and on inspectors recruited with public service collaborator status.

Since the Finance Act for 2016, the institution had had an employment ceiling of 33 FTEs. This ceiling was increased to 34 in 2019. Twenty-eight external inspectors were also involved in carrying out the institution's missions in 2020.

6.1.1 *Permanent positions, external staff, trainees and casual employees in 2020*

Staff movements, equivalent in number to those of previous years, took place in a particular context, sometimes justifying a longer vacancy period than usual.

At the start of the year, two permanent inspector positions that had remained vacant at the end of 2019 were filled by permanent agents from the professions of Prison Administration Directors and Directors of the Judicial Youth Protection Service, with the same status of the officers they replaced.

Simultaneously with the retirement of a permanent inspector with contract status, a hospital practitioner-psychiatrist was recruited in March 2020.

The inspector in charge of the Scientific Committee retired. She was not replaced and this position was frozen to be filled, under the same configuration or under another, by the new Chief Inspector.

In the spring, a judge/permanent inspector retired. She was replaced by the institution's photographer, who had previously worked as an external inspector.

An executive assistant decided to leave the CGLPL at the end of the lockdown in order to carry out a personal project. She was replaced by a contract worker with good experience as an executive secretary and awareness of places of deprivation of liberty.

In September 2020, a permanent inspector from the profession of civil administrators retired. A recruitment notice has been issued but this position will not be filled until 2021.

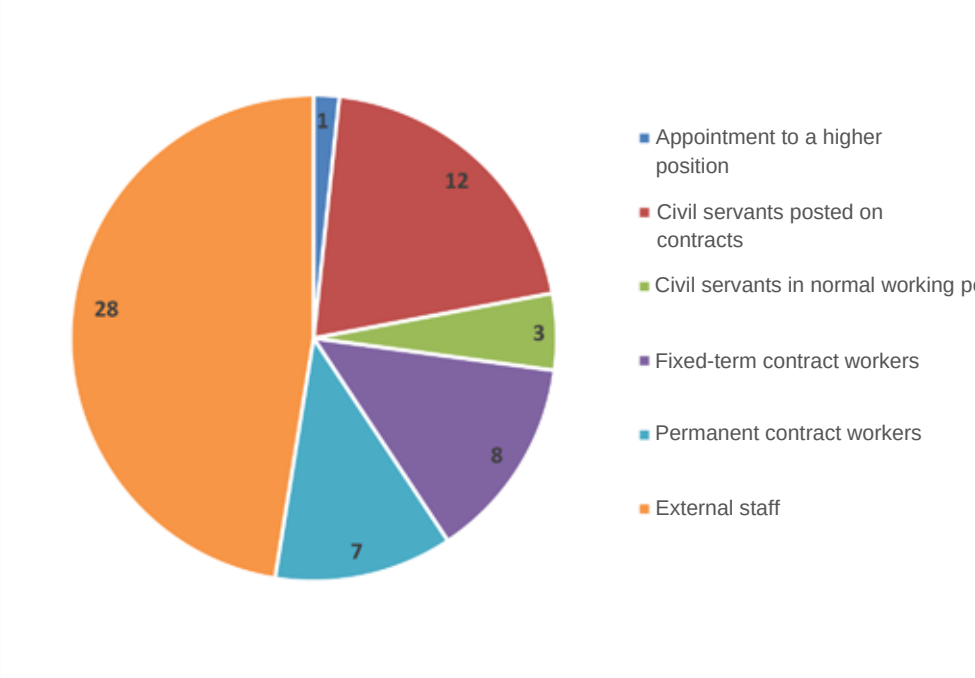
Two external inspectors ended their collaboration with the CGLPL. Four external inspectors were recruited: one academic, doctor of law, one self-employed consultant specialising in police, justice and prison issues, one hospital director and one permanent inspector who retired but wanted to continue participating in the institution's work.

Over the course of the year, the CGLPL welcomed 12 trainees from civil service schools, professional training institutions and French universities. These trainees were assigned to the processing of inquiries and referrals and the handling of follow-up to the CGLPL's recommendations. For the first year, the CGLPL took part in the reception system for ninth-grade students in the priority education network coordinated by the Prime Minister's services and hosted three middle school students for observation internships.

	Professional training institutions	Civil service schools (ENM, ENAP, IRA)	Universities	Ninth-grade students
Number of trainees	3	2	4	3

Three casual contract workers were recruited in succession in 2020 to process referrals from persons deprived of liberty and disseminate publications from the end of Adeline Hazan ' s term of office.

6.2 Social assessment data



The institution has 34 permanent positions. At the end of 2020, two inspector positions were vacant. One permanent position has never been filled, for lack of authorisation to recruit in terms of employment patterns. Thirty-one permanent positions were therefore filled at the end of 2020 and 28 inspectors had the status of external staff.

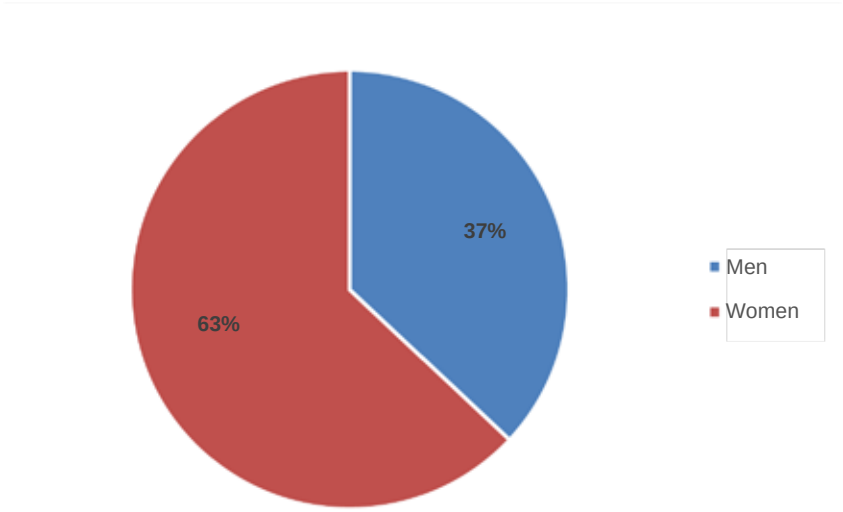
In 2017, the regulatory consolidation of the status of the position of Chief Inspector safeguarded the legal situation of the authority running the institution. The status of the new Chief Inspector is currently determined by the provisions of the Order of 27 February 2020 issued pursuant to Decree no. 2020-173 of 27 February 2020 relating to the terms of remuneration for members of independent government agencies and independent public authorities, in particular its Annex III.

The highest proportion of permanent staff are civil servants posted on contracts – primarily assigned to inspection duties. This is because posting on contract is the only management option that ensures the independence of civil servant inspectors with regard to the managing ministries of their profession, which often exercise authority or supervision over the places of deprivation of liberty which are subject to the institution's scrutiny.

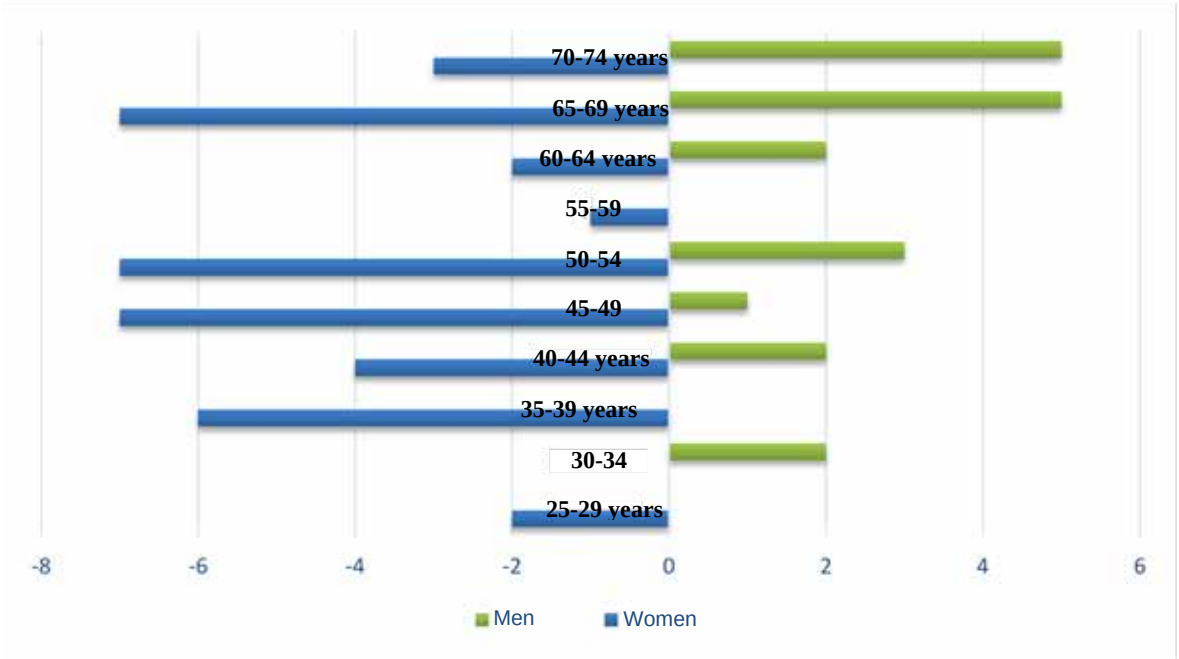
Three civil servants – Government department attachés – have been placed in normal working positions. In charge of legal support or coordination duties, these civil servants perform tasks within the institution in keeping with the special status of their profession.

Contract workers are mainly recruited as legal experts or inspectors in charge of case referrals or to roles for which there are few qualified civil servants (international relations and communications in a professional environment associated with human rights), or else to inspection duties to ensure a diversity of profiles and benefit from the skills of the voluntary sector.

Lastly, the graph which includes external staff, constituting a more flexible status for the institution and one that is more precarious for those concerned than the service obligation bearing on employed staff, attests to the high use of this method to supplement inspection staff.



Most CGLPL staff members are women. Distribution among inspection duties is almost equal (26 women for 19 men) and 75% of executive positions are occupied by women.



The large proportion of staff located in the highest half of the pyramid is due to the recruitment policy for inspection duties (recruitment in the second part of careers) and the significant use of collaboration agreements, mainly entered into with retirees.

Year	2015	2016	2017	2018	2019	2020
Staff turnover rate	15%	6%	10%	14%	15%	15%

The staff turnover rate, which has been fairly stable in recent years, indicates the institution's sound capacity to renew its workforce and equip them with skills that are in demand on the public job market.

Rate of absenteeism for sickness in 2020	
Contract workers	2%
Incumbents	6%
Total	4%

The relatively high rate of absenteeism due to sickness in 2020 is related to two factors:

- sick leave due to a number of suspected cases of COVID (in particular during the first phase of the lockdown, during which testing was not systematic) or actual contamination;
- the absence of a tenured employee for more than three months, justifying a switch to half pay.

During the health crisis, and in particular during the spring lockdown period, no employees of the institution were granted special absence authorisation (for childcare or because they were close contacts), since all staff members were given the ability to exercise their responsibilities in a situation of near-total teleworking. This arrangement will be described later.

Training			
Title of the course	**No. of days**	**No. of participants**	**Cost**
Introduction to political philosophy (ENM)	5	2	Free of charge
Secularism, judges and the law (ENM)	3	1	Free of charge
Welcome course for new employees (in-house training)	2	8	Free of charge
Total training actions	**10**	**11**	**Free of charge**

The CGLPL enjoys free access to certain training programmes at the National School for the Judiciary (ENM) as part of a partnership in which the institution undertakes to introduce judges to inspection duties within the framework of continuing education.

The institution also favours in-house training modules carried out by experienced inspectors. The institution's training budget is fairly small.

Training was very brief in 2020, given the health crisis. However, a vast in-house training plan has been drawn up for execution in 2021, including a set of business training courses for inspectors, made mandatory as part of continuing education at the rate of two courses per year.

The CGLPL's training programmes are accessible, and sometimes mandatory, both for employees and for external staff.

6.2.1 *The health crisis: accentuated exercise of mobility assignments and organisation of teleworking*

Since 2015, the institution has worked to put in place digital means to promote the mobility of inspectors, given that half of their monthly working time is spent on assignment. A virtual office system that includes the following services has thus been gradually developed:

- a tool for managing messages, contacts and tasks;
- a calendar management and sharing tool;
- an "Intranet" documentation space;
- a personal workspace;
- shared workspaces called "assignment sites" or "team sites" for sharing useful documents on assignment or as part of working groups, and the joint development of assignment reports or of the working groups' work.

This system also provides access to the institution's internal network and, in particular, to the ACROPOLIS business application, which is used to manage the dissemination, allocation and processing of inquiries and responses to persons deprived of liberty who refer cases to the institution, as well as the management of inspection missions until the processing of the final inspection reports. All of the institution's permanent inspectors and most external inspectors are equipped with a portable mini-computer allowing them to access this virtual office.

Moreover, for staff members in charge of inspection duties, who work primarily on the move, the institution has implemented, since its creation, a flexible form of work that only includes, in the same manner as institutions in charge of controls and audits (Court of Accounts, Regional Chambers of Accounts, inspectorates), an obligation of residual presence on the administrative site of the institution, to attend mandatory meetings.

On the other hand, employees performing more sedentary duties at the institution's headquarters (support, secretariat, responses to referrals) did not carry out their work on the move and remotely, before the health crisis.

At the time of the general lockdown ordered by the Government on 17 March 2020 as part of the health emergency, all staff members not carrying out their activities remotely were equipped with laptops allowing them to benefit from all mobile digital means. This enabled work to be organised in a way that was almost exclusively electronic, requiring only residual on-site presence, on a rotating basis, for the accomplishment of operations that could not be carried out remotely (reception and recording of incoming mail, packaging of outgoing mail, financial operations carried out in financial management applications for the State budget).

For inspections of places of deprivation of liberty during this lockdown period, some institutions were exceptionally visited in April and May by the Chief Inspector herself, accompanied by inspectors. These visits related to particularly urgent situations to which the CGLPL's attention had been drawn through referrals. These visits concerned two detention centres for illegal immigrants (Mesnil Amelot CRA and Vincennes CRA) and one mental health institution (public mental health institution of Moisselles). In order to maintain the exercise of the institution's inspection mission,

throughout the period from March to May, monthly telephone interview campaigns were implemented, based on a standard questionnaire common to the four categories of places of deprivation of liberty that was marginally adapted each month to take into account changes in the pandemic and guidelines. According to this procedure, of which the ministers had been informed beforehand, the CGLPL was able to monitor the situation of 71 institutions.

On-site visits resumed in June. They were also limited to monitoring respect for the fundamental rights of persons deprived of liberty with regard to the health crisis and took place on the basis of an inspection grid very similar to that used during the telephone interviews, supplemented by questions relating to the lifting of the lockdown.

When the lockdown measures were being lifted (May and June), teleworking remained the rule for staff members with sedentary positions, who were nonetheless required to be on-site on Tuesdays and Wednesdays so that meetings could be held.

During the second lockdown period that started on 30 October 2020, which coincided with the start of the term of the current Chief Inspector and which allowed for the exercise of professional activities that could not be carried out remotely, inspections of places of deprivation of liberty took place as usual. For sedentary activities, an organisation similar to that established in the spring was put in place with authorisation for residual presence on the administrative site of the institution insofar as the premises allowed the staff members present to isolate themselves in offices.

During this period, the CGLPL experimented with holding the institution's plenary meetings remotely. This virtual meeting mode will be developed in the future for training actions and the management of working groups. Two rooms were set up for this purpose on the administrative site at the end of 2020.

These two lockdown periods thus enabled the institution to:

- define remote working arrangements for sedentary functions with the implementation of validation workflows in tools and assess the quality of the work accomplished according to this procedure justifying the organisation of a long-term teleworking framework, in compliance with the provisions of Decree no. 2016-151 of 11 February 2016 as amended relating to the conditions and procedures for implementing telework in public service and the judiciary;
- develop videoconferencing methods favouring the interactivity necessary for the institution's work, without requiring any travel for staff members who were already very much in demand in terms of mobility for inspections of institutions.

6.3 Multiannual growth in financial resources

The year 2019 was Adeline Hazan's last full year of work as Chief Inspector of Places of Deprivation of Liberty. A financial assessment of her term had therefore been carried out in the previous annual report drawn up for the 2019 financial year. Her term expired on 16 July 2020, in a somewhat unusual year. It was marked by a lower level of use of staff and operating appropriations linked to:

- the necessary suspension of almost all *in situ* inspections in places of deprivation of liberty during the general lockdown in spring 2020;
- the absence of missions carried out during the vacancy of the Chief Inspector position between the expiry of Adeline Hazan's term in July 2020 and the appointment of the current Chief Inspector, Dominique Simonnot, on 14 October 2020, given that no authority held the legitimacy to order such inspections.

These various events will have no impact on the 2021 budgetary outlook.

6.3.1 *The year 2020: marked by short-term budget under-execution*

2020 budget appropriations				
Appropriations in €m	Jobs	Staff appropriations	Operating appropriations	
			CAs	PAs
Appropriations voted in the initial Finance Act	34	4.242	0.723	1.123
Appropriations opened	34	4.221	0.680	1.056
Appropriations used	30.5	3.581	0.665	1.042
Utilisation rate of appropriations opened	90%	85%	98%	99%

Wage bill and job utilisation for 2020 appears to be down compared to previous years due to greater and longer vacancies, given the change of authority at the head of the institution.

For wage bill appropriations, the savings observed – €251,000 higher than in 2019, i.e. 8% – also result from the following explanatory factors:

- the low remuneration paid to external staff, in the absence of assignments during the first lockdown period as well as during the vacancy of the Chief Inspector position (see details in the table below), despite the increase in 2020 of the remuneration scale for those assignments that were held (from €200 to €220 gross per day of inspection in a place of deprivation of liberty, including the time taken to prepare for the mission, the holding of the on-site inspection, and the drafting of the contribution to the report).
- the recruitment of less expensive profiles for the replacement of senior staff members who exercised their right to retire.

	2019	**2020**
Allowances for external staff	€231,715	€189,350
The decrease in allocations is significant (-18%). The loss of income suffered by certain external inspectors with no additional income was difficult to manage, in the absence of replacement income.		

Concerning operating expenditure, CGLPL did not suffer in 2020 from the recurring financing difficulties it had been experiencing for several years due to the non-compensation of its additional property and operating expenses resulting from the growth of its structure in 2015 and 2016 (17% increase in number of jobs and leasing of additional premises on its site). The five-month suspension of assignments (two months in April and May during the lockdown, replaced by remote monitoring, and three months during the vacancy of the Chief Inspector position) generated a significant reduction in travel expenses, i.e. actual expenditure of €200,000 for expenditure initially programmed at €351,000 (representing 43% savings). Ninety-four places of deprivation of liberty were inspected in 2020, out of the usual target of 150 inspections.

The context of the end of Adeline Hazan's term justified short-term communication expenditure given the numerous resulting publications, including books reviewing her term (the photographic book "Les enfermés" and the collection of "Minimum recommendations for respecting the dignity and fundamental rights of persons deprived of liberty"). These exceptional expenditures were easily financed in the context of savings on travel expenses.

In addition, the health crisis justified approximately €50,000 in exceptional expenditures (hygiene and protective equipment, disinfection expenses as part of cleaning services, audit carried out by APAVE on the ventilation and air filtration system, purchasing of computer equipment dedicated to teleworking and installation of videoconferencing systems in meeting rooms).

6.3.2 *Budget outlook for 2021*

Budget outlook for 2021				
Appropriations in €m	Jobs	Staff appropriations	Operating appropriations	
			CAs	PAs
Appropriations requested	34	4.272	2.046	1.134
Appropriations voted in the initial Finance Act	34	4.272	2.036	1.134

Operating appropriations are subject to a new commitment authorisation measure (€1.3m), in order to allow the lease to be renewed for three additional years. With this being the location of the institution ' s headquarters, given the lack of a state relocation solution and the costly nature of any rental alternative, the institution allowed the tacit renewal of the lease for three additional years to produce its effects.

The 2021 budget year is likely to be marked by certain funding difficulties, due in particular to the need to modernise the institution ' s website, whose design and functionalities are very dated; their impact, however, may be reduced by cost-saving measures relating to the IT service and hosting strategy, the anticipation of travel orders and the development of videoconferencing alternatives for conducting internal meetings.

Chapter 6

"To the Chief Inspector..."

Letters received

“Subject of the request: respect for my right to choose my treatment and undignified conditions of a patient in solitary confinement

Dear Sir/Madam,

I am detained at (…), psychiatric hospital (…).

Attached to this email is a conversation with my psychiatrist. My right to choose my doctor and my right to refuse treatment are flouted (in this case, avoiding treatment by injection to choose the same treatment in the form of tablets to be swallowed).

Moreover, the institution I am in does not propose any actual activities to patients and the doctor is very often absent which prevents patients from obtaining authorisations to do what they wish.

One detainee seems to be in the seclusion room only to “scare” other patients so that they keep quiet (…). No caregivers intervene between 5 and 7 pm whereas the patient in solitary confinement knocks hard on the door. This example is representative of how he has been treated for the past few days.

Please be discreet about me because I am currently being "cared for" in this unit (...) and I would like to avoid this impacting the way in which I could be "treated" chemically for example.

Sincerely”

“Dear Sir or Madam,

How???

In the country of human rights, a rule of law where we are being hit by an unprecedented health crisis, where hospitals are overwhelmed, where there are fears of a new viral infection, how can we still in 2020 tolerate the working conditions of the guards as well as the conditions of incarceration in the prison of (…).

Have we become the Third World?

We live with rats, the water inlet pipes are broken, the beds are rusted, and the intercoms to call the guards are broken; sometimes there are 3 of us in a 9 square meter cell; hygiene kits only arrive at the beginning of the month for the whole month.

There are dirty and small courtyards for an entire floor, without benches; blankets are changed (once a month) or not at all, and there are unsanitary conditions.

There are rats coming out of the toilets and walking in the corridors on electric wires; sometimes they enter the cells.

The only way to communicate with the guard is when he opens or closes the door, or to call him you have to yell in front of the door while waving a false flag.

There are faulty electrical outlets, leaky taps, cracks in the walls and roof, bugs that come in all the time – in short, unthinkable situations for a great country like France.

We don’t ask for luxury but a minimum – food for the rats to nibble on in the reserve stocks.

Canteens are not regular.

Compared to other prisons, it's clearly a double punishment here, physically and morally, even mentally I would say.

Because the fact of systematically interrupting the sleep of detainees with frequent entrances, for the shower, role call, the doctor, etc. creates major sleep disorders where you are systematically awakened by a deafening noise when removing the rusty handles from the cell.

The response time for activities is extremely slow, even for work.

In short, (…) [here] it's sit down and stupidly wait for your release until you return.

PS it is indecent that the prison service is used to working in total shit.

(paid or not).

Sincerely"

"Hello

Dear Sir/Madam,

(…) I am writing this letter to you on behalf of my husband, who has been in the detention centre of (…) for [16 days].

My husband submitted his first application for a residence permit to the prefecture (…) in 2017. The prefecture denied his request. He received a letter saying that he had to leave the territory. Afraid, he did not go to court with the letter. We are afraid that he will be sent to the country because he has his whole life here, he is married, he has two children who were born here.

Please madam/sir, help me get my husband out. My life has gotten so complicated since he's been there. I just gave birth to our second daughter at eight months into my pregnancy, and my husband still hasn't met his daughter.

You can contact me if you have any questions.

Thank you for your understanding"

"Is it normal that the gendarmerie of L. (downtown) does not have a shower for people in custody?

Especially when they are staying for extended custody?

Is it normal that in winter, the cans of gasoline are located in the garage and that the officers smoke in the garage of the gendarmerie?

Knowing that the rooms of deprivation of liberty are next door?

Is it normal for those in custody to put up with the nauseating smell of cigarettes and exhaust pipes when they are in the cell?

No, this is not normal!

Yet it exists at the gendarmerie of L. (downtown).

As long as an accident does not occur…"

“Subject of the request: Detention in the rooms of voluntary patients within a psychiatric unit

Hello,

I am turning to you regarding the following situation:

A person close to me (…) is currently hospitalised in the psychiatric clinic of (…). Following the declaration of a positive case in the institution, all of the patients in the wing concerned, including voluntary patients, have been confined in their room, without the possibility of leaving, for more than 24 hours, this being justified neither by the presence of symptoms indicating possible infection with COVID-19, nor by a behaviour which could be judged aggressive or dangerous for the other patients or the personnel employed in the said structure.

A general lockdown has been declared and put in place by the French government; however, each citizen can claim the right to go out for one hour a day, within a perimeter set at one kilometre around their home, according to the derogations indicated by the French State.

Visiting rights having been removed, and this being completely justified by the situation, I base my story on my friend’s emotional distress, which has been aggravated by this deprivation of liberty causing major anxiety-depression.

My friend and I are relying on you to intervene as soon as possible. Of course, I previously contacted the management of the institution, who did not take into account my request or the psychological distress of their patients.

Thank you for your interest in our call for help. Sincerely”

“Hello, I am writing to you because (…) I would like to know if it is normal that the prison where I am does not want to provide me with the regulations of the charter on COVID-19.

Following non-compliance with the requirement to wear a mask in the visiting room < kisses to my wife >

She and I haven’t had an in-person conversation for two months.

It is said by the guards that all the prisoners who have had this problem had three weeks of it, no more – so why two months for me?

I am giving you the address of my lawyers (…)”

****

"Madam Inspector,

I am writing to you in order to inform you and to ask you about the following.

After a daily tally since it has been mandatory to wear a mask in closed places, I have found that 75% of prison staff do not wear a mask, among other things, in the presence of detainees in closed spaces in detention buildings.

Having had the chance to obtain a 6-hour family visit with my partner and my daughter, I was forced to cancel 6 hours of happiness.

As a detainee, I would have been subject to quarantine for isolation, on the grounds that my loved ones could be carriers of COVID-19!!

Except that given the non-compliance with health measures on the part of the prison (…), I might be an asymptomatic carrier and therefore could contaminate my relatives… it is frustrating and regrettable to have to deprive myself of these rare moments of conviviality with my loved ones, for lack of compliance with the rules and laws, if only for civility, and common sense, where staff should set an example.

This again goes against the CPP, stipulating that everything must be done to preserve family ties, and not the other way around.

Beyond my personal interest, this laxity on the part of 75% of the 200 officers going back and forth with the outside of (…) [this institution] jeopardises 600 to 700 prisoners.

While for the moment, it is a miracle that this health time bomb has not caused a massacre, the opposite would be a disaster, for which the irresponsible “responsible parties” would be numerous...

At the end of July, I informed the management by mail of the unpleasant decision I had to take, and of my reasons, but as usual it remained unanswered and unchanged.

This habit has orchestrated the opacity of the many excesses of the voluntary irresponsibility of dangerous personnel.

What more do people who have taken over French justice need to make detention even more difficult?

I am content with the low retaliation against whistleblowers taken by Justice and the prison system. But I am taking this risk in a common interest given the consequences of the seriousness of this health risk.

Kind regards"

Chapter 7

Places of deprivation of liberty in France: statistics

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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 (involuntary psychiatric care) and the field of deportation of foreign nationals (the execution of measures and immigration detention) 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 or 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, immigration detention or involuntary care. Given the state of the available sources, it is not possible to draw a parallel of these magnitudes for the various places of deprivation of liberty in a single table.

This complexity has the merit of recalling the limitations of statistics: far from reflecting an absolute "truth", the figures depend on the social conditions of registration of the activity they describe, and on the tools that organise this registration within the source administrations. To conclude, they also depend on the choices made by the researchers who compile them and put them in series in order to present them.

Preliminary note: The figures presented here relate for the most part to the year 2019 (and for the deportation and detention of foreigners, the year 2018). They therefore do not reflect the differentiated effects of the 2020-2021 health crisis on the various institutions mentioned. Without anticipating the data that will appear in next year's report, we wanted to add in the comments some factual and statistical details concerning trends in the year 2020, when available. In any case, the health emergency did not

[102] *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.*

have the same consequences for police activity, changes in the prison population and even the detention of foreigners: while a large part of this impact still needs to be assessed, the aim here is to provide a first outline.

1. Deprivation of liberty in criminal cases

1.1 Number of persons implicated in offences, police custody measures and persons imprisoned

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
2017	1,080,440	367,479	268,261	99,218	30,040
2018	1,115,525	395,192	287,073	108,119	30,622
2019	1,107,419	417,273	297,907	119,366	33,014

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 as of this date. 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. In addition to this change in counting method is the disparate filling-out of police databases: this information is now considered to be of secondary importance and is not always filled in, the result being that the statistics vary markedly from year to year.

Two notes written by the Interstat service of the Ministry of the Interior offer a first view of the consequences for police activity of the state of health emergency which entered into force on 24 March 2020, but without providing figures on the persons implicated or the use of custody. The state of emergency first generated specific activity, with 18 offences having been created in order to enforce the lockdown measures. For the two criminal offences (repeated violation of the lockdown on more than three occasions during the same month and refusal to comply with a requisition ordered as part of the health emergency), nearly 5,500 offences were recorded between 23 March and 31 May 2020.

At the same time, the lockdown situation was accompanied by a sharp drop in the number of crimes and offences recorded (a drop of about 70% according to the ministry). The latter was partly caused mechanically by the restrictions imposed on movement (for thefts without violence against people, for example, which decreased by 78%). However, the lockdown can also explain the increase in certain figures: among victims of intentional assault and battery, the number of victims recorded within families was up by 4%. Lastly, it should be borne in mind that the lockdown also constituted an obstacle for the filing of complaints by victims; although this phenomenon is difficult to assess, it may also explain the drop in offences recorded.

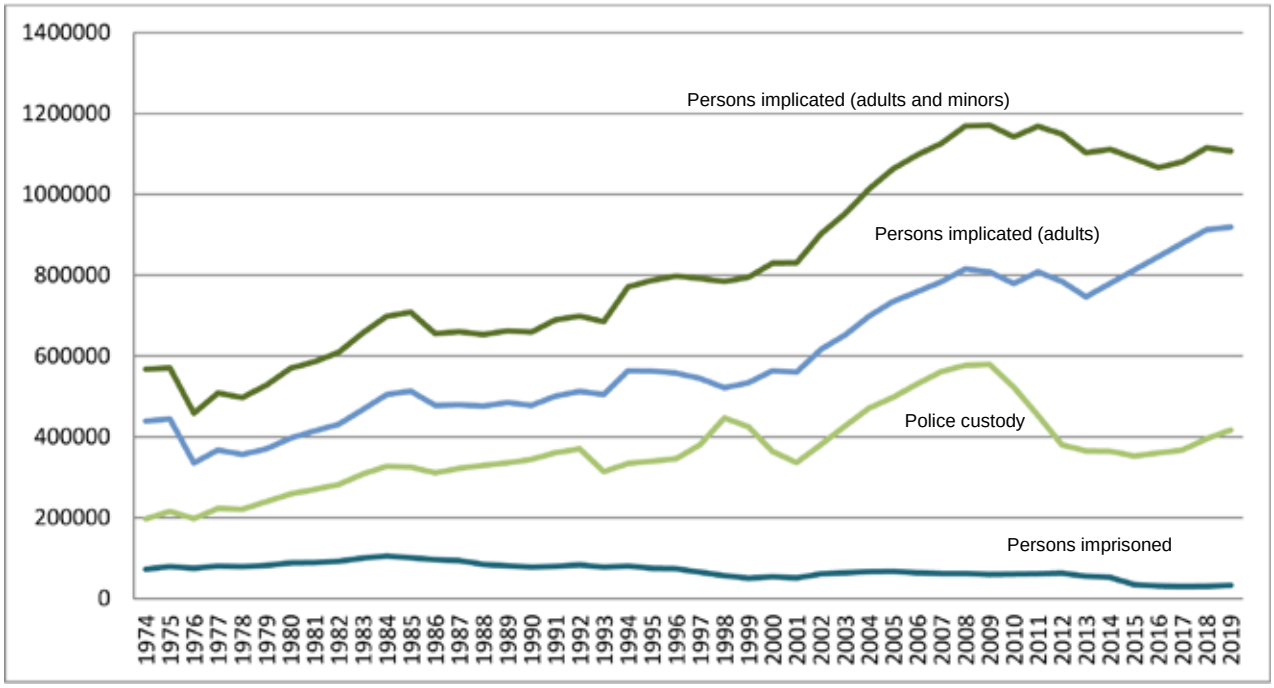
References:

- "Délinquance enregistrée pendant le confinement : un premier éclairage", *Interstats Analyse*, no. 28, July 2020.
- "La délinquance commise pendant le confinement et le dépôt de plainte", *Interstats Méthode*, no. 17, July 2020.

1.2 Trends in numbers of persons implicated in offences, police custody measures and persons imprisoned

Source: État 4001, Ministry of the Interior, series B. Aubusson.

Scope: 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: The figures for implicated adults have not been updated for the years 2014 to 2017, which explains the linearity of the curve for this period. While the increase described is very real (from 746,542 persons implicated in 2014 to 912,882 in 2018), it is likely to have been less steady.

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 fines, driving offences and offences uncovered by the specialist services (customs, labour inspectorate, 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. The problems associated with counts of persons imprisoned in the police statistics for a number of years now are still evident: 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.

Scope: 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			2019		
	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%*	2,796	2,720	*97.3%*
Robberies	18,618	14,044	*75.4%*	20,058	18,290	*91.2%*	3,034	2,815	*92.8%*
Drug trafficking	13,314	11,543	*86.7%*	23,160	15,570	*67.2%*	18,074	16,226	*89.8%*
Procuring (prostitution)	901	976	*108.3%*	759	768	*101.2%*	958	794	*82.9%*
Insulting and violence against government officials	21,535	10,670	*49.5%*	42,348	29,574	*69.8%*	34,799	26,464	*76%*
Burglaries	55,272	34,611	*62.6%*	36,692	27,485	*74.9%*	36,818	24,670	*67%*
Auto larceny	35,033	22,879	*65.3%*	20,714	16,188	*78.2%*	14,282	9,471	*66.3%*
Fire, explosives	2,906	1,699	*58.5%*	7,881	6,249	*79.3%*	6,781	4,538	*67%*
Vehicle theft	40,076	24,721	*61.7%*	20,764	15,654	*75.4%*	11,081	6,583	*59.4%*
Sexual assaults	10,943	8,132	*74.3%*	14,969	12,242	*81.8%*	27,854	15,207	*54.6%*
Other behaviours	5,186	2,637	*50.8%*	12,095	8,660	*71.6%*	8,107	3,824	*47.2%*
Foreigners	48,514	37,389	*77.1%*	119,761	82,084	*68.5%*	11,185	6,427	*57.4%*
False documents	9,368	4,249	*45.4%*	8,260	4,777	*57.8%*	11,145	4,760	*42.7%*
Other thefts	89,278	40,032	*44.8%*	113,808	61,689	*54.2%*	117,086	53,651	*45.8%*
Assault and battery	50,209	14,766	*29.4%*	150,264	73,141	*48.7%*	169,922	73,614	*43.3%*
Shoplifting	55,654	11,082	*19.9%*	58,674	20,661	*35.2%*	46,633	18,553	*39.8%*
Weapons	12,117	5,928	*48.9%*	23,455	10,103	*43.1%*	24,147	9,938	*41.2%*
Drug use	55,505	32,824	*59.1%*	149,753	68,711	*45.9%*	162,058	47,961	*29.6%*
Destruction, damage	45,591	12,453	*27.3%*	74,115	29,319	*39.6%*	45,742	12,065	*26.4%*
Other trespass to persons	28,094	5,920	*21.1%*	65,066	20,511	*31.5%*	98,413	24,415	*24.8%*
Fraud, breach of trust	54,866	17,115	*31.2%*	63,123	21,916	*34.7%*	62,223	8,364	*13.4%*
Frauds, economic crime	40,353	6,636	*16.4%*	33,334	9,700	*29.1%*	21,529	4,061	*14.7%*
Other general policies	15,524	3,028	*19.5%*	6,190	926	*15.0%*	7,919	2,038	*25.7%*
Family, child	27,893	1,707	*6.1%*	43,121	4,176	*9.7%*	70,301	5,745	*8.17%*
Unpaid cheques	4,803	431	*9.0%*	3,135	457	*14.6%*	1,450	27	*1.8%*
Total	775,701	334,785	*43.2%*	1,172,393	577,816	*49.3%*	1,107,419	417,273	*37.7%*
Total without unpaid cheques	770,898	334,354	*43.4%*	1,169,258	577,359	*49.4%*	1,105,969	417,246	*37.7%*

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 or changes in recording practices. The heading "unpaid cheques" includes cheques without funds, before they were decriminalised in 1992. A 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 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 constitutionality of the articles of the Code of Criminal Procedure 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 rates of custody use (the first six lines in the table), the reduction in this rate is proportionately smaller. It is also worth remarking, 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. 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 (see section 3.1).

1.4 Placements in prisons according to criminal category and estimates of placements in detention ("flow")

Source: Quarterly Statistics of the Population dealt with in Penal Institutions, French Ministry of Justice, Prison Administration Department, PMJ5 (1970-2019). Series B. Aubusson.

Scope: Penal 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 convicted prisoners placed in detention	Imprisonment for debt(*)	Total
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	25,343	25,055	40,525	n.d.	n.d.	93,171
2016	28,290	27,226	40,273	n.d.	n.d.	96,419
2017	27,749	27,387	40,514	n.d.	n.d.	95,959
2018	28,592	28,092	41,744	n.d.	n.d.	98,801
2019	29,537	29,628	42,315	n.d.	n.d.	101,824

(*) Imprisonment of solvent persons for non-payment of certain fines (*contrainte judiciaire*) as from 2005

Note: The multiple changes that occurred in 2015 in the collection of prison data (adoption of the IT management application GENESIS within institutions and modification of the method of calculating numbers of prison entries) were, in previous editions, responsible for the lack of data for this same year and for significant gaps for the following years. The publication this year of the new "Statistical series of persons appearing before the courts" for the 1980-2020 period has helped fill in some of these gaps, in particular for the figures concerning remand prisoners. However, figures for convicted prisoners placed in detention and for imprisonment for debt remain unavailable, following the change in the method for counting placements in prisons.

For the 2014-2019 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 Administration 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 are no longer updated, this estimate of placements in detention enables, from 2006 to 2014 in this table, a series to be offered for those arrested, sentenced and placed in detention, that is, according to the methodology used, not having an adjustment of sentence *ab initio* or within seven days following imprisonment (external placement or placement under electronic surveillance).

Comment: The gaps in the 2015-2018 series make it difficult to assess trends over the last four years. For previous years, it can be seen that the average level of placements in detention of those sentenced has not fundamentally changed since the development of sentence adjustment.

In light of the figures published this year, the long-term drop in placements in temporary detention in the context of committal proceedings seems to have reversed over the last four years. In 2019, these placements reached a number close to that of immediate appearances, which were also stabilising.

The drop in "imprisoned" persons in police statistics has not been confirmed (but the definition is not the same). Lastly, 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.

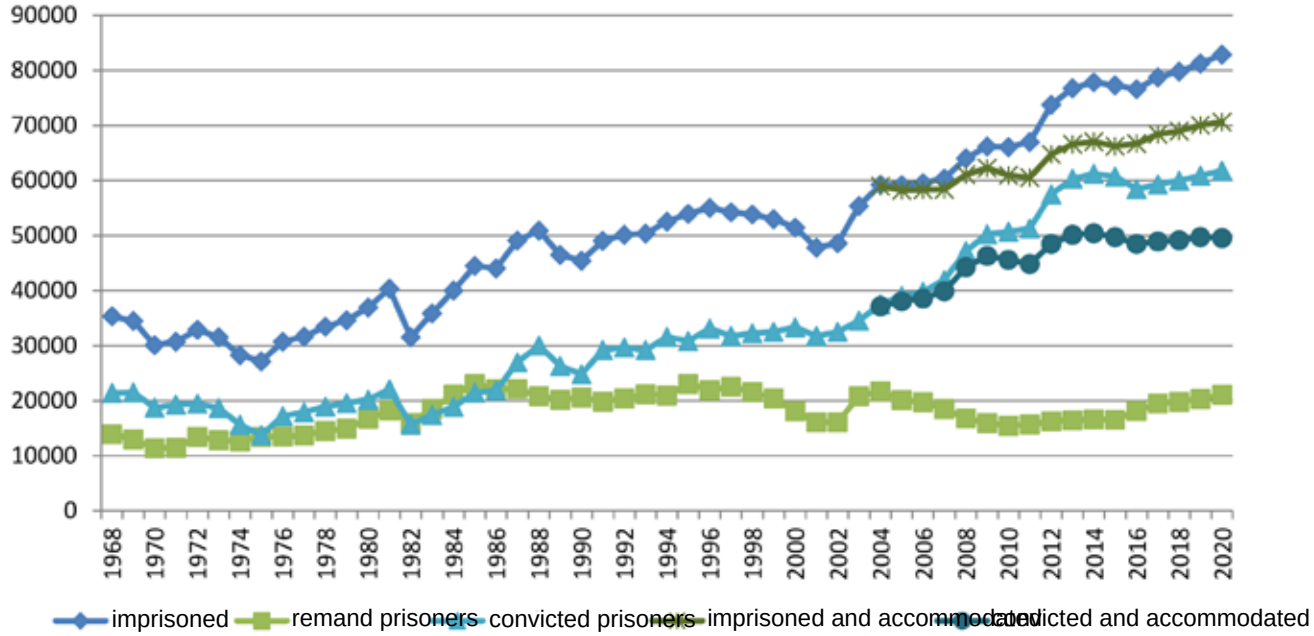
References: These series, as with all those from the prison statistics, have been reconstituted by Bruno Aubusson de Cavarlay (Cesdip / CNRS) for the earliest period, from printed sources. For more recent years – with the exception, as indicated, of figures from 2015 – they are now regularly distributed by the research and foresight office of the Prison Administration Department (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 to 2018, we have also drawn on the statistics published in the brochure *Les Chiffres clés de la justice*, published by the Ministry of Justice (pp. 26 and after for prison administration data). In relation to temporary detention, other series are presented in the 2015-2018 reports of the Temporary Detention Surveillance Committee[103].

[103] *Available online: http://www.justice.gouv.fr/le-ministere-de-la-justice-10017/direction-des-affaires-criminelles-et-des-graces-10024/rapport-2018-de-la-commission-de-suivi-de-la-detention-provisoire-31664.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.

Scope: 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 climbs slowly, rising since 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 tied it in with the November 2015 terrorist attacks, not least because of judges' increased reluctance to release citizens implicated in this type of case, or presenting similar profiles. The 2017-2018 report further observes the increase in placements in temporary detention of children (particularly, again, in terrorism cases), and more generally their rise for certain types of offence: those in connection with immediate committal, and temporary detentions for crimes, which are tending to get longer because the superior criminal courts are so swamped with cases. On this point, see the Temporary Detention Surveillance Committee, *2017-2018 Report*, Paris, CSDP, 2016, pp. 12 and after.

The effects of the 2020-2021 health crisis are more easily quantifiable here. During his hearing before the Law Committee of the National Assembly on 15 April 2020, the Prison Administration Director mentioned in particular a sharp drop in the average number of persons imprisoned per day, which he said was due to the combined effect of the slowdown in judicial activity in the first weeks of the pandemic, the mechanical effect of the end of sentences, and a deliberate policy of increasing the number of releases by sentence enforcement judges. On 1 December 2020, the number of people detained was 62,935, i.e. a decrease of 12.5% compared to the same period of the previous year (DAP, monthly statistics). While the CGLPL (through a referral addressed to the Minister of Justice on 5 May 2020) and International Prison Watch (in an open letter to the President of the Republic dated 3 June 2020) took up this situation to propose a major change in incarceration policies for the years to come, the long-term impact of this situation, which was exceptional on all acconts, remains uncertain.

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, Prison Administration Department, PMJ5.

Scope: 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).

The dates indicated represent the situation on 1 January of each year in question.

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 or more years
1970	6,239	5,459	1,660	4,616	17,974				
1980	7,210	5,169	1,713	5,324	19,416				
1980	7,427	5,316	1,791	5,662	20,196				
1990	6,992	5,913	3,084	8,642	24,631				
2000	8,365	6,766	4,139	13,856	33,126				
2010	17,445	14,174	5,628	13,442	50,689				
2011	17,535	14,780	5,709	13,248	51,272				
2012	20,641	17,226	6,202	13,428	57,497				
2013	21,961	18,169	6,647	13,563	60,340				
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				
2016	19,783	16,995	7,036	14,359	58,443				
2017	20,988	17,117	6,858	14,335	59,298				
2018	21,349	17,379	6,686	14,556	59,970				
2019	21,908	17,620	6,668	14,711	60,907				
2020	22,769	17,958	6,449	14,609	61,785				

Note: Here again, the publication in 2020 of a new statistical summary on persons appearing before the courts made it possible to reconstruct meaningful series for the last five years.

This analysis of convicted offenders includes those whose sentences were adjusted, without accommodation. On 1 January 2020, out of the 61,785 individuals sentenced to imprisonment, 12,209 were not detained, under adjusted sentences, and 2,313 were in an open regime or placed in external accommodation. Therefore, 47,263 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 prison term 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 subsequently stabilised (10.9 months in 2015; 10.9 and 10.7 months in 2019 and 2020 respectively) (DAP-PMJ5, 2014-2020).

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 overcrowding of penal institutions

Statistical data used by the Prison Administration Department – total number of detainees at any given time and operational capacity of institutions – enables 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 – – 115.7 on 1 January 2020 – has no great significance as the indicator varies a great deal according to the type of institution: 89.5 for detention centres and detention centre wings, 73.5 for long-stay prisons and long-stay prison wings, and 84.4 for prisons for minors, whilst for remand prisons and remand wings, the average density is 136.

In addition, the average by type of institution includes variations within each category:

- out of the 130 sentencing institutions, only nine had a density higher than 100, including two detention centre wings in overseas territories and five open prisons (3) and centres for adjusted sentences (2) in Ile-de-France, plus the Marseille-Les Baumettes wing for adjusted sentences. This overcrowding concerned 573 detainees in mainland France and 419 in Overseas France.
- of the 134 remand prisons and remand wings, 20 had a density lower than or equal to 100 and 111 had a density greater than 100, of which 45 had a density higher than 150. Three remand prisons and remand wings exceeded 200, i.e. a population of prisoners more than double the number of operational places (all three in mainland France).

Overcrowding of prison institutions is therefore limited to remand prisons by application of a *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 in the number of prisoners (+3,742) and density was therefore higher in 2015 than in 2005.

Overcrowding of an institution has consequences for all prisoners in it, even if some cells have normal occupation levels (new arrivals' wing, solitary detention wing, etc.). It is therefore relevant to note the proportion of prisoners based on the extent of occupation of the remand prison where they are. On 1 January 2020, the vast majority were once again affected by this situation of overcrowding (92%); over a third (39%) of detainees in remand prisons or remand wings were in institutions where the density was greater than or equal to 150.

Reference: *"Statistiques pénitentiaires et parc carcéral, entre désencombrement et sur-occupation (1996-2012)"* (Prison statistics and total incarceration, between clearance and overcrowding (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.

Scope: France and its Overseas territories, remand prisons and remand wings, prisoners.

Remand prisons and remand wings on 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
2018	48,536	100	45,843	94%	39,751	82%	21,478	44%	1,212	2%	34,143
2019	47,806	100	44,985	94%	39,800	83%	17,856	37%	793	1.5%	34,165
2020	48,796	100	44,805	92%	40,912	84%	18,826	39%	906	2%	34,941

2. Involuntary committal for psychiatric treatment

2.1 Trends in measures of involuntary committal to psychiatric hospitalisation from 2006 to 2017

Source: DREES, SAE ("Annual Statistics on Health Institutions"), table Q9.2.

Scope: All institutions, Mainland France and French Overseas *départements*

	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) (Art. 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 Art. 122-1 of the CPP and Article L.3213-7 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
2017	2,025,844	987,589	672,237	145,262		17,302	78,786
2018	2,101,668	1,020,010	805,112	154,186		10,707	73,036
2019	2,081,768	985,132	768,712	162,582		14,580	74,575

	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) (Art. 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 Art. 122-1 of the CPP and Article L.3213-7 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	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
2017	62,391	17,346	24,255	1,273		533	7,617
2018	61,040	17,927	26,820	1,294		416	7,237
2019	70,092	17,174	26,341	1,476		407	7,148

Note: This year, as in previous years, we have used the data published by the SAE (Annual Statistics on Health Institutions), an annual administrative survey carried out by the DREES among all health institutions, and which has included a specific section on psychiatry since 2006 . This survey has the advantage of showing recent data (available every year for 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 takes into account only full days of hospitalisation, excluding preliminary discharges, and does not enable follow-up of patients on an individual basis. The same patient, treated in multiple institutions during the year, will therefore be recorded several times. Lastly, 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 limitation relates to the redefinition of hospitalisation measures under the Act of 5 July 2011, the institution of which especially created the category of hospitalisation for imminent danger, which added to hospitalisation at the request of a third party and hospitalisation by court order (which

[104] *For a more detailed presentation of these sources, please consult the 2015 report and the references given at the end of this section.*

is today known as committal to psychiatric treatment at the request of a representative of the State, see below). This new category-based classification has therefore made year-to-year comparison difficult.

Comment: Making their first appearance in 2011, numbers of days of "hospitalisation for imminent danger" continue to increase, cutting into the two pre-existing categories, hospitalisation at the request of a third party (HDT) and hospitalisation by court order (now known as hospitalisations by decision of a State representative – HSPDRE). However, the progression of these two measures seems to have stabilised over the last five years. The upward trend in detainee hospitalisations appears to be stabilising.

Lastly, SAE figures confirm the increase in the total number of days taken up in 2015 (4,164,719 days in 2018 and 3,916,200 in 2016, versus 3,775,187 in 2014). The figure for 2019 remained high, despite a notable decline (4,087,349).

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 122,638 in 2019. In any event, this figure should be interpreted carefully, 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 involuntary treatment, data for 2018 (total number of days divided by 365) indicates, as in previous years, a little over 10,000 patients.

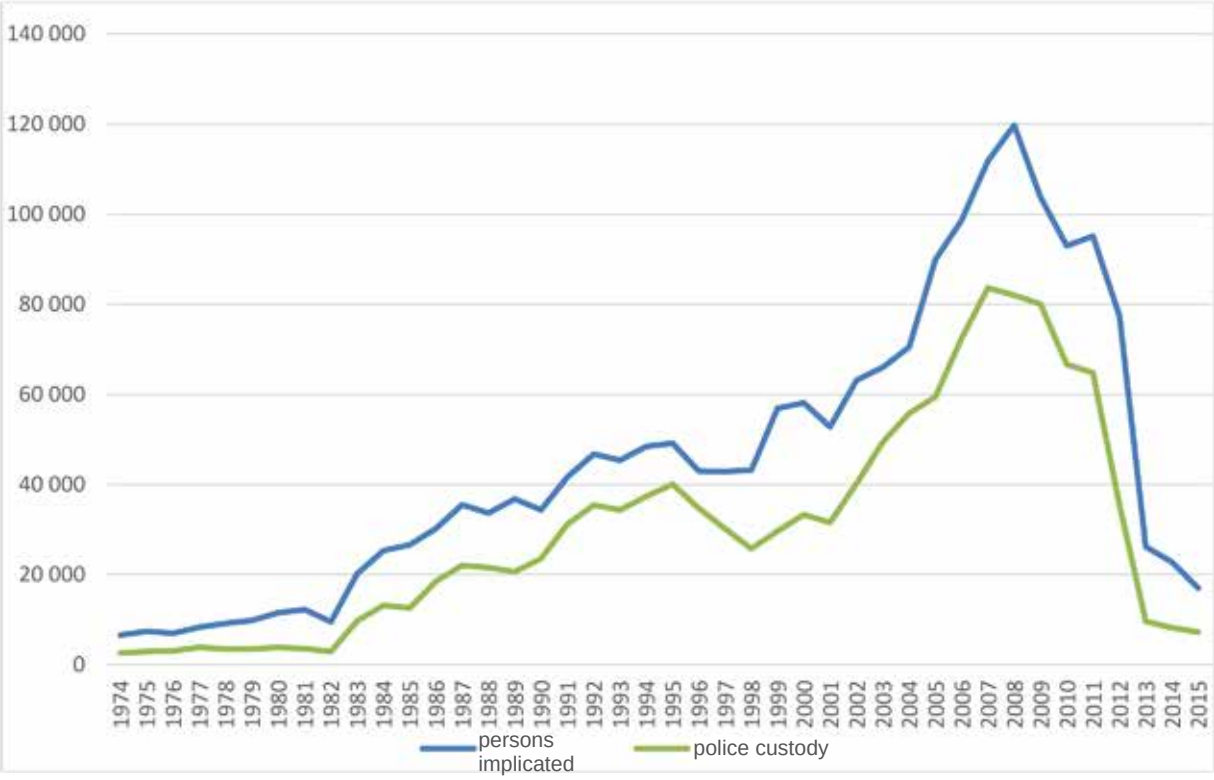
Reference: Delphine Moreau, 2015, *Contraindre pour soigner ? Les tensions normatives et institutionnelles de l'intervention psychiatrique après l'asile* (Forced into treatment? The prescriptive and institutional tensions of psychiatric intervention after granting asylum). Paris: Thesis by the EHESS.

Lastly, there is a lack of data to assess the effects of the health crisis on this situation. In an analysis report published on 9 October 2020, the Ministerial Delegate for Mental Health and Psychiatry mentions a drop of around 30% in the number of involuntary hospitalisations during the lockdown and post-lockdown period in mainland France, followed by an unquantified increase from June 2020.

3. Immigration 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 of 31 December 2012 relating to detention for verification of rights of residence was anticipated in 2012 with a sharp decrease in the number of persons accused and custody measures. From 2013, these can no longer simply concern illegal immigration.

Comment: The CGLPL's 2009 report (pp. 263-267, French version) described how the treatment of illegal immigrants was derived in 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, 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 January 2014).

For 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 has remained fairly similar since that date (in 2016, 11,099 persons accused and 5,366 in custody, compared with 11,185 persons accused and 6,427 in custody in 2019), which is why this graph has not been updated. Moreover, these figures are similar to those observed for all accused persons as a whole.

3.2 Implementation of measures for the deportation of foreign nationals (2003-2016)

Source: Annual Reports of the French Inter-ministerial Committee for the Management of Immigration (CICI), Central Directorate of the French Border Police (DCPAF).

Scope: Mainland France

Year	Measures	ITF[105]	APRF[106]	OQTF[107]	APRF + OQTF	Deportation order	Readmission	Forced deportations (subtotal)	Voluntary returns (aided)	Total deportations
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

105 *prohibition to enter French territory (interdiction du territoire français, principal or additional measure pronounced by criminal courts)*

106 *prefectural order to take back to the border (arrêté préfectoral de reconduite à la frontière)*

107 *obligation to leave French territory (ordre de quitter le territoire français, administrative measure)*

	% 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	9,985	94,104
	executed	1,033	5,980	10,016	15,996	170	5,728	22,927		32,912
	% enforcement	*68.9%*	*24.5%*	*16.7%*	*18.9%*	*87.2%*		*24.4%*		
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.					6,287	97,397	4,328	97,397
	executed						6,038	27,081		31,409
	% enforcement							*27.8%*		
2014	pronounced	n.d.					6,178	96,229	2,930	96,229
	executed						5,314	27,606		30,536
	% enforcement							*28.7%*		
2015	pronounced	n.d.					7,135	88,991	3,093	88,991
	executed						5,014	29,596		32,689
	% enforcement							33.3%		
2016	pronounced	n.d.					8,279	92,076	2,627	92,076
	executed						3,338	22,080		24,707
	% enforcement							24%		
2017	pronounced	n.d.					17,251	103,940	3,778	103,940
	Executed						4,589	23,595		27,373
	% enforcement							22.7%		
2018	pronounced	n.d.					27,651	132,978	4,775	132,978
	Executed						n.d.	n.d.		n.d.
	% enforcement						-	-		-

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 2017 (the latest report was published in 2018). 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 Ministry 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 five latest

reports drafted under the provisions of Article L.111-10 of the Code for Entry and Residence of Foreigners and Right of Asylum (2012, 2013, 2014, 2015-2016 and 2017 reports, the last of which was published in 2018) now make this distinction. For 2012 it was therefore identified that out of the 19,184 APRFs and OQTFs 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 in 2009 (17,422) and 2010 (16,197) contrary to that previously shown (above table) and therefore growth for 2011 was lower (19,328). For 2014, the records also included "forced returns" and "aided returns" under forced deportations, ending up with the figure of 21,489.

Lastly, and like in the five previous years, the 16th report showing the figures for 2018 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: This report is the first to present figures relating solely to the measures *pronounced*, without associating them with figures for the measures actually executed on a separate line. While no reason is given for the absence of these figures, it seems all the more problematic since the authors of the report emphasise the increase in the number of measures pronounced – but the political significance of this finding is difficult to assess if we do not know whether these measures have been followed by effects, whereas the constant figures for the last 20 years tend to highlight the very low effectiveness of deportation measures. In any case, having statistics specifying the rate of enforcement of administrative decisions seems essential for the proper evaluation of public policy.

For the years for which figures are available, the absolute level of APRFs and OQTFs enforced seems not to have sustainably exceeded 16,000 a year and the enforcement rate varies according to the greater or lesser number of measures pronounced. Although the overall rate of deportation measures carried out has slightly increased over the last 10 years or so, it appears to have stabilised at around 20 to 25% of deportations pronounced. This relatively low stable rate is largely due to structural barriers (material and administrative alike) that have long hampered implementation of forced deportations.

References:

- Le Courant, Stefan (2018), *Expulser et menacer d'expulsion, les deux facettes d'un même gouvernement ? Les politiques de gestion de la migration irrégulière en France* (Expelling and threatening expulsion, two facets of the same government? Policies for the management of illegal migration in France),*L'Année sociologique*, 68, no. 1, pp. 211-232.
- Nicolas Fischer (2017), *Le territoire de l'expulsion. La rétention administrative des étrangers et l'Etat de droit en France* (The territory of deportation. Immigration detention and the Rule of Law in France), Lyon, ENS Editions.

3.3 Detention centres for illegal immigrants (Mainland France). Theoretical capacity, number of placements, average duration of detention, outcome of detention

Source: CICI annual reports, Senate (in italics, please see note).

Scope: Mainland France

Year	Theoretical capacity	Number of placements	Accompanying minors placed in CRAs	Average occupancy rate	Average duration of detention (in days)	Deported detainees, excluding voluntary returns	% deportations/placements
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	1,552	26,267	112	54.1%	11.6	-	-
2016	1,554	22,730	181	49.4%	12.2	-	-
2017	1,601	26,003	308	57.9%	12.4	-	-
2018	1,565	25,367	271	78.8%	15.4	-	-

Note: the annual reports of the CICI from 2003 to 2017 allow the first five columns of the table to be reproduced. The column for accompanying minors was not present before 2011. The last two columns relating to the result of placing in immigration detention 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 deported, excluding voluntary returns. The proportion out of the number of placements 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 figures set out in the last column of the table for 2010-2013 are from an informational report from the Senate on CRAs (no. 775 dated 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 since 2014.

The number of placements in 2009 has been corrected here compared with the first editions of this report: 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 statement (27,699 placements) became that for French Overseas *départements*.

Comment: The CICI annual reports do not show how the average occupancy rate is defined and assessed. By applying this rate to capacity, an estimate of the average number 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 the average duration of stays has been supplied. A lower estimate is arrived at. For 2018, calculating based on the occupancy rate gives an average number of 1,233 detainees, and calculating using the average duration of stay in detention gives a total number of 1070 detainees. Both methods of calculation show an increase in these detainee numbers from 2003 (496 or 432 depending upon the method of estimating) to 2007 (1,285/1,014) and then a drop until 2011 (811/585). The same calculation showed an uncertain result for 2013 (754/795, the first indicating a fall and the second a rise); both figures rose for 2015 but 2017 and then 2018 data show an increase irrespective of the calculation method chosen.

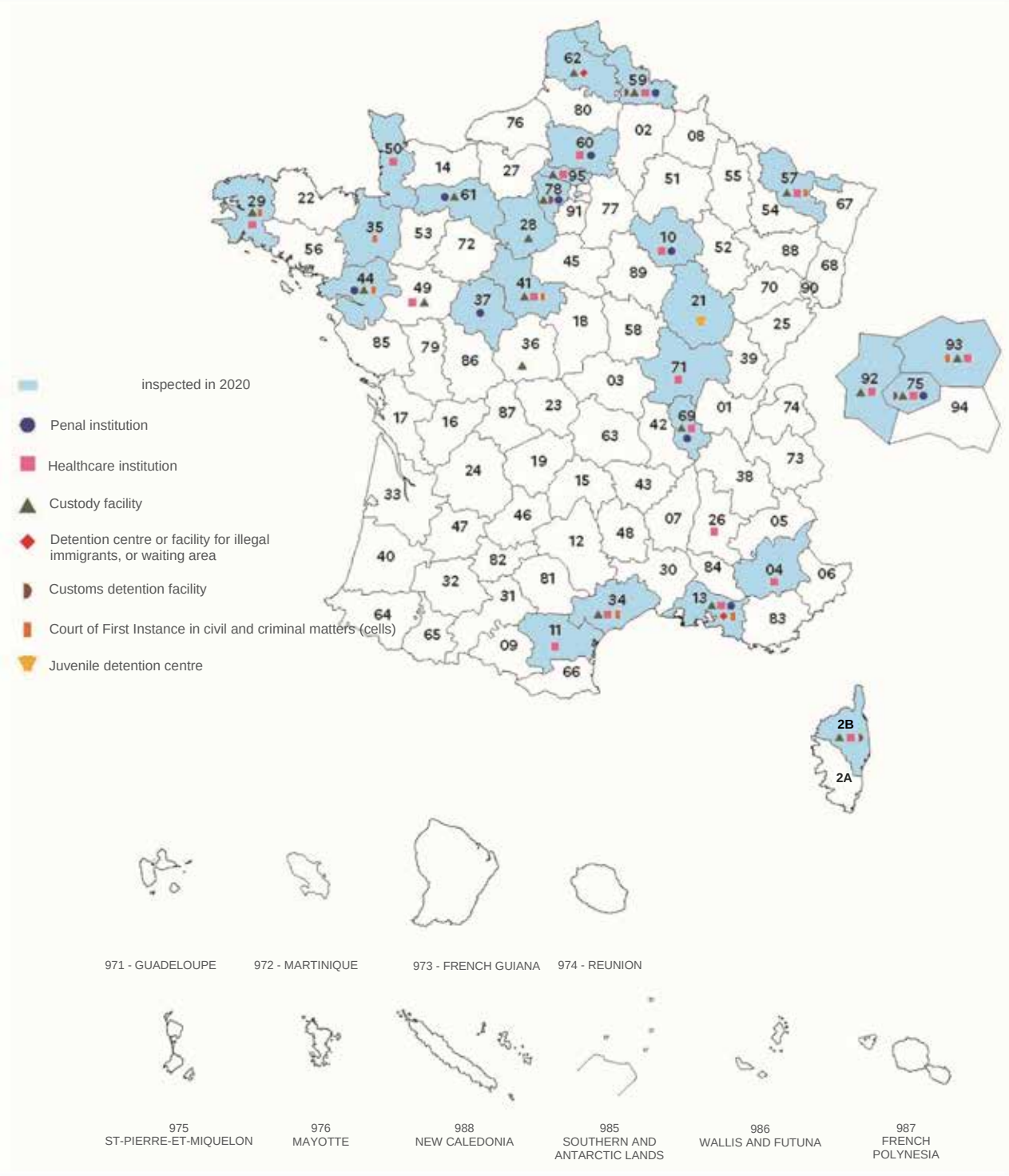
Relatively little use continues to be made of house arrest, an alternative to detention introduced in 2011: 668 measures in 2012 and 1,258 in 2013 (source: French National Assembly, impact study of the bill dated 23 July 2014).

From spring 2020, the health crisis made it impossible to implement the majority of deportation measures, leading to the closing of 13 of the 25 CRAs usually operational according to a Senate information report from July 2020. This reduction in activity was therefore preferred to the total closing of the centres, despite the requests made by the Chief Inspector of Places of Deprivation of Liberty and by the Defender of Rights and the interim measures brought without success before the Council of State by a group of activist organisations in March 2020.

The dismissal order includes some statistics in support of the Council's decision, although their sources are not specified. They mention a residual number of approximately 350 people detained at the end of the week of 16 March 2020 and 152 people on 26 March 2020. "On this last date, nine detention centres had no detained foreigners, five had fewer than five detained foreigners and five had between six and 16 detained foreigners. Only two centres exceeded this last number, with 37 people detained in Mesnil-Amelot, for a capacity of 120 places if they are grouped together in only one of the two centres in this location, and with 53 people detained in Vincennes, for a capacity of 237 places". However, these figures differ from the statistics mentioned by Senator Esther Benbassa in a question to the government asked on 9 April 2020 (unanswered to date), which gives a total number of 900 foreigners detained in France on 18 March 2020 (again, source not specified). While the number of placements (movements) and detainees (stock) has probably decreased, it is therefore necessary to wait to have a more precise count.

Appendix 1

Map of institutions and inspected in 2020



Appendix 2

List of institutions visited in 2020

Healthcare institutions

- Robert Ballanger hospital in Aulnay-sous-Bois
- Bohars hospital
- San Ornello hospital in Borgo
- Digne-les-Bains hospital
- Issy-les-Moulineaux university hospital
- Marseille university hospital
- Montpellier university hospital
- Sainte-Anne psychiatric hospital in Paris
- Fondation Bon Sauveur hospital in Picauville
- Sarreguemines psychiatric hospital
- Orgemont clinic in Argenteuil
- Val Dracy clinic in Dracy-le-Fort
- Quimper public mental health institution
- Psychiatric services of the Aude-Pyrénées health and social union in Limoux

Secure rooms of the hospitals of Beauvais, Blois, Dunkirk, Paris-Cochin, Troyes and Villefranche-sur-Saône.

Penal institutions

- Villenauxe-la-Grande detention centre
- Beauvais prison complex
- Condé-sur-Sarthe prison complex
- Marseille-Les Baumettes prison complex
- Villefranche-sur-Saône prison complex
- Orvault prison for minors
- Dunkirk remand prison
- Paris-La Santé remand prison
- Tours remand prison
- Versailles women ' s remand prison

Juvenile detention centres

- Châtillon-sur-Seine juvenile detention centre
- Gévezé juvenile detention centre

Detention centres and facilities for illegal immigrants, waiting areas

- Coquelles detention centre for illegal immigrants
- Canet waiting area in Marseille
- Waiting area of the Provence-Marignane airport in Marseille

Custody and customs detention facilities

Police stations: Aubervilliers, Bastia, Blois, Bobigny, Calais, Clichy-sous-Bois, Coquelles, Dreux, Dunkirk, Epinay-sur-Seine, Ermont, Freyming Merlebach, General Directorate for Internal Security and Sub-Directorate of the Central Directorate of the Judicial Police in Levallois Perret, Meudon, Montrouge, Neuilly-sur-Marne, 10th arr. of Paris, 14th arr. of Paris, 16th arr. of Paris, judicial processing unit of the railway brigade of the Gare du Nord Border Police (10th arr. of Paris), station reception and security unit at Gare du Nord (10th arr. of Paris), Saint Germain-en-Laye, Stains, Villefranche-sur-Saône and Villiers le Bel.

Gendarmerie brigades: Auvers-sur-Oise, Behren-lès-Forbach, Borgo, Cassis, Castelnau-le-Lez, La Chapelle-sur-Erdre, Mortagne-au-Perche, Plouzané and Veuzain-sur-Loire.

Customs: Bastia external surveillance service, Val-de-Seine internal surveillance service in Chambourcy, Dunkirk internal and external surveillance services.

Court cells and jails

Judicial courts of Blois, Bobigny, Brest, Marseilles, Montpellier, Nantes and Sarreguemines.

Appendix 3

Summary table of the CGLPL's principal recommendations for the year 2020[108]

(see table on following pages)

[108] *The following recommendations are from this report and from the opinions and thematic reports published by the CGLPL in 2020. They are in no way exclusive of other recommendations set out by the CGLPL in its inspection reports, opinions and recommendations during 2020, 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	Health crisis	**Prevention plans**	For all the places inspected, the CGLPL hopes that the good practices that resulted from the crisis will continue, in particular the general reduction in the number of people detained and the decentralisation of decisions. It asks that plans to prevent crises of this nature and continuity of care plans be formalised.	**1**
	Follow-up to recommendations		Ministers are requested to implement all useful measures to ensure that the best practices mentioned in the reports are known to and imitated by institutions comparable to the one that is the subject of the report.	**3**
	Staff	**Fundamental rights adviser**	The CGLPL recommends that a specially trained "fundamental rights adviser" be appointed; this adviser would be responsible for answering questions from professionals, helping them to assess situations, advising the head of the institution and ensuring that all necessary measures are taken.	**3**
	Internet access (opinion)	**Minors**	The CGLPL recommends that all places of deprivation of liberty be able to educate minors deprived of their liberty with regard to digital tools and the Internet.	**2**
		Subsidiarity	The use of digital technology should never completely replace human interactions. A person deprived of liberty should always be able to choose to carry out their procedures without having to use digital tools or online services. They should be able to be accompanied and trained through the implementation, in sufficient number and duration, of learning tailored to their needs. Any digitisation process should be added to existing methods or leave room for alternatives that do not require digital proficiency. The solutions put in place to improve access to rights via the Internet and digital technology should not lead to the deterioration or elimination of existing services.	**2**
		Control	The administration ' s control over the digital and online activity of persons deprived of liberty and the content of the documents concerned cannot exceed that which is already exercised over written correspondence and other methods of communicating with the outside world.	**2**
	Rights of defence (opinion)	**Effective appeal**	Persons deprived of liberty should be able to challenge and lodge an appeal against any decision concerning them which is likely to infringe their rights. The exercise of this appeal should be subject to formalities that are as reduced as possible.	**2**
			Respect for rights of defence implies, in addition to the guarantee of having a remedy, that of being able to submit it to a judge. This judge should also exercise his office according to the guiding principles of the trial, within the formal and ritualised framework of a hearing ensuring the fairness of the parties.	**2**
		Effective appeal	Detention should not, in itself, obstruct the right of persons deprived of liberty to appear before a judge and present their defences in person whenever they so wish.	**2**

All places of deprivation of liberty	Rights of defence (opinion)		The initial imbalance that prevails, as part of disputes related to detention, should not be accepted – let alone strengthened – by the conditions in which this hearing takes place. On the contrary, it is incumbent on all judicial professionals to pay greater attention to the dignity and rights of detainees, plaintiffs and defendants.	**2**
		Information and support	The effectiveness of access to all information depends on the means put in place by the authorities to provide it. These means should aim to ensure, on the one hand, that it is available – to the widest extent possible – and, on the other, that it can be understood by the people for whom it is intended.	**2**
			General information should be widely disseminated, on several types of media.	**2**
			Interpretation services, in foreign languages as well as in sign language, should be accessible and free of charge within places of detention and with the services which have permanent presence there.	**2**
			Regularly updated collections of the texts applicable in places of detention, including infra-regulatory texts, should be published and made available to the people detained there "without formalities, distinction or delay".	**2**
			The effectiveness of access to justice and the law in places of deprivation of liberty also requires benefiting from mechanisms of access to legal information and advice.	**2**
		File access	No information shall be taken into account as part of a hearing or adversarial debate which has not been previously brought to the attention of the person concerned.	**2**
			Persons deprived of liberty and their lawyers should have access to any documents or evidence that may be useful for their defence, whether these relate to a decision concerning them or the basis on which they plan to bring an action. The authorities or services holding them should ensure they are transmitted in time for the proceedings and the effective exercise of the rights of the defence.	**2**
		Defence preparation	The authorities in charge of places of detention should guarantee that the persons entrusted to them have the means necessary to prepare their defence. At the very least, these people should have time and a space where they can sit down, consult their documents, write and prepare, in conditions that respect their needs.	**2**
		Defence preparation	Persons deprived of liberty who are summoned to court should be able to prepare, be accompanied and appear in conditions that respect their dignity.	**2**
		Lawyers	The role of defenders in places of detention is first and foremost an institutional role. It is regrettable that the legislature has not included Chairs of the Bar among the persons having the right to visit places of detention, like MPs.	**2**

All places of deprivation of liberty	Rights of defence (opinion)		It is the responsibility of the authorities in charge of places of detention, in conjunction with the representatives of the professional bodies or associations concerned, to sustain their collaboration and guarantee its proper functioning.	**2**
			Any person who so requests should be provided with access to a lawyer as soon as possible, whether this lawyer is chosen or court-appointed.	**2**
			It is the responsibility of the State to guarantee that the compensation granted to lawyers through legal aid allows them to carry out their task.	**2**
			The authorities in charge of places of detention should put into place procedures allowing the people entrusted to them and their defenders to contact one another upon and after their arrival. They should also allow detainees and their defenders to meet in a place guaranteeing the tranquillity and confidentiality of their discussions.	**2**
			The configuration and layout of areas dedicated to discussions between persons deprived of liberty and their counsel should allow them to work in good conditions, for the time they deem necessary to prepare their defence.	**2**
			No circumstance should have the effect of making it impossible for a lawyer and his detained client to communicate.	**2**
Prison	Internet access (opinion)		The CGLPL reiterates the recommendations formulated in its opinion of 20 June 2011 relating to access to computers for detainees, under the terms of which "in shared facilities, in which a third party (trainer, teacher, etc.) and/or administrative staff are present, communication materials and data should be accepted and even encouraged", and "arrangements should be made as soon as possible so that each institution provides a link with online services (Internet) from these facilities; the administration can reserve the right to make access to some of them impossible […] on a verifiable and identified basis".	**2**
			The CGLPL recommends, in addition to possibly accompanied access in common rooms, that the infrastructure set up for the Digital in Detention project provide real, direct, individual and controlled access to online services in cells.	**2**
			It is recommended that each detained person be able to access information sites of any kind, the interactive functions of which will have been previously inhibited under conditions comparable to those prevailing for access to the press and documentation.	**2**
	Internet access (opinion)		It is also recommended that each prisoner have access to a closed messaging system accessible only to correspondents authorised by the judge or the prison administration, with control comparable to that exercised over paper mail, as well	**2**

Prison			as to a video communications system controlled under the same conditions as telephones today.	
			For prisoners whose situation or projects justify it, it is recommended that controlled access, including interactive functions, be set up to service sites (formalities, education, etc.) by individual decisions.	**2**
	Rights of defence (opinion)	**File access**	The access of detainees to the elements of their criminal file comes up against constraints due to the retention at the registry of documents mentioning the reason for imprisonment. The terms of their consultation are therefore limited by the need to make an appointment and by the sometimes spartan reception conditions; they are also often poorly understood. This situation cannot continue, as there is no reason for prisoners not to be able to consult their criminal files, in paper or electronic form, whereas the law expressly provides for such access.	**2**
	Prison overcrowding		The CGLPL recommends limiting the number of people in detention to the accommodation capacity of institutions.	**3**
	Access to healthcare	**Medical extractions**	The CGLPL reiterates the terms of its opinion of 16 June 2015 on the treatment of detainees in healthcare institutions: “respect for medical secrecy is a right for the patient […] it constitutes an absolute duty for doctors, for whom it is an obligation. The CGLPL recommends that doctors be reminded of their legal and ethical obligations in this respect. Therefore, the CGLPL recommends that medical consultations take place without the presence of an escort and that supervision be indirect (out of sight and hearing of the detained patient) […] the number of extractions of persons detained for the purposes of transfers to local health facilities is too high and could usefully be reduced by increasing the use of telemedicine or by adopting measures to encourage specialists to travel to penal institutions".	**3**
	Access to healthcare	**Restraint measures**	The restraint measures applied in practice are most often extreme (use of handcuffs, presence of guards in consultation and treatment rooms, parsimonious granting of permissions to leave for medical reasons). The CGLPL therefore requests that supervision and training measures be taken to guarantee the application of the rules that have been laid down.	**3**
	Elderly and dependent people	**Suspension of sentence**	In many cases, the continued detention of elderly and dependent persons deprives the sentence of its meaning. The CGLPL recommends that they benefit from suspended sentences on medical grounds in order to be accommodated in medico-social facilities.	**3**
	Staff	**Identification of staff**	The CGLPL recommends that the possibility of unequivocally identifying each professional involved in the care of persons deprived of liberty be guaranteed by the continuous systematic wearing of a legible identification number.	**3**

Prison		**Training**	The CGLPL recommends that professionals whose activity includes a security mission in contact with persons deprived of liberty benefit from training (compulsory and regularly updated) in the prevention of violence and the management of violent acts. It recommends implementing the training proposed by the Ministry of Justice on a large scale, regularly coming back to it as part of continuing education, and effectively monitoring the acquisition of the skills which result from it.	**3**
	Security	**Use of means of restraint**	The CGLPL calls for the identification not only of the escort levels theoretically applicable to each detainee but also of the nature of the revisions decided on the eve of outings and the measures of restraint actually implemented. It also reiterates the principle according to which no means of restraint should be applied to people who have voluntarily returned to the prison following an outing or during their incarceration.	**3**
			Restraint measures of any kind (handcuffs, shackles, body searches and cell searches) are serious attacks on the dignity of detainees; they can be cumbersome and therefore have the effect of making necessary measures such as medical extraction impossible, and therefore of undermining people ' s physical integrity. The correctness of these measures is subject to compliance with three complementary principles: legality, necessity and proportionality. It is up to the administration to demonstrate that it complies with these principles and put in place the necessary indicators for this purpose.	**3**
	Discipline	**Use of CCTV**	Video recordings of the events giving rise to an investigation by the disciplinary committee should be systematically presented to this committee.	**3**
Prison	Administrative procedures	**Identity documents**	The CGLPL recommends that the Minister of Justice and the Minister of the Interior draw up a list of the best practices implemented to guarantee access to official documents (national identity documents and residence permits) for detainees; it advises them to refer to this list to resolve persistent difficulties once and for all.	**3**
		Emergencies	Each territory should define a plan for psychiatric emergencies guaranteeing access to care that is dignified and respectful of patients ' rights.	**2**
			Emergency services should have a specific calming space for agitated patients and establish protocols for care methods that respect the rights and dignity of patients.	**2**

Mental health institutions	Involuntary care (thematic report)		The psychiatric emergency sector should allow short-term specialised hospitalisation, in coordination with the general emergency services and their technical platform.	**2**
		Emergencies	The law should stipulate that, in the same way as any other measure of deprivation of liberty, seclusion and restraint measures for patients in emergency services shall be traced in the patient ' s file as well as in a specific register.	**2**
			It should be possible to treat people in crisis as a priority outside the hospital, in particular at home, in mental health centres, or in any other facility that can accommodate them for several days, until the episode is resolved.	**2**
		Finance and human resources	In general hospitals, each institution ' s financial report should include a section on the financing of psychiatric activity, explaining in particular the annual operating allocation and the share allocated to common services, with justification in cost accounting.	**2**
			The effects of the budgetary restrictions associated with the maintenance of the obligation to receive involuntary patients are leading to the impoverishment of extra-hospital structures and, consequently, to an increase in re-hospitalisations. This phenomenon should be reversed through appropriate funding capable of meeting actual care needs.	**2**
			Particular attention should be paid to the collective development of the institutional project with the participation of staff. The choices and objectives decided upon should be evaluated first and foremost in light of respect for the dignity and rights of patients.	**2**
			The duration of employment of an interim psychiatrist from outside the mental health institution should not be less than three months.	**2**
			Before authorising the practice of psychiatry by doctors with foreign diplomas, the Council of the Profession should ensure that they have sufficient command of the French language.	**2**
			The organisation of care should meet needs: the number of caregivers present with patients should be sufficient to enable them to practise psychiatric care, including therapeutic and occupational activities integrated into the care plan.	**2**
		Supervision	Institutions should organise professionals ' access to supervision carried out during their working hours, independent of the structure.	**2**
		Access to healthcare	Access to somatic care should be guaranteed for all involuntarily hospitalised patients and the general practitioner should be integrated into the care plan and its follow-up.	**2**

Mental health institutions	Involuntary care (thematic report)		Addiction services should be provided in all institutions taking in involuntary patients.	**2**
		Everyday life	The daily organisation of hospitalisations (schedules for care, delivery of treatments, meals, activities) should be flexible so as to promote the individualised care of patients, likely to respect their rights and their dignity.	**2**
		Accommodation conditions	The inner courtyards of units should be equipped with cigar lighters.	**2**
			The doors of rooms should be equipped with locks allowing only the patient and caregivers to open them and protecting the occupant from any intrusion. Rooms should be equipped with lockable cupboards.	**2**
			The stays of involuntary patients can only take place in a hotel room, including if they are required to stay in a dedicated space, such as a seclusion room, for the time necessary to resolve the crisis. They should be able to return to their own hospital room at any time. To this end, bed management software should not include seclusion and calming rooms.	**2**
			Hospitalisation units should offer dignified and comfortable accommodation conditions (single rooms with complete bathrooms, accessible outdoor spaces, sufficient number of activity and relaxation rooms) and high-quality resources for carers (equipment and care, activity and resting rooms).	**2**
		Minors	The seclusion of a child or adolescent should be avoided by all means; this practice should in no way make up for the lack of a reception structure appropriate for their age.	**2**
			Children and adolescents should not be hospitalised with adults. In all cases, they should be monitored under the close supervision of a doctor and a team specifically trained in paediatrics and child psychiatry.	**2**
		UHSAs	UHSAs should be able to urgently admit patients at all times.	**2**
			The UHSA building programme should be completed in order to reach the planned 17 units.	**2**
		Detained patients	The law allowing sentences to be suspended for psychiatric reasons should be applied or else revised if it proves to be inapplicable.	**2**
			The personnel of psychiatric institutions should be informed and made aware of the conditions of incarceration of detainees and the terms of their care by the health units of penal institutions.	**2**
			The hospitalisation of detainees in a general psychiatric department should in no case be accompanied by the violation of fundamental rights due to their criminal	**2**

Mental health institutions	Involuntary care (thematic report)		status. Only their clinical condition should be taken into consideration by the medical and nursing staff.	
			The situation of care in prisons in no way exempts those involved from having to respect medical secrecy. As necessary, medical and nursing staff should demand conditions ensuring this respect.	**2**
		USIPs	The relevance of Psychiatric Intensive Care Units (USIPs) should be analysed. If this system is to be maintained, a regulatory framework should specify the medical indications and define, in a restrictive manner, possible deprivations of liberty in these units.	**2**
		Chronic diseases	For patients suffering from serious chronic diseases and possibly requiring re-hospitalisation, the psychiatric sector should rethink the provision of care by emphasising the development of a range of appropriate and dignified living spaces and medico-social care.	**2**
		Permissions to leave	In order to overcome their reluctance to authorise leave for their patients, psychiatrists should receive legal training on the precise and real – and exceptional – conditions in which they may be held liable for fault in the event of damage caused by one of their patients.	**2**
		Training	The training of psychiatrists should include lessons on all the theories which have led to the organisation of psychiatry with a sector which offers care regardless of location or disease. A wide variety of therapeutic tools should thus be preserved since none of them has demonstrated its universal effectiveness or seriously discredited the value of the others.	**2**
		Training	Any nurse applying to work in a psychiatric department must have completed a specialised training course lasting at least six months.	**2**
		Caregiver-patient meetings	Regular caregiver-patient meetings should be systematically set up in all full-time hospitalisation units. Councils for social life, like those in the medico-social sector, should be created.	**2**
		User Committee	The decree setting the composition of the User Committee should be modified to take into account, as far as possible, all the associations representing patients in the healthcare territory.	**2**
Mental health institutions	Involuntary care (thematic report)	**Role of relatives**	The experience of relatives through the patient ' s journey should be taken into account in the care of the patient. It should also be disseminated within the framework of broader sharing, in particular with other families and stakeholders.	**2**
		Peer support	The initial and continuing training of all psychiatric professionals should address the issue of recovery and peer support (with peer trainers helping users and families).	**2**

		Ethics committee	Any institution approved to care for involuntary patients should set up an ethics committee competent for all questions relating to dignity and respect for fundamental rights.	**2**
		ARSs	Regional Health Agencies should integrate respect for fundamental rights and access to quality care in the contracts of objectives and means entered into with institutions caring for involuntary patients.	**2**
		Valuables	The abolition of hospital offices should be offset by the organisation of services providing patients with easy access to their valuables, during working hours.	**2**
		Medical secrecy	Confidentiality of care should also be respected when distributing treatments.	**2**
			The provisions of Article L.3212-5 of the Public Health Code which provide for the transmission to the prefect and Departmental Commission for Psychiatric Care of decisions for admission to involuntary care made by the director of the institution should be reassessed.	**2**
		Medical secrecy	Computer processing that combines data from files such as that managed by Regional Health Agencies with HOPSYWEB software with those from radicalisation or terrorism reporting files makes vulnerable people appear as problematic, even dangerous. This processing should be discontinued because it violates the right to medical secrecy.	**2**
		Security measures	The practice of searching patients, their cupboards or visitors ' bags, which constitutes a violation of privacy and an attack on dignity, should be prohibited. This prohibition can only be waived in exceptional situations, where a search would prevent a serious and imminent risk for the patient or for third parties.	**2**
			Security officers should not be allowed to directly intervene with patients.	**2**
		Maintaining family ties	Hospitalisation units should set up lounges offering pleasant, dignified conditions and guaranteeing the privacy of visits. Barring exceptions relating to their clinical condition, patients in a single room should be able to receive their visitors there. Visits by children to their relatives should not be systematically prohibited but should be adapted to the family situation and the patient ' s condition.	**2**
			Patients should be able to keep their mobile phone at all times. Any restriction on this rule should be justified by the patient ' s clinical condition and limited in duration. In such cases, access to a telephone managed by caregivers should always be possible.	**2**

Mental health institutions	Involuntary care (thematic report)	**Seclusion**	The relative designated by the patient in their advance directives should be informed if they are placed in seclusion or under restraint. Failing this, the prosecutor should be immediately informed of this measure.	**2**
			The legislature should designate the competent judge to rule on appeals relating to decisions of placement in seclusion and specify the appeal procedure.	**2**
			The Minister of Health should produce a circular specifying the data to be included in the seclusion register and the methods of recording them, which should guarantee their relevance for the analysis of practices. The information relating to each measure should include, at least, its total duration, the initial status of the patient and their status 24 hours later, the place of execution of the measure, and the existence and duration of any associated restraint.	**2**
			A national observatory of seclusion and restraint practices should be set up. The data from the seclusion registers should be provided to it on a regular basis.	**2**
Mental health institutions	Involuntary care (thematic report)	**Seclusion**	Any seclusion or restraint decision made by a non-psychiatrist doctor should be validated, within one hour, by a psychiatrist after they meet with the patient.	**2**
			The alternatives to seclusion or restraint should be explained in the seclusion protocols.	**2**
			All patients should be examined by a general practitioner or by an emergency physician when placed in seclusion or under restraint.	**2**
			Any patient placed in a seclusion room should have access to toilets and a drinking water tap.	**2**
			Stripping patients naked in a seclusion room should be avoided, regardless of their clinical condition. Risks of self-harm should be prevented by measures preserving the dignity of the patient.	**2**
		Information	Patients subject to an involuntary care decision should be informed of this decision, which should be formally notified to them, with a copy left with them. The rights relating to their method of admission should also be notified and explained to them. They should also be provided with the certificates on which the decision was based when their text is not included in the body of the decision, as well as, where applicable, the name of the third party who requested admission. They should also be informed, if possible before the decision to admit to involuntary care is made, that the prefect will be informed and that because of this admission, their name, accompanied by certain personal data, will appear in the file of people in involuntary psychiatric care, processed by HOPSYWEB software. Third parties	**2**

Mental health institutions	Involuntary care (thematic report)		requesting the hospitalisation of a relative should also be informed of this when submitting their request.	
			The welcome booklet should clearly mention the specific powers and addresses of the authorities responsible for monitoring respect for patients ' rights.	**2**
		Consent to care	The consent of a patient in involuntary care should be sought during each interview; this requires regularly updated training and information for caregivers.	**2**
		Prescriptions "as needed"	The use of prescriptions "as needed" in psychiatry, without the patient ' s consent, for the management of crisis situations should be prohibited.	**2**
		Shock therapy	In the event of recourse to shock therapy, which is sometimes administered without the person ' s consent, it is necessary to provide for a collegial decision-making procedure and inform the trusted person so that the consent of the person or their representatives is better informed and heard.	**2**
		Therapeutic education	Therapeutic education programmes should be offered to patients whose state of health requires long-term treatment with psychotropic drugs.	**2**
		Advance directives	The implementation of patients ' advance directives on the terms of their care during crisis periods should be generalised.	**2**
		CDSPs	The presence of a judge, guaranteeing respect for individual freedoms, in the composition of Departmental Commissions for Psychiatric Care should be restored.	**2**
		Imminent danger	The diagnosis of mental disorders with the notion of imminent danger to health requires a psychiatric opinion before the involuntary care decision is made. The request for involuntary care due to imminent danger according to Article L.3212-1 II 2° of the Public Health Code should be reviewed in order to obtain a psychiatric opinion before the decision to admit to involuntary care.	**2**
		Permissions to leave	The law should expressly provide for the possibility of contesting before the judge any refusals of short-term leave opposed by the prefects.	**2**
		JLD	The competence of the Liberty and Custody Judge should be extended to care programme measures; these measures should be systematically submitted to him at a sufficient frequency and at least once a year.	**2**
		Legislative framework	The difficulties of applying Act nos. 2011-803 of 5 July 2011 and 2013-869 of 27 September 2013 as well as their corruption, which show they are not suited to the real situation of psychiatry and respect for patients ' rights, call for an overhaul of this legislative mechanism.	**2**
	Internet access (opinion)		The CGLPL recommends that Internet access be provided in all hospitals receiving patients admitted to involuntary psychiatric care, in order to allow patients whose	**2**

Mental health institutions		clinical condition allows it to consult their email, be trained or informed and initiate steps to prepare their discharge from hospitalisation, in complete autonomy. Similarly, patients should be able to keep their personal mobile devices (smartphones, laptops, tablets, etc.). The only exceptions should be made by medical decision or be the choice of the patient concerned. All rooms should be equipped with lockers so that patients can independently protect their property. The presence of professionals alongside patients when they use their e-mail, consult websites or carry out online procedures can only be justified by an express request made by the patient themself or by a therapeutic reason. Healthcare institutions should also provide Wifi access to allow patients to use their personal devices.	
	Dignity	The CGLPL reiterates that the wearing of hospital gowns that are open in the back must be prohibited in all mental health institutions.	**3**
	Detained patients	The Ministers of Justice and Health are invited to put in place a protocol relating to the hospitalisation of persons detained in mental health institutions guaranteeing that these patients benefit from the rights of any patient placed in involuntary care, in particular with regard to access to activities and healthcare, as well as the continuity of rights linked to the status of prisoner.	**3**
Detention centres for illegal immigrants	Internet access (opinion)	The CGLPL recommends that all computer and electronic devices, even those allowing photos to be taken, be authorised in detention centres for illegal immigrants. It also recommends that accommodation areas be equipped with storage with a closing mechanism so that each person detained can put their belongings, whether it is their telephone or any other personal computer equipment, in a safe place and use them without depending on the availability of civil servants. Lastly, Wifi access and a room equipped with terminals (computers, printers, scanners, etc.) connected to the Internet should be made available to detainees in order to facilitate the exercise of their rights (contact with lawyers, access to legal information) and their administrative and personal procedures (bank transfers, termination of contracts, transmission of documents), maintain their links with their relatives, allow them to obtain useful information, and fight against boredom and forced idleness.	**2**
	Duration of detention	The CGLPL continues to consider that the period of 32 days of detention, prior to the 2011 act, is amply sufficient in the vast majority of cases and asks that we return to this period. The proportion of detention measures that are unnecessary because they are not followed by deportation is such that the CGLPL considers that it is unreasonable to open new CRA places; on the contrary, it deems that unnecessary detentions should be limited.	**3**
	Right to effective appeal	Despite the fairly comprehensive existing regulations, the CGLPL considers that the rights to information and appeal of detained foreigners are not fully effective due to	**3**

Detention centres for illegal immigrants			complex material conditions of exercise, the weakness of the resources allocated to this function, and various obstacles such as the language and level of understanding of detainees. It is the responsibility of the administration to overcome these difficulties.	
	Access to healthcare		Hospitalisation of a detainee should lead to the lifting of the immigration detention measure, whenever they are unable to exercise their rights.	**3**
	Access to healthcare		The CGLPL invites the Ministers of the Interior and Health to immediately set up a general organisation for the provision of healthcare to persons placed in immigration detention, as they have promised.	**3**
	Privacy		The CGLPL asks the Minister of the Interior to give strict instructions on the need to arrange CRA facilities so that privacy can be ensured and also on the adaptation of the behaviour of police to this right.	**3**
	Intervention of the JLD	**Overseas**	The CGLPL maintains that it is necessary to preserve, throughout national territory – including in Mayotte – a 48-hour time limit for the presentation of persons placed in immigration detention to the Liberty and Custody Judge.	**3**
	Use of means of restraint		The CGLPL strongly calls on the Government to regulate the use of means of restraint in detention centres for illegal immigrants by providing for an appropriate legal regime, a procedural framework, a doctrine of use, traceability and a policy for controlling this use.	**3**
	Staff	**Cohesion and involvement**	Observing that the issue of motivation is particularly important in CRAs (assignments rarely chosen, functions far removed from the main profession of police, feelings of dissatisfaction frequently observed during inspections), the CGLPL insistently repeats its recommendation to set up a policy specifically and explicitly oriented towards the professional satisfaction of officers.	**3**
		Prevention of violence	The CGLPL repeats the following recommendation: “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 with passive security systems while having enough available officers trained in psychological prevention of violence and, if required, physical restraint techniques. Team mixity is of key importance in preventing violence”.	**3**
		Supervision	The CGLPL repeats the recommendation to implement 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 should be better	**3**

Detention centres for illegal immigrants			informed of the existence of such a possibility, how to access it and its confidentiality.	
	Deportation Deportation		The CGLPL asks the Minister of the Interior to provide a framework for forced returns through regulations that set out conditions for informing and transporting deportees and allow them to prepare for their arrival in the country of destination. In particular, these should include provisions to ensure continuity of care and provide the deportee with the means to survive for a full day in the country of arrival and reach the area of destination.	**3**
	Released persons (access to transport)		The CGLPL requests that the release of persons placed in immigration detention be organised, including over time, so that they have the material means to reach a public transport network and the financial means to reach their place of establishment.	**3**
Juvenile detention centres	Private and family life	**Mail**	The CGLPL reiterates its recommendation to specifically monitor the mail checked and to report on these checks to the judicial authority.	**3**
		Families	CGLPL continues to observe, during its inspections, that the involvement of families in care is very unequal and asks that measures be taken to strengthen it.	**3**
	Access to healthcare		The Ministers of Justice and Health are invited to give the necessary instructions so that the psychiatric monitoring of minors placed in CEFs is systematically covered by local protocols.	**3**
	Staff	**Ethics**	The CGLPL recommends that the DPJJ ' s college of ethics created in 2020 work specifically on the rights of children deprived of liberty and the obligation to report ill-treatment by officers. It emphasises that all steps must be taken to ensure that children placed in facilities in the associations sector benefit from the same guarantees.	**3**
		Training	The CGLPL recommends that the collective training of teams should be considered as part of continuing education or provided on request in the event of difficulty encountered in an institution.	**3**
	Security	**Means of restraint**	The Minister of Justice should take all preventive measures and order all useful sanctions so that the measures of restraint imposed on minors in CEFs are strictly compliant with the law, necessary and proportional. Any measure of restraint that is	**3**

			not expressly authorised by law is prohibited and any legislative authorisation of a measure of restraint should be interpreted restrictively.	
	Outcome monitoring		The CGLPL firmly draws the Minister of Justice ' s attention to the need to record and evaluate the outcomes of children placed in CEFs over time. To do this, it is necessary, on the one hand, to effectively assist the centres in the search for out-of-home placements for minors after their release and, on the other, to assess the impact of the CEFs with regard to the outcomes of minors.	**3**

Appendix 4

Follow-up to the CGLPL's recommendations (inspections carried out in 2017)

1. Penal institutions inspected in 2017

1.1 Uzerche detention centre (Corrèze) – February 2017 (2nd inspection)

The CGLPL identified three best practices and made 38 recommendations.

1.1.1 *Best practices*

Best practices, still in force, concerned:

- the establishment of a procedure allowing appeal and examination in a CPU for placement in the closed regime;
- the institutionalisation of daily meetings between staff members of the somatic and psychiatric care systems;
- the establishment of supervision for care teams.

1.1.2 *Recommendations*

The detention centre, which is isolated, cannot be served by public transport. Aid for transport is sometimes provided by the institution in conjunction with associations, but it remains fragile.

The detention regimes, most of which were open during the inspection, have been restricted with the establishment of a closed-door regime allowing the most vulnerable detainees to be protected upon request. Various measures limiting the number of movements also contribute to protecting the vulnerable at the cost of greater closure.

Conditions of movement for people with reduced mobility were improved in 2017 by temporary measures and more structural improvements are under way.

The institution seems helpless faced with the proliferation of cats, which is degrading hygiene.

The CGLPL's recommendations relating to the supervision of meal distribution has not been implemented, but assistants are trained in hygiene matters. Nothing, on the other hand, seems to guarantee equitable distribution. The quantities served and cooking methods were improved in 2020.

The people selected as members of the committee responsible for controlling the quality of meals are no longer chosen from among the cooks and floor assistants. The checks carried out by the service provider have been reinforced.

A brochure explaining the operation of the canteens and the blocking of the amount necessary for payment is now included in each new-arrival package. The maximum authorised quantity of each product offered for sale is now announced.

The equipment in the exercise yards has been improved and the floor of the gymnasium modified, but nothing has been done for the outdoor sports field. The practice of a voluntary contribution for access to certain sporting activities has been abandoned.

Denial of aid for people without sufficient resources now complies with the criteria set by the Prison Administration Department and the decision is reasoned.

Refrigerator rental is now free for detainees without sufficient resources.

A brigade dedicated to the management of the punishment and solitary confinement wings was set up in June 2019. A lead officer was appointed in 2020. In the punishment wing, the rules of procedure are given to the detainee during the interview carried out by the officer in charge and the traceability of this procedure is ensured. The punishment wing and the solitary confinement wing have been certified.

The windows of the cells in the solitary confinement wing, which were opaque, were replaced with transparent glazing in 2018 and can now be opened. A library and sports equipment have been set up.

The health protocol was updated in 2019. The health unit (US) now bears the signage of the Tulle hospital. However, no funding is provided for the reconstruction of the US's premises, so that it remains impossible to devote a room to therapeutic activities. The recommended reinforcement of the medical team has not been possible. The US is still looking for a coordinating doctor, for lack of applications. The prison and hospital do not consider it necessary to make the pharmacy more secure. Meetings between US staff and the prison administration are more frequent. Mailboxes reserved for requests for medical consultations have been installed.

It has not been possible to increase the means devoted to medical extractions, but telemedicine applications are being set up. Guards now seem to be present during consultations on an exceptional basis, as deemed necessary in light of the circumstances and the detainee's profile.

An analysis of the flows of patients referred to the UHSA or SMPR seems to have begun and the creation of a day hospital was proposed in 2020 to the Regional Health Agency.

The Ministry of Solidarity and Health indicates that it remains vigilant as to respect for medical secrecy.

A "reflection has been planned" with a view to creating a space reserved for outgoing detainees.

1.2 Gagny open prison (Seine-Saint-Denis) – November 2017 (2nd inspection)

The CGLPL identified two best practices and made 15 recommendations.

1.2.1 *Best practices*

The two best practices are still in effect:

- each locker has a power outlet for recharging the mobile phones of detainees in the open prison;
- assistants can use their cell phones every afternoon.

1.2.2 *Recommendations*

The Minister of Justice curiously refrains from responding to a recommendation relating to prison overcrowding on the grounds that this is the responsibility of the Criminal Matters and Pardons Directorate, which nevertheless seems to be placed under his authority.

All the memos relating to the management of the institution and the people placed in the open regime were updated in 2018.

The evaluation board still does not meet on an annual basis.

The welcome booklet was updated in January 2018, but the bar list was not.

A technician is regularly present at the open prison to keep the premises in good condition.

A summary meeting on the professionalism of officers assigned to open prisons was organised in 2019.

All officers have received training in identifying suicide risk.

Specific menus are offered to people with special diets. Weekly menus are displayed. Detainees may keep non-perishable foodstuffs.

The use of electronic cigarettes is now possible.

For the only open prisons built outside a prison complex, a reflection is under way concerning the possibility of letting prisoners keep their cell phones when they return to detention.

Occasional cultural activities were set up in 2019. Prisoners benefit from sports or leisure activities and have access to television. However, the equipment of the exercise yard remains incomplete, but it is used very little.

The administration states that a minority of detainees returning to the prison are strip-searched, but says nothing about the significant discrepancy between the number of strip-searches carried out and the number of offences recorded, or the consequences of this.

As things stand, prisoners are not allowed to access a computer.

1.3 Beauvais prison complex (Oise) – July 2017 (1st inspection)

The CGLPL identified eight best practices and made 52 recommendations.

1.3.1 *Best practices*

Six of the eight best practices identified remain in place:

- the stability for at least one year of surveillance staff within the same building;
- the use of a “Boost my potential” module organised by the SPIP in the new arrivals’ wing in order to lessen the shock of admission to prison;
- a respect regime which aims to promote people’s autonomy with reduced security constraints;
- the scheduling of appointments with lawyers by e-mail;
- a single computerised patient file for the USMP;
- the participation of the somatic and psychiatric care systems in the CPUs with rigorous preparation regarding what can be reported in sessions.

Team training continues, but the proposal to add a fifth day devoted to the rights of detainees has not been accepted.

The preference sheets of offenders, including a brief description of sentencing institutions in the region in the form of a "good to know" document, are no longer used and no updating has been planned.

1.3.2 *Recommendations*

The inadequacy of the water and electricity circuits has been partially corrected.

An insect control campaign, set up in 2018, has been regularly renewed since.

The institution persists in adding beds to cells that are not intended for this without doubling all the equipment, not even the tables and chairs.

Unlike the CGLPL, the Minister of Justice considers that the "mother-child" wing is suitable.

A staff retention policy was put in place in 2019, but the method of managing assignments remains unchanged, although it puts many institutions in difficulty. The reinforcement of administrative staff has been agreed.

The keeping of mobile phones by prisoners entering the open wing remains impossible. No activities have been developed in this wing. The Minister of Justice refers the low use of open wings to the responsibility of the judicial authority.

The administration does not consider that the canteen catalogue should be expanded and does not consider itself in a position to manage the best-before dates of the products delivered.

The administration indicates that no system enables detainees to transfer funds to their relatives for free. It says it selects people without sufficient resources on the basis of GENESIS extraction.

No double charging of television rental fees is practised during cell changes.

Information relating to the rental of televisions is posted on the front door of the institution and is accessible to anyone entering the institution. The administration declares that it keeps video surveillance recordings as far as the technical system in place allows it, but it refuses, without providing serious arguments, to systematically present recordings of the events under investigation to the disciplinary committee.

The administration does not provide any response to the recommendations to abandon systematic searching before an extraction or an administrative transfer and to harmonise professional practices in terms of searches. The punishment wing now has a search room.

The administration says no to the recommendations to inform detained persons of the good consideration by the public prosecutor's office of complaints they have filed and to monitor the use of force by officers by using video surveillance. It shows no intention of considering, as recommended by the CGLPL, that "the use of force should always be the exception and intervene as a last resort".

No change seems to have taken place following the CGLPL's recommendations to improve the presence of lawyers in disciplinary committees, increase the number of prison officers likely to intervene as assessors in these committees and avoid the postponement of punishment cell sanctions. The administration says it has only once interrupted a punishment cell sanction for one day to circumvent the limitation of the total duration of these sanctions.

The institution wishes to persist in the practice of asking each detainee during head counts whether or not they wish to go out to the exercise yard.

There is no indication that the telephone system in the punishment wing, which does not respect confidentiality, has been modified. Similarly, the recommendation to provide a catalogue of books available to prisoners in the punishment wing has not been accepted. Neither has the idea of leaving more linen for those punished, nor that aiming to guarantee the good condition of clothes throughout the duration of the stay.

The administration affirms that detainees placed in the solitary confinement wing have the possibility of accessing books without specifying the terms of this access; it indicates that people in solitary confinement have access to the weight room once a week. An excerpt from the rules of procedure relating to solitary confinement is given individually to each detainee.

The administration states that the granting of visiting permits – except for close family members – is inevitably subject to disparities related to the functioning of the services from which the inquiry is requested. Appointments can be made by telephone and via the terminals that were installed in 2016.

Various improvements to the reception arrangements for families proposed by the CGLPL have been ruled out.

The administration does not intend to take any specific measures to recruit visitors capable of conversing easily in the foreign languages corresponding to the nationalities represented.

While the postal officer has a monopoly for checking the correspondence of prisoners, he is not the only one to handle it. The dedicated mailboxes by department requested by the CGLPL do not seem to have been installed. On the other hand, a new organisation has been put in place to ensure the traceability of correspondence from the authorities.

The CGLPL's recommendations relating to the telephone are obsolete due to the upcoming installation of telephones in cells.

The administration does not consider it necessary to relax the conditions of access to chaplains or allow them to circulate on the floors and enter the cells.

The management of the institution states that it examines all requests for access to activities in a personalised manner without any systematic a priori exclusion of a given category of the prison population.

The anomaly relating to the amount of the hourly wage paid for work in the workshop has been the subject of a correction which can only be apparent. The national security of GENESIS software needs to be ensured in this regard.

The vocational training offered to women has been enhanced by the opening of mixed-gender training courses.

The organisation of school activities during school holiday periods has not been adopted.

Efforts have been made to ensure that the decisions taken by the CPU are more explicit and more intelligible for detainees.

The institution wishes to continue to take into account incidents of any kind in the possible refusal of family lounges or UVFs, including when these incidents are unrelated to external relations.

Videoconferencing equipment is now fully functional.

The posters of the three bar organisations in the Oise *département* will be affixed in detention upon receipt of these documents.

As the institution is not a sentencing institution, it does not have a PEP psychologist, but detainees awaiting assignment to a sentencing institution are nevertheless referred in order to make their detention time useful.

Major work to raise awareness of citizenship was accomplished ahead of the European elections. Fifty-five people were allowed to vote by post and all were able to exercise this right. Permission to take leave was granted to one inmate. However, many detainees are prevented from voting for lack of identity papers.

The traceability of request processing is effective in GENESIS. Collective expression meetings, instituted by Article 29 of the Prison Act, are organised two or three times a year.

The institution affirms that a memorandum defines the means of restraint likely to be used and specifies that they "are adapted according to the dangerousness of the detainee based on their behaviour or criminal profile" but does not give any quantified information enabling the reality of this personalisation to be assessed.

An agreement was signed between the prefecture, the Prison Rehabilitation and Probation Service and the Beauvais prison complex in September 2018 for the management of residence permits.

The Beauvais hospital raises the awareness of professionals concerning work in prisons.

With regard to telemedicine, the national level promotes the development of telemedicine in prisons. In Beauvais, telemedicine activity is developed within the health unit. The specialities are: orthopaedics, dermatology, pre-anaesthetic consultations, infectious disease, and general medicine.

Regarding optical care, an agreement was signed with an optician, in collaboration with the DISP.

The Beauvais hospital has decided to develop health promotion by training workers in therapeutic patient education and creating a steering committee entitled "health promotion in prisons". Soon, the entire paramedical and medical team will undergo introductory training in addiction and an addiction steering committee should be created in 2021.

A national reflection is being considered in order to facilitate the intervention of common law services in detention for the care of infants staying with their imprisoned mother.

The Ministry of Solidarity and Health indicates that it remains vigilant as to respect for medical secrecy.

It is not possible to create psychiatric day hospitalisation places within the prison complex. In the event of an emergency incompatible with the time limits for admission to the UHSA, referral to the sector hospital still applies.

The Beauvais hospital has worked in particular to better inform detainees about the presence of the health unit through signage, a welcome booklet, health committee meetings and the distribution of the health unit's activity report.

A framework agreement to clarify the staffing issue is in progress. A direct telephone connection has been created between the health unit and the hospital. A service project for the somatic care system is being drafted.

1.4 Caen prison complex (Calvados) – May 2017 (2nd inspection)

The CGLPL identified 10 best practices and made 42 recommendations.

1.4.1 *Best practices*

Best practices continue to be applied. These are:

- the reflection undertaken on the specific treatment of sex offenders;
- the personalisation of placement in a differentiated regime;
- the attention paid to the systematic presence of a lawyer during disciplinary proceedings;
- the flexible management of visiting rooms, which do not require an appointment;
- the creation of a social life council;
- free access to the health unit;
- the integration of workshops into the local economic fabric which offers the possibility of seconding people employed in companies;
- the possibility of making computers available to detainees;
- the possibility of enrolling in vocational training at a lower cost.

The best practice relating to the privacy of telephone booths has lost its relevance due to the installation of telephones in cells.

1.4.2 *Recommendations*

The systematic maintenance of handcuffs during the detention procedure, which the CGLPL considered unjustified, persists because of the configuration of the premises. Search methods on arrival have been clarified and formalised by a memorandum.

Collective spaces cannot be set up within detention in building B. The cells of building B are too small and could not be enlarged.

Despite the precautions taken at the time of assignment, the administration considers it necessary to install razor wire in a "trustee" building.

The premises where disciplinary committees and the punishment wing are located have been renovated.

Sports equipment remains inaccessible on weekends; however, a specific room dedicated to detainees with reduced mobility or with multiple disabilities has been created.

In accordance with the regulations in force, the health protocol does not provide for healthcare for detainees placed in open wings.

The extension by grouping of the exercise yards intended for prisoners in the differentiated regime has not been adopted.

Arrangements have been made so that detainees can benefit from the products necessary for the upkeep of their cells. In addition, a laundry room is accessible to prisoners for washing their clothes and is equipped with five washing machines. Destitute detainees can ask the head of the building for laundry vouchers, thus allowing them do their laundry.

Regular hygiene checks are now carried out in the kitchen.

The prison complex has a large labour supply allowing a situation of full employment. As a result, indigence assistance is given to any person who is recognised as poor and is otherwise physically or mentally unable to work.

Catalogue and off-catalogue computer hardware orders can be placed.

Hourly payment is still not generalised, so that periods devoted to the return of dangerous objects can lead to an unjustified loss of remuneration.

The duration of checks and the return of equipment should be reduced due to the assignment of a new local information systems correspondent. Checks will be carried out outside of study periods.

No video surveillance camera directly films the visiting room. Only the entrance to the visiting room and the waiting room are filmed. Cubicles have been installed in the visiting room area and are separated from each other by a structure preserving the confidentiality of exchanges. The UVF project was abandoned because it blocked the general restructuring of the institution.

The list of detainees in the prison complex awaiting the assignment of prison visitors remains long and includes 35 people to date.

Procedural and training measures have been taken to strengthen the prevention of sexual violence, but no information is given concerning their effects.

There is no interception of publications as long as they meet the criteria for legal publication. Only publications prohibited by law are subject to control.

Officers are made aware of professional practices which must in no way undermine the dignity and modesty of people with gender dysphoria who are on hormonal treatment. The officers in charge of carrying out these searches are chosen taking into consideration the personalities of the person concerned and the officers, and using various methods aimed at preserving the dignity of the detainee.

In practice, body searches of transgender people are extremely rare. National guidelines should address this point.

The punishment wing cannot be transferred to another building, but confinement measures in cells and community service are also pronounced by the disciplinary committee.

A protocol relating to the issuance of national identity documents was signed in 2019. The monitoring of residence permits still needs to be formalised. An association intervenes for the benefit of detained foreign persons.

Information notes relating to elections are draw up for the prison population.

Even in the case where detainees have "comfort" keys allowing them to lock their cell, a number of documents are not provided for in cells according to the regulations in force. They can be consulted at the registry office.

Since 2020, all detention-related departments have been required to process requests from detainees sent to them, via the request processing tool in GENESIS.

Despite the CGLPL's recommendation, the toilet area in the day hospital cells has not been completely partitioned.

General medicine staff numbers are once again complete.

A mailbox dedicated to the health unit has been installed in the detention buildings.

The psychiatric care of detainees placed in the punishment wing requires consultation on a case-by-case basis between health and prison stakeholders in order to reconcile health and security issues. However, the intervention of the health team remains relatively dependent on the decisions of prison management, but the health personnel shows pedagogy in order to ensure high-quality care that respects the rights of patients.

The DISP and ARS ensure that prison officers are assigned to USMPs on a voluntary basis and following awareness-raising on healthcare and the role of carers in detention.

A reflection by the health unit (psychiatric care system) is under way to allow the implementation of new procedures concerning care contracts, in particular their delivery to detained patients who are admitted to the day hospital and whose condition clinical has stabilised.

It is not acceptable that detained patients admitted to the day hospital still cannot benefit from visiting rooms on weekends, especially since no activities are offered to them. In addition, the rules for accessing telephones should be relaxed on weekdays.

The Ministry of Solidarity and Health indicates that it remains vigilant as to respect for medical secrecy.

Sentence enforcement with detainees is contracted through the various single multidisciplinary committees and in particular that dedicated to individual sentence plans.

The SPIP often meets with the sentence enforcement service with the aim of developing a sentence adjustment policy.

The partnership agreement with the Departmental Council for Access to Rights (CDAD) has been finalised.

The activity of the socio-cultural association has been put on hold due to the departure of its president. Recruitment is in progress but no candidate has been chosen. A reflection is under way to better supervise the clubs and replace the members of the association's board who have resigned.

1.5 Ducos prison complex (Martinique) – October 2017 (2nd inspection)

The CGLPL identified five best practices and made 58 recommendations.

1.5.1 *Best practices*

Best practices continue to be applied; they include:

- the presence of the referring nurse in the CPU for minors and of SMPR staff in the minors' wing;
- the examination of the financial situation of people who have arrived in the past three months and that of people who have been in the institution longest during the "Indigence" CPU;
- the role of interface between imperatives of care and those of detention played by the guard assigned to the health unit, now replaced by a brigade of five guards who retain this role;
- the monitoring of open-wing detainees by the US and the SMPR;
- the variety and quality of workshop work, although it is limited in volume.

1.5.2 *Recommendations*

The personal accounts management team was reinforced in September; the delay in the payment of voluntary compensation to civil parties has been gradually reduced.

A new version of the rules of procedure is still being updated.

The processing of assignment referral files is now faster and the information provided to detainees on this subject has been improved.

The premises of the detention centre whose accommodation conditions were not acceptable with regard to respect for the dignity of persons have still not been renovated, but simply repainted. More extensive work is expected to be "proposed" in 2021.

A plan to repaint the institution is being implemented.

The intercom system in the women's wing has been changed, but that of the rest of the institution remains fragile.

Service modifications have been decided on but have had no real impact on the high absenteeism rate.

Like all institutions, the prison complex experienced a decline in its occupancy rate in 2020, but it still remained in a situation of overcrowding (124% in a men's remand wing); the individual cell rate has never exceeded 10%.

The new arrivals' wing, which was certified after the inspection, has its own socio-educational sector. The information provided to new arrivals is individual; a welcome booklet is given to them but it is only available in French. An inventory of the property of detainees has been carried out since the certification of the new arrivals process.

Renovation work on the courtyards was undertaken in 2018 and 2019.

Job descriptions are now given to workers; at the end of the work period, a work certificate is provided at the request of detainees.

It is not possible to increase the labour supply as no company is willing to provide work for detainees although there are sufficient premises to accommodate them.

Schooling exists and is offered to all prisoners. 17.5% of the accommodated population is in school. Screening for illiteracy is carried out during the new arrivals process.

The institution obtained funding for a structure dedicated to the implementation of activities for female prisoners; the new building was delivered in 2019. Vocational training actions for female prisoners have been developed.

The development of activities in detention centre 2, to which an often destitute and fragile population is assigned in cells that are sometimes very degraded, was considered without success.

The administration indicates that many socio-cultural activities have been organised but does not specify whether they have benefited the public who, during the inspection, did not have access to them. It has been difficult to boost the partnership with the library. The difficulties mainly lie in the conditions of access.

A new agreement has been signed with the CDAD. It provides for the establishment of an office in detention with appointments made through the SPIP. Two lawyers receive families in front of the family reception shelter once a month. The Defender of Rights' representative has been on duty every Wednesday since 2018.

A framework now governs the procedure for suspending and cancelling visit permits. The organisation of visiting rooms has been reviewed to set up slots by detention sector; this has made movements more fluid. Families can now drop off laundry when they visit the visiting room.

UVFs and family visiting rooms in the main wing have rules of procedure, which have been displayed and distributed to the persons concerned and their relatives since 2018.

The President of the National Association for Prison Visitors says she is very satisfied with the good relations and the work undertaken with the Prison Rehabilitation and Probation Service. A prison visitor has set up a pottery workshop to promote the reintegration of prisoners.

Despite the CGLPL's recommendations, meals are still distributed in compartment trays and the cutlery provided in the punishment wing is only made of single-use plastic. "Menu" committees have been set up. A quality approach is being developed and meal distribution schedules are monitored, but there is nothing to assess the consequences of these measures on the quantity and quality of the meals served. An inventory of all televisions and refrigerators is carried out to avoid undue payments and improve the maintenance of these appliances.

An agreement for the purchase of computers has been entered into with a supplier and families can now bring in consoles.

The maintenance of telephones has been improved but telephone access hours have not been extended. Information on how to contact humanitarian organisations is displayed in detention.

Since 2017, detainees have been able to obtain or renew their national identity document when prefectural agents travel to the prison.

Information relating to the confidentiality of personal documents and documents mentioning the reason for detention is included in the welcome booklet given to each new arrival.

Access to worship is possible in all detention sectors.

The traceability of requests is not ensured but all mail from detainees is processed.

The right to collective expression was implemented during the health crisis.

To broaden minors' access to education, training and socio-cultural activities, the national education system has extended the hours of teaching in the minors' wing since June 2020. The institution is also working to make up for the lack of facilities.

The video channel has been working properly since 2018, in particular allowing for the dissemination of information and notes in foreign languages.

Steps were taken in 2019 to strengthen the video surveillance system, but the contracts proved unsuccessful. New video cameras are being rolled out gradually.

The administration claims to respect the procedures relating to searches but does not provide any concrete information relating to the principles of necessity, proportionality and subsidiarity. New search rooms have been put into service but they do not seem to exist in all the buildings.

No memorandum has yet defined the levels of escort or how they are defined, but its drafting is one of the priorities listed on the roadmap of the new head of institution. Escort levels are currently set in a CPU once per quarter.

All uses of intervention uniforms are noted in the register dedicated to local prison security teams.

Elapsed times between the events and the meeting of the disciplinary committee observed at the beginning of 2020 ranged from three to six months. They now range from one to three months.

The Bar of Martinique is now very present in the disciplinary committees. A communication from the Martinique public prosecutor's office to the bar allowed the videoconferencing system to be made available to lawyers from the first lockdown period; the active presence of the Bar continued throughout 2020.

The memos relating to the management of the punishment and solitary confinement wings were updated as part of the certification process, but this had to be suspended due to the health crisis. The incompatibility of the profiles of detainees placed in solitary confinement does not allow them to be grouped together for certain activities.

An agreement for after-hours healthcare was signed in 2018. The staff in the health unit was very partially supplemented but other vacancies appeared.

With regard to the presence of escorts during medical consultations and examinations, which constitutes a violation of the confidentiality of care and an attack on dignity, the institution declares that it complies with the regulations, without, however, there being anything to suggest that this presence is truly exceptional.

It seems that file processing times by the SPIP have been reduced. From now on, all CPIPs are present in the Assessment Board (CAP). The protocol for release under constraint recommended by the CGLPL has still not been finalised, but an external placement agreement with a municipality is awaiting signature. CAP hearings with applicants remain exceptional and are only carried out when the examination of the individual situations of detainees so requires.

1.6 Rennes-Vezin prison complex (Ille-et-Vilaine) – January 2017 (2nd inspection)

The CGLPL identified three best practices and made 35 recommendations.

A letter relating to the phenomena of violence observed on the part of the surveillance staff against detainees was sent to the Minister of Justice, who did not provide a response. An inspection mission was requested from the Ministry of Justice; the CGLPL has no knowledge of its consequences.

1.6.1 *Best practices*

The three best practices continue to be applied:

- the decision taken by the new-arrival CPU is read, explained and notified individually to detainees with signature of an acknowledgement of receipt;
- remand and convicted prisoners can benefit from three visiting rooms each week;
- detainees have access to psychiatric care during the day and at night thanks to the pooling of resources for the benefit of the various detention structures.

1.6.2 *Recommendations*

The theoretical capacity of the institution constitutes the reference in the documents and calculations of occupancy rates communicated to the judicial authorities. However, additional beds are installed and listed in particular in GENESIS.

Due to the overcrowding observed in the perimeter of the Rennes DISP, clearance transfers to the Rennes-Vezin prison complex cannot be stopped, despite it being saturated.

An excerpt from the rules of procedure is given to new arrivals. Several summaries are displayed in the new arrivals' wing, thus providing them with immediate access to information; reminder memos are disseminated.

An experiment with a translation tablet was unsatisfactory. The documents translated by the Prison Administration Department into the languages most commonly spoken in detention are accessible to detainees.

The Rennes prison complex has eight cells dedicated to people with reduced mobility. Four others are being considered, without any certainty as to their actual creation.

The cell in the pre-release wing dedicated to people with reduced mobility now only accommodates one person.

The outgoing prisoners' wing now seems to have acquired an optimal rhythm of operation (it had just opened at the time of the inspection) with a multiplication of activities designed with regard to needs.

The intercoms are not connected to any software or recording device.

The television pricing system has been changed. Now, the cost of renting a television is divided up between the occupants of the cell who wish to benefit from access to this service.

Telephone hotlines for booking visiting rooms cannot be extended. The institution authorises, once the time slot has been reserved for visits to an inmate, that a visitor other than the one who made the reservation can benefit from it. This makes it easier to book at terminals on behalf of more distant people.

The two remand prisons and the detention centre are equipped with mailboxes dedicated to medical services, internal mail, external mail and canteens.

The video surveillance system in the courtyards has been improved in order to avoid malfunctions. However, the quality of the recorded images remains problematic.

Time slots for receiving children cannot be extended due to the administration's contractual commitments.

A brigade is dedicated to the visiting rooms, supplemented by officers stationed in detention. The team is therefore stable in terms of welcoming families, except for senior staff. Postponing the visits of latecomers to the next session, provided that slots are available, is difficult to envisage because it would amount to making a choice between latecomers since the number of available slots is lower than the number of these people.

The Rennes-Vezin prison complex is experiencing a shortage of staff and in particular surveillance staff, preventing more human resources from being devoted to UVFs.

Refusal to grant time in a UVF due to permission to leave to maintain family ties complies with the regulatory framework in force.

The designation of a trusted person, necessary for the admission of children to a UVF, has been put in place as a precaution in order to avoid having to look, at an undue hour, for a person to whom the child

can be entrusted if the person who brought them is unable to continue caring for them. However, while this is a best practice helping secure officers in their professional practices, it is not legally enforceable.

The modification of movements for worship does not seem to correspond to a need. The heating of the multicultural room has been reinforced.

National education has ceased its collaboration with a teacher who committed breaches of secularism.

The circuit for referral to the Defender of Rights' representative was set up in full agreement with the representatives themselves. Thanks to this circuit, they have the ability to adapt their presence to use of the service.

A procedure has been put in place with the prefecture so that applications for residence permits are transmitted and studied. In addition, the Cimade intervenes at the Rennes-Vezin prison complex every fortnight.

In 2020, elections were organised within the institution allowing one representative to be appointed per wing. The representatives met six times and were able to question the sentence enforcement judge, the health unit doctor, the Director of Prison Rehabilitation and Probation Services for closed environments, and the management of the prison complex.

Working groups aimed at harmonising and reviewing the professional actions most likely to generate disputes have been set up. In 2017, a working group on full-body searches met to model not only the professional technique but also the body language and verbal communication of officers. In 2018, training in the fight against violence concerned more than 100 officers who learned about intervention techniques, professional practices and postures, non-violent communication and conflict management. The effort continued and resumed after a few months' hiatus in September 2020.

The Ministry of Solidarity and Health indicates that it remains vigilant as to respect for medical secrecy. A reflection has been initiated between the institution and the university hospital in order to organise arrivals and waits at the hospital in a way that is both more secure and less cumbersome for the nursing teams. Since the summer of 2018, a new form of operation has been put in place for emergencies in order to streamline care and have waiting rooms independent of the lobby where other users wait.

The agreement between the Rennes university hospital and the Guillaume Régnier psychiatric hospital was renewed in August 2018. The main difficulty in the links between somatic and psychiatric care, which lay in the methods of distributing medication, has now been resolved.

The current inability to medically evacuated a detainee on a stretcher through the lift does not seem to have been dealt with. Another complex path can be taken.

The Guillaume Régnier hospital's multi-year contract of objectives and means for the 2019/2023 period has defined operational procedures with regard to admission to the UHSA and contributes to anticipating needs relating to the provision of healthcare outside of the health unit's opening hours.

The practice of accommodating detainees in cells located within the SMPR is not subject to requests from this service and helps avoid having mattresses on the floor without limiting the SMPR's capacity for action, which is strained for other reasons.

No psychologist dedicated to individual sentence plans has been recruited due to a lack of available funds.

1.7 Riom prison complex (Puy-de-Dôme) – July 2017 (1st inspection)

The CGLPL identified four best practices and made 43 recommendations.

1.7.1 *Best practices*

The best practices identified continue to be applied:

- the training of prison visitors and their involvement throughout the penal process;
- the dynamism of the employment-training service;
- the wide range of physical activities offered;
- the partnerships entered into by the SPIP to promote access to housing and employment.

1.7.2 *Recommendations*

Blinds have not been installed on the windows, but tolerance is allowed for the prisoners assigned within trustee regimes to obscure the window of their cell at the hottest times of the day. The gratings have not been removed from the men's remand prison (MAH) on the grounds that this building is the main target of external projections.

Detainees assigned to MAH2 still do not have the key to their safe; cell searches continue to be carried out in the absence of detainees and management. The cells where a second bed has been installed still do not have a second safe. The confidentiality of personal documents is therefore in no way guaranteed.

The general organisation of the operation of the detention centre wing was revised in December 2019 following a consultation with detainees; among other things, this has improved circulation in the building.

An overall reflection on the organisation of service will be carried out in 2021, by creating a dedicated brigade for the open wing, as recommended by the CGLPL. Mobile phones have been authorised in the open wing since 1 January 2020. An agreement has been signed for access to healthcare for people placed in the open wing.

As recommended, an agreement has been signed with the "Avenir insertion" association, which works with people benefiting from external placement, an open regime and electronic surveillance.

The guards are involved in evaluating the profiles of prisoners; they participate in the CPUs with the Prison Rehabilitation and Probation Counsellors and supervise permissions for escorted leave in particular in the men's remand prison. Multidisciplinary training courses bringing together different categories of staff (surveillance staff, administrative staff and Prison Rehabilitation and Probation Counsellors) are organised.

Observation measures prior to referral to an open or closed remand prison have been expanded: the decision is taken by the CPU after consulting the prison, the Prison Rehabilitation and Probation Service, the local education adviser, the GEPSA service provider, and the activity coordinator; it is also based on the various hearings carried out by the supervisory staff.

Cell entry-exit inventories were set up in December 2019.

Since March 2018, the jewellery and valuables deposit form has been signed by escorts.

People who own their televisions are still forced to subscribe to and pay for a subscription to Canal+.

DVDs and CDs received by detainees under a subscription sent by mail have not been subject to checks since June 2020.

A schedule ensuring full occupancy of the activity rooms has been put in place. The socio-cultural coordinator is now replaced when she is away. In 2019, several improvements were made to the activities in the open wing; the stock of board games and books made available in the activity rooms was renewed and the opening hours of the activity room were extended.

Women still do not have access to an outdoor sports field. Access to physical activities is not linked to the age of the prisoner but to their physical fitness. The sports instructors provide all inmates in the prison complex (men and women) with activities that are accessible to them. Vulnerable detainees can access supervised sports activities and go to the exercise yard in the morning, when there are fewer people.

The opening hours of the library have been extended, but it remains closed on weekends. Each building has its own library.

Individual meetings with chaplains do not take place in the cell but in a hearing office. No requests have been made for religious intervention in the open wing.

The visiting room reservation system still does not allow for the more flexible programming of visits, particularly in the event of a change in the internal assignment of detainees, due to procedural cumbersomeness.

The belongings that detainees can entrust to visitors or receive from them remain limited in volume in order to prevent racketeering in detention.

The size of the cubicles in the visiting rooms is 6 m², which corresponds to common standards, but measures have been taken to improve the conditions for welcoming young children. The issuance of permanent access agreements for family lounges and UVFs, as exists for ordinary visiting rooms, remains excluded.

The decisions taken by CPUs dedicated to UVFs or family lounges are reasoned and then notified and explained to detainees by the head of the building.

Pay slips must be issued by GENESIS software; the administration considers that they are intelligible and can be understood by detainees; the CGLPL does not share this opinion.

The recommendations made by the CGLPL in terms of remuneration should be re-examined in light of the more recent work conducted by the ATIGIP.

Detainees still do not have Internet access, due to the national regulations relating to access to IT tools in detention.

Since 1 July 2020, the traceability of all sent and received registered mail has been put in place.

New prospects for the intervention of the office for legal information and advice are regularly considered, although in vain. Information on the role of the Defender of Rights' representative is disseminated. No public writer intervenes in the prison complex, but this need is often met through mutual aid.

Since June 2020, requests have been recorded in GENESIS unless they are intended for the registry or the health unit. The installation of query terminals is planned.

The support provided to foreign detainees by the Cimade should resume in 2021. The SPIP's social service assistant works in conjunction with the services of the Puy-de-Dôme prefecture on the issuing of residence permits, but in the absence of a protocol.

Since September 2018, the SPIP's team has been strengthened.

Since September 2019, sanctions other than the punishment wing, in particular confinement (16% increase over one year), and also improved pedagogy and credibility of disciplinary sanction, have been developed. There is no longer any waiting period between the pronouncement and the execution of the sanction.

The operating procedures for the punishment and solitary confinement wing were certified in 2019.

Significant work was carried out in early 2018 on absenteeism in medical consultations; this seems to have satisfied the health unit, but no figures are provided.

In accordance with the methodological guide, outside the opening hours of the health unit, detainees can speak directly by telephone with the doctor from the French Emergency Medical Assistance Service. Prison officers do not assess the urgency of the situation.

The list of specific suicide prevention monitoring procedures has been reduced by two-thirds and a "suicide" adviser has been appointed. In 2019, the use of the CProU was regulated and the system of peer-support prisoners was suspended due to the disengagement of the Red Cross at national level.

The use of psychiatric experts is a difficulty for all Auvergne *départements*.

Inmates in the women's wing are not excluded from the individual sentence plan system, but their small number makes it rare. Five women prisoners saw their individual sentence plan examined by a single multidisciplinary committee in 2019, and none in 2020.

A quarterly schedule of sentence enforcement commissions and adversarial debates is established. Prison Rehabilitation and Probation Counsellors organise interviews with prisoners according to judicial activity and effective and trusting working relationships have been created with the health unit.

The institution continues to experience difficulties in having psychiatric assessments carried out in situations where this prerequisite is essential for the granting of permissions to leave or sentence adjustments.

1.8 Toulouse-Seysses prison complex (Haute-Garonne) – June 2017 (2nd inspection)

The CGLPL identified five best practices and made 36 recommendations.

1.8.1 *Best practices*

The information brochure is always translated into several languages; it is given to detainees during new-arrival welcome interviews.

The presence of a member of the private group during collective expression meetings for the prison population was interrupted in 2020 because these meetings were devoted to the pandemic.

The home nursing care service (SSIAD) no longer operates in the prison, despite repeated attempts to follow up with it. A partnership project is under way with a local health centre.

General service and workshop workers can access courtyards with a flexible schedule.

The socio-cultural coordinator always works full-time.

1.8.2 *Recommendations*

The sustained and chronic overcrowding of the Toulouse-Seysses prison complex since October 2015 has prevented detainees from benefiting from individual cells.

The strict separation of smoking and non-smoking prisoners is not part of the regulatory criteria for assignment. Nevertheless, the staff of the Toulouse prison complex remains vigilant and tries to take this into account as much as possible.

Maintenance work is carried out regularly on the premises of the health unit and arrangements have been made to limit the visibility of naked patients.

A protected sector with 20 cells has been opened.

It has not been possible to set up activities within the open wing, but a range of external activities are offered to the prisoners detained there.

Reference organisation charts can only be revised within the framework of a structural modification imposing a change of organisation or following the implementation of new missions accompanied by a job plan; the Toulouse-Seysses prison complex does not meet these two criteria.

Meal distribution times (11 am to 12 pm and 5 to 6 pm) remain subject to the administrative work schedules of the supervisory staff and constraints related to the organisation of meal distribution.

Diversity in school activities has been in place since the start of the 2019 school year.

Despite the arrival of new officers, it has not yet been possible to set up a team dedicated to visiting rooms.

The detention management office issues individual summonses to detainees registered with the lawyers' office at the Citizens' Advice Centre.

Training assessments are produced at the end of each learning cycle in conjunction with the training institute.

Apart from the health crisis linked to the COVID-19 epidemic, all the cells in the workshops have been used and the maximum capacity of the workers has been reached. There have been no workshops in the women's remand prison since 2018 due to unsuitable premises. A mixed activity would require new arrangements which are possible.

Collective information on the learning centre is difficult to provide in the new arrivals' wing. At the moment, there are no English lessons for beginners. Language lessons are one of the main challenges of the gender mix that has been tested since the start of the 2019 school year.

The range and organisation of socio-cultural activities are being covered by an overall reflection involving all the services: CPU discussion or consultation under the right of collective expression. An overall reflection remains necessary, in particular to deal with the issue of movements.

A permanent social service assistant has been assigned to the SPIP of Haute-Garonne since 1 December 2019.

Pairs made up of surveillance staff and rehabilitation and probation staff have been in place since 2019 with the aim of promoting the registration of detainees on electoral lists and the exercise of the right to vote.

The two Directors of Prison Rehabilitation and Probation Services have implemented a common policy and the SPIP is working to maintain this line of conduct.

The inventory sheets affixed to the doors of the cells in the punishment wing no longer contain information relating to the personality of their occupants.

A memo from 2019, updated in 2020, clarifies the procedures for using means of restraint and informs staff of the updating of the medical extraction follow-up sheet in order to make it more readable and easier to use.

Postal requests sent by detainees are processed within 15 days. Mailboxes have been installed in each building. Mail is picked up and registered daily by the postal officer.

Women are now invited to bodies for collective expression.

The recommended increase in medical staff has not taken place, but dental care has been improved.

At this stage, and despite repeated requests from the health authorities, the doctor is not consulted as to the choice and training of the guards assigned to the SMPR but, during the monthly meetings with the SMPR service, the operation of the team in place and any difficulties encountered by the guards are reviewed.

The organisation of movements has not been reviewed in order to ensure effective access to healthcare.

A request for mailbox facilities dedicated to the health unit should be made.

The consideration of tobacco addiction has been improved, despite the departure of the tobacco specialist.

Assignment to SMPR cells is the responsibility of the head of institution, so inmates may be assigned there without clinical consideration. Detainees hospitalised at the SMPR have access to the same activities as other detainees in compliance with judicial or penal separation measures (prohibitions on communication, history of violence, etc.).

The number of vehicles available for extractions has been reduced and will not be increased before 2022 due to the cost of this measure. It therefore remains insufficient.

The local training plans for 2019 and 2020 include "suicide prevention" training offered to all institution staff. All of the services involved in suicide prevention exchange views, in particular during dedicated CPUs as well as during feedback and Interregional Commissions for Suicide Prevention and Monitoring of Suicidal Acts.

The rate of convicted persons benefiting from a sentence adjustment at the Toulouse-Seysses prison complex increased from 22.7% in 2018 to 25.7% in 2019. Innovative integration schemes are offered: open wings, the ELAN Act, external placements in partner structures. They are supplemented by measures in favour of housing.

Detainees are referred by the CPIP to the Personalised Professional Integration Support Programme (PPAIP) following a diagnosis focused on professional integration. The PPAIP is favoured by the CPIPs because it does not require the detainee to hold a national identity document, even though this document is essential for any process of social or professional integration.

1.9 Valence prison complex (Drôme) – July 2017 (1st inspection)

The CGLPL identified five best practices and made 50 recommendations.

1.9.1 *Best practices*

Best practices, still in force, concerned:

- the taking of photographs during cell searches carried out by officers of the local support and control team (ELAC);
- the provision of disciplinary committee files to the bar at least 48 hours in advance;
- the waiver of disciplinary proceedings for events dating back more than two months;
- the publication of the conclusions of the collective living committee;
- the pooling of nursing staff and the closely tied clinical work of the somatic care system and the psychiatric care system.

1.9.2 *Recommendations*

The rules of procedure were updated on 14 January 2020. They are accessible on the common server and are therefore available in the floor guard's office, which allows excerpts to be given to inmates who request them. Copies are also available at the library. They have not been translated into foreign languages but extracts from them are given to foreigners in their original language at their request.

A prison regulation protocol aimed at controlling flows is being drafted between the judicial authorities, the Prison Rehabilitation and Probation Service and the management of the institution.

As work on the GENESIS infocentre has been finalised, the prison administration is able to provide, for a given institution, statistics from the old quarterly report on the prison population.

The internal video channel was set up in 2017.

The institution considers that it is possible to maintain a reinforced security regime while developing possibilities for the social reintegration of convicts. It declares that it ensures the execution of a sentence plan for prisoners in the long-stay prison wing (QMC), with reintegration actions, access to rights and even collective outings.

The prison administration considers that it is not appropriate to reserve the QMC for assignments that may be likened to transitional stays. Assignment changes are therefore studied on a case-by-case basis.

The creation of a convivial space in the QMC is not considered possible.

Eighty-five percent of the reference workforce is filled. The service of officers was completely changed in 2018. This has systematised the principle of breaks, helped retain officers assigned to the remand prison wings and eliminated day and night alternation in favour of generalised long-day service. This new service also accentuates the specialisation of permanent officers and the retention of rotating agents in the accommodation sectors.

Annual statutory training has been implemented since January 2018. Awareness-raising actions are also carried out, focusing on various issues: ethics, use of means of communication, drafting of incident reports, etc.

The individual safes installed in the cells have never been put into service.

Gratings have been maintained on the windows.

In 2018, the management of the institution specified the various methods for the control and implementation of rounds according to the levels of surveillance of the detainees, but nothing indicates whether the CGLPL's recommendations to respect the sleep of detainees have been taken into account.

The number of bins in the cells has not been increased.

The installation of protective film on the windows of the courtyard surveillance room has been ruled out as "contrary to safety requirements".

The QMC exercise yard has been equipped with various sports equipment.

The separation of vulnerable detainees has been generalised in the remand prison since 2020 and separate exercise times are offered to them.

“Menu” committees have been set up, as have “taster sheets”.

The efforts recommended by the CGLPL to provide precise explanations to make the canteen system more transparent do not seem to have been made.

Requests are still not recorded, only hearings and responses are, when they exist.

Electronic censorship has been configured on the video camera installed above the urinals of the sports field. All premises placed under video surveillance are indicated by appropriate postings.

Video surveillance is systematically made available to the members of the disciplinary committee. It is up to the disciplinary committee to make the recordings available to the detainee or their lawyer, unless viewing them is likely to compromise public safety or personal safety.

The organisation of movements was clarified in 2018 in order to allow detainees to be present at the set time, but nothing is said about the effectiveness of this measure.

There is nothing to suggest that action has been taken following the CGLPL's recommendation to involve prisoners in determining the pace of work and adapt the remuneration system to people with low productivity.

The delay in setting up and organising worship services in detention has been significantly reduced. Worship times have been changed so that they do not interfere with movements in the exercise yards. A second Muslim chaplain was approved in December 2019.

Mailboxes are now only checked by the postal officer. Specific mailboxes have been set up for each category of internal recipient. The postal officer carries out correspondence checks alone.

Since January 2019, the Citizens' Advice Centre has been open on a monthly basis. Its operation is not governed by any agreement.

A tripartite protocol between the prefecture, the SPIP and the institution was signed on 13 October 2017 for obtaining and renewing identity documents.

A summary of participation in activities is draw up each year. This is mentioned each year in the annual report, but the institution does not plan to appoint an adviser within the management staff.

The QMC library, proportionate to the number of detainees accommodated, is supplemented by a system for lending out books from the QMA catalogue.

In 2018, new rules reviewed the framework and the methods for carrying out searches.

Escort levels are now reviewed quarterly. The creation of local prison security teams in February 2018 has reduced the means of restraint used during medical extractions, particularly since the introduction of armed medical escorts. Thus, escort level 1 detainees are, with some exceptions, never shackled. They are handcuffed and sometimes equipped with waist chains.

Despite the CGLPL's recommendations, the institution persists in placing, in the event of particularly serious and violent offences, people with reduced mobility in a punishment wing cell that does not allow access to the toilet and sink. The punishment wing of the QMC still does not have a room where detainees can meet with their lawyer. Training in disciplinary law has been provided.

The telephone booth in the solitary confinement wing has been moved to guarantee the confidentiality of interviews.

Work began in early November 2020 to reopen a reception and assessment wing for the QMC.

Despite the absence of requests to participate in communal activities, the management of the institution is not opposed to certain prisoners in solitary confinement being able to share collective time during certain activities.

The protocol established between the management of the institution and the health unit recommends keeping people in cells alone or assigning them alone to a cell in the reception and assessment wing for people likely to be carriers of contagious diseases (excluding the COVID pandemic). They are not placed in solitary confinement.

The provision of psychiatric care within and outside the prison has been reinforced. Upon their release, detainees with psychological problems are systematically given the option to be monitored in a mental health centre (CMP) near their future place of residence.

In consultation with the doctors, condoms are made available to detainees on the premises of the health unit and in the cloakroom.

Reminders have been issued relating to the confidentiality of the medical documents transported during extractions.

Use of the CProU is now regulated and recorded.

The integration and recidivism prevention centre is now supervised continuously from Monday to Friday by specialised guards.

The Ministry of Solidarity and Health indicates that it remains vigilant as to respect for medical secrecy.

The information on the health unit given to detainees has been improved thanks to the revision of the institution's welcome booklet. A specific welcome booklet for the health unit is being developed and was to be finalised at the end of 2020.

Infectious risk prevention measures have been put in place.

1.10 Vendin-le-Vieil prison complex (Pas-de-Calais) – March 2017 (1st inspection)

The CGLPL identified 13 best practices and made 35 recommendations.

1.10.1 *Best practices*

Each detained person is interviewed by a member of management once a month and their situation is examined by the CPU once a quarter.

In the long-stay prison wings, the good-sized cells are all individual and equipped with a shower. Detainees are grouped together in small units with 17 places.

Blankets are cleaned every two weeks and the detainees find the sheets, drawsheets, pillowcases and blankets they entrusted to the laundry room.

A choice between two main dishes offered for each meal allows each detainee to express their food preferences.

Prisoners can directly place their canteen orders electronically.

There is a clear and detailed welcome booklet for families.

Provisional visit permits are granted pending the return of the administrative inquiry. Since 2017, this has only concerned members of the nuclear family.

A special number allows visitors to report any delay or absence during the scheduled slot on the same day of the visit.

The reception of families is organised in such a way as to save time and secure the storage of their luggage.

The extension of visits is facilitated.

The local policy around maintaining family ties was strengthened in 2019. Detainees can now benefit from three 48-hour UVFs per month or from one 72-hour UVF + one 48-hour UVF. This extension helps improve and consolidate ties with families.

The supply of books in the three libraries has been the subject of a professional approach and constitutes a quality tool.

Until the end of 2019, an assistant was in charge of managing the internal video channel. Since his departure from the institution, the internal video channel is no longer properly exploited. In order to remedy these difficulties, a training project is being considered so that an association may accompany prisoners and allow them to improve their skills.

1.10.2 *Recommendations*

The welcome process provides for an interview with all the services within 72 hours of the detainee's arrival. However, the particular rigour of the detention regime is not explained in advance to detainees likely to be transferred there.

Since the events of January 2018, a strict closed-door policy has been enforced throughout the site. A probationary wing, with more restricted movements, opened in parallel in June 2019; detainees whose profile makes them temporarily incompatible with community life are assigned there.

A reflection is under way with the interregional directorate to define the typology of the public received upon the reopening of the detention centre wing, which is permanently under-occupied.

No regulatory or legislative text establishes a maximum duration of assignment within a sentencing institution. Each decision to change assignments is individualised and is the subject of a reasoned decision notified to the prisoner. A prisoner requesting a change of assignment cannot obtain it if their behaviour and assessment do not allow it; this applies in particular to requests based on threats or after attacks.

Staff are assigned to the Vendin-le-Vieil prison complex following mobility campaigns. A one-week welcome phase is set up for newly assigned officers. However, profile-based assignments are not made.

The doors to the toilets in the cells have not been modified.

The television and refrigerator are now free during the month for detainees recognised as persons without sufficient resources after examination by a CPU.

A gardening activity has been set up, which has enhanced the aesthetics of the courtyards, and a graffiti activity has enabled the courtyards to be personalised with drawings by prisoners.

The video cameras placed above the urinals remain in place.

A guard is now in charge of the canteens. He supervises the distribution of canteen products in detention and settles any conflicts.

The new local vocational training plan, validated by the region, includes several qualifying and validating training courses.

A reflection is under way so that people detained in the detention centre are not deprived of education on the grounds that they should not be mixed with those detained in the long-stay prison wings.

Sectorisation by long-stay prison wing, the cornerstone for the management of the Vendin-le-Vieil prison complex, will not be modified to reach the critical mass allowing certain courses to be organised, nor to organise collective sports.

Detainees placed in the solitary confinement wing are not deprived of education.

It is not possible to consider building a gymnasium for lack of space within the institution. Nevertheless, there are two small gyms in each building.

Since June 2018, strict separation by corridor of access to the sports field has been ended. Gatherings of 17 people from the same building are authorised after validation by a CPU. The same organisation is in place for access to the socio-cultural sector.

The proper functioning of the electronic appointment booking terminals is still not guaranteed. In the 1st quarter of 2021, families will be able to reserve their visiting slots via the Internet, thanks to the Digital in Detention project.

Measures have been taken to improve the reception of children, but access to the outdoor playground is no longer authorised due to the non-compliance of certain equipment whose removal has been planned.

The institution takes care to post free humanitarian numbers.

Since January 2019, all cells, except those in the solitary confinement wing, have been equipped with individual telephones. Phone booths have been removed from the corridors.

The prison complex does not have a multi-faith worship room. Moreover, it is not possible to group together the different populations from the long-stay prison wings. In addition, since 2018, no worship has been organised collectively, as the accommodation buildings do not have a multi-faith worship room. Chaplains now only come to meet with inmates individually due to a lack of meeting participants in rooms the size of a small office.

The "Did you know?" document and useful information for exercising the right to vote are always displayed in detention.

Prisoners now appear before the disciplinary committee within eight days of committing the facts.

The telephone booth in the punishment wing allows for confidential exchanges.

The solitary confinement wing is always fully occupied. The cells of people hospitalised in the UHSA are also occupied during this time.

The Ministry of Solidarity and Health indicates that it remains vigilant as to respect for medical secrecy. The health unit has installed screens in order to preserve the privacy of detainees during treatment. Systematic exchanges between the doctor, the prison staff and the internal security forces are opportunities to evaluate the appropriate measures in the event of consultations at the Lens hospital.

No physiotherapist works at the Vendin-le-Vieil prison complex. The position has remained vacant due to a lack of applications. In order to compensate for this lack, the health unit brings in an educator for tailored physical activity.

The principle of dividing up access to healthcare by accommodation wing is still imposed by the management of the penal institution, which limits the fluidity of access to care.

Health education actions, in particular actions to reduce risks and damage, have been effectively implemented since September 2017 and are now permanent.

The UHSA remains very reluctant to receive detainees from the Vendin-le-Vieil prison complex. Requests for admission to involuntary care by decision of a State representative are often denied as soon as there is danger or a violent act. However, detainees who wish to go to the UHSA within the framework of sequenced plans, i.e. with a return to the institution for the purpose of evaluating changes in the patient's situation, do not pose any difficulties.

Since September 2017, four ophthalmology sessions have taken place in the health unit; an agreement with an optician supplements them.

Detainees are clearly informed of the criteria and conditions for transfer to another institution. This is explained to each new arrival transferred as a measure of order and security. Detainees must remain at the Vendin-le-Vieil prison complex for at least 12 months before requesting a transfer to a sentencing institution suited to their profile, on the sole condition that their behaviour is stable over the long term.

1.11 Porcheville prison for minors (Yvelines) – October 2017 (3rd inspection)

The CGLPL identified seven best practices and made 18 recommendations.

1.11.1 *Best practices*

Five of the best practices remain in force; they related to:

- the precision of the operational objectives which facilitates assessments and evaluations of the work carried out by the educational service;
- official graduation ceremonies and parent-teacher meetings;
- the referring of young people to the specialised institutions where they were monitored before their incarceration;
- the existence of a specific welcome booklet for families;
- the measures taken to encourage visits.

The conduct of hospital consultations without the presence of guards is also practised, but with exceptions when the layout of the premises and the personality of the detained minor do not enable safety to be ensured in these conditions.

Good-order measures, which during the inspection were more numerous than disciplinary sanctions, have decreased while the number of disciplinary proceedings has increased slightly.

1.11.2 *Recommendations*

No new steps have been taken to be served by public transport. Secours Catholique sometimes runs shuttles between the train station and the institution.

The institutional project was to be drafted before the end of 2020. An individual timetable has been set up for each minor. Thanks to the reorganisation of detention days, all minors now benefit from one hour of outdoor time per day.

The operation of the reinforced care unit and its educational project were reworked in 2019. The preventive and non-punitive role of this unit has been reaffirmed and its evaluation function reinforced and formalised.

In order to properly take care of new arrivals, the institution sends all the courts that refer minors to it a document entitled "STOP ECROU" when the number of prisoners exceeds 54.

The reorganisation of detention days in 2018 identified highlights during the day for the formation of the guard-youth worker pair (collective meals, living unit activities, school movements). Youth workers and guards have been retained in their units.

The diet of minors needs to be redefined at national level.

According to the institution, the cancellation of collective meals remains exceptional.

The range of canteen products offered is subject to an annual consultation with minors.

Use of the sports field remains exceptional on the one hand because it would block movements and on the other because this field can be seen by the whole prison, which generates conflicts.

Three additional search rooms, complying with regulatory standards, have been created, whereas the design of the institution included only one. Others are planned. This inflation can only raise questions about the concern to limit searches of minors.

The desire to limit attacks has led the institution to toughen up its disciplinary policy and resort to legal proceedings. A change in circulation has also helped limit the splashing of liquids.

Despite the CGLPL's recommendation for good-order measures, exclusion from "cross-cutting" activities is still implemented in addition to disciplinary sanctions.

Mailboxes specific to the health unit have been installed in each living unit.

Medical care is not interrupted during placement in the punishment wing.

In response to the CGLPL's criticism relating to the systematic wearing of handcuffs and sometimes shackles during medical extractions, the institution reviews some theoretical principles without taking the trouble to affirm that it complies with them.

1.12 Agen remand prison (Lot-et-Garonne) – September 2017 (2nd inspection)

The CGLPL identified five best practices and issued 47 recommendations.

1.12.1 *Best practices*

The holding of a collective meeting with new arrivals by the local head of education still continues, but the CGLPL's recommendation to extend this measure to other stakeholders has only been implemented for the Defender of Rights' representative.

The systematic passage of duty officers in cells on weekends has been extended to the exercise yards and communal showers.

The allowance of €11 for new arrivals was recently increased to €20 to take into account the increase in the price of tobacco and cigarettes.

The information efforts of the local education unit have been combined with the reorganisation of sessions to welcome a larger number of prisoners.

Many weeklies and the local daily remain available to women prisoners.

1.12.2 *Recommendations*

The renovation of the dilapidated cells and exercise yards is gradually continuing but has not been completed.

The consultations with detainees carried out under Article 29 of the Prison Act are organised twice a year.

Open wing entry and exit time slots have been extended. However, the gratings, whose presence is not justified, have not been removed and the detainees are not allowed to keep their mobile phones.

The number of staff in the remand prison increased considerably in 2020.

Translation of the welcome booklet is now possible but has not yet taken place.

New arrivals are now searched out of sight.

An information sheet in several languages allows each foreign detainee to be informed of the fact that emergency linens can be provided.

New arrivals are informed that they can meet with a chaplain if they so wish.

Information relating to the procedure for consulting documents mentioning the reason for imprisonment is now included in the welcome booklet for new arrivals updated in March 2018.

A detainee who refuses to sign the rental contract for a television or refrigerator is not in principle charged a fee, but all detainees sign the contract since there is "a form of solidarity linked to being in collective cells". The institution considers that this practice limits "a possible pressure phenomenon".

It is not possible to offer raw meat in the canteen.

Transfers for building a nest egg for release from prison are now possible.

Payments to civil parties and of fines imposed on detainees should be made with more diligence than during the inspection but are still experiencing a delay.

The renewal of hygiene and maintenance kits for detainees without sufficient resources is paid for.

Hairdressing services remain rare and uncertain, including for women.

It is still not possible for the families of female prisoners to have access to the visiting room reservation terminal and a reception area.

If visitors are late by a few minutes, this does not lead to cancellation of the visit.

Mail management now complies with the regulations in force but not with the CGLPL's recommendation to systematically ensure that the registers of letters sent to the authorities by detainees are signed.

The use of telephones in cells was rolled out in 2019.

The institution wishes to maintain work selection waiting lists based on an individual decision and not based solely on the date of the application.

Searches for jobs in workshops are referred to the Community Service Agency.

The remuneration of prisoners is now defined in accordance with the amount set by the Prison Administration Department.

There has not been any vocational training for women since the jurisdictional transfer to the region.

The municipal library of the city of Agen as well as a person from the voluntary sector now intervene regularly at the institution, but this has been interrupted by the health crisis.

Legal consultations are offered three times a month.

The updated new arrivals' welcome booklet now mentions the existence of the Defender of Rights' representative and provides the information necessary to contact him.

The renewal of identity documents is now guaranteed during detention.

An inter-regional interpreting agreement is now operational.

A social service assistant has been working at the departmental Prison Rehabilitation and Probation Service since 2018.

Measures to prevent addictions or fight against items being thrown into prisons have been taken to limit trafficking and a partnership with the justice and police services has been put in place, but nothing is said about their impact in terms of reducing trafficking and interpersonal pressure.

The possibility of calling on interpreters is extremely complicated for the holding of disciplinary committee meetings. The use of the regional agreement requires relocating the disciplinary committee, which the institution seems reluctant to do. A referral is systematically addressed to the lawyer appointed by the detained person or to the bar association to guarantee the systematic presence of a lawyer in the disciplinary committee.

A specific mailbox for medical mail has been installed in detention.

Protocols have been established with the attached hospitals.

The premises of the health unit have been renovated and air-conditioned.

The institution now ensures the proper distribution of the health unit's presentation guide for all new arrivals in detention.

The institution is unable to provide a replacement during the dentist's summer holidays.

The health unit's annual report now includes a section relating to psychiatry.

The number of cancelled medical extractions has decreased due to planning effort. Cancellations can occur because there is only one vehicle to carry them out.

1.13 Amiens remand prison (Somme) – May 2017 (3rd inspection)

The CGLPL identified nine best practices and made 28 recommendations.

1.13.1 *Best practices*

The best practices were as follows:

- the favouring of continuous training for officers, which has been increased since the inspection;
- the existence of showers in the new arrivals' wing;
- the clarity of the documents given to detainees for the management of their canteen account;
- the dynamism of the association which manages the reception of families and the support, increased since the inspection, that the administration brings to it;
- the twice monthly presence of a volunteer from the Cimade allows rights to be exercised for foreigners in detention;
- the consideration of addiction;
- quick access to eye corrections;
- the multidisciplinary nature of suicide prevention;
- an activity coordination unit, reinforced since the inspection.

1.13.2 *Recommendations*

The unused cells of the former women's wing have not been used to progress towards individual cells and there are no plans to do so.

Work is under way to respect the dignity of detainees in terms of sanitation, space and amenities, but it has not been completed.

The frequency of cleaning the areas around the buildings as well as the courtyards has been increased and an officer is now specifically in charge of it. Pigeon control measures have been taken with mixed success.

Identity documents are kept in the cloakroom with the personal search belongings of each new arrival.

A photographer comes in principle every quarter for identity photographs, but he can travel if necessary in the event of an emergency.

The jewellery and valuables deposit form is now systematically signed by escorts.

Personal documents mentioning offences are kept in criminal files in a confidential folder, which can be consulted by the detainee on request. They are informed of this upon arrival at the institution by the officer placing them in detention.

Evening meals continue to be distributed at an abnormally early hour.

Still partial improvements have been made to video surveillance of the exercise yards.

The organisation of physical activities and the equipment dedicated to them have been improved since the inspection. At the same time, physical activities have been organised since 2018, both inside and outside the institution, through agreements.

Mailboxes dedicated to each mail flow were supposed to be installed in December 2020.

Posters relating to social telephone platforms have been affixed in detention on a dedicated board as well as on telephone booths.

The institution indicates that it now complies with the texts relating to searches without giving details as to their number or their methods.

The presence of an assessor from outside the disciplinary committees is effective.

Rules of procedure specific to the punishment wing were drafted as part of certification in 2019; they are systematically given to detainees.

New registers for the solitary confinement wing and punishment wing were drawn up as part of certification.

The premises of the health unit were completely renovated at the end of 2018.

In order for detainees hospitalised at the SMPR to benefit from outdoor time, the courtyard schedule has been modified.

The institution is still awaiting the redeployment of staff initially planned for the SMPR by the previous management of the inter-municipal hospital.

The medical team now accepts the need to analyse hospitalisations under Article D.398 of the Code of Criminal Procedure; this analysis should be carried out in 2021.

Any placement in the CPRoU is systematically notified to the health unit. The institution should develop a protocol with the health unit for possible uses of the CProU. The definition of a protocol for the use of these cells is planned for 2021.

Requests for interviews with the SPIP are processed within a week.

The resistance following the creation of penal constraint has been overcome and arrangements resulting from release under constraint are now more frequent. It remains necessary to put in place appropriate communication to make known the expectations of the State and affirm the know-how of the prison administration with regard to these new measures as well as to invest further in adversarial debates and sentence enforcement commissions, by positioning the prison administration in a relationship of assistance to judicial decision-making, while retaining the autonomy of its opinions.

A reflection aimed at harmonising the conditions for adjusting sentences, which would improve safety for detainees, is still necessary.

The CAP's hearing with the person applying for a first permission to leave could not be held.

The prison administration (institution management or SPIP) was not asked to participate in adversarial debates.

The average time taken for assignment referral and transfer files to be processed by the Interregional Directorate for Prison Services for the Amiens remand prison has been reduced to 19 days.

1.14 Bayonne remand prison (Pyrénées-Atlantiques) – January 2017 (2nd inspection)

The CGLPL identified eight best practices and made 43 recommendations.

1.14.1 *Best practices*

Best practices continue to be applied. These were:

- the continuity of the double visiting rooms;
- the CPAM's participation in the multidisciplinary release committees;
- the adoption of a protocol and a team project for the functioning of the USMP;
- the holding of "releasable prisoner" meetings in the presence of the USMP, now with an extended multidisciplinary scope in the form of CPUs;
- the health unit's participation in the CPUs in compliance with medical secrecy;
- the participation of the local mission's judicial advisor in the enlarged CPUs;
- the SPIP's multiple partnerships with integration structures, supplemented since 2019 by "trade" forums;
- the recently certified pre-release process in terms of administrative, healthcare and medical coverage documents, accommodation or housing and training.

1.14.2 *Recommendations*

The restructuring of the institution is scheduled for the years 2021 to 2023. This project takes into account the CGLPL's general and specific recommendations.

The institution persists in classifying incoming detainees under special "suicide risk" surveillance until they pass before a single multidisciplinary committee.

The institution claims that the main escort level is level 1.

In the absence of an internal video channel, an internal newspaper in paper version is published each month so that detainees are aware of information relating to the operation and organisation of detention. This information is supplemented by the distribution of flyers and posters in detention.

The welcome booklet has been supplemented to provide information about local accommodation options for outgoing prisoners.

The possibility of intervening at night for the benefit of the door guard now exists.

All those involved in the new arrivals' wing now fill in the GENESIS application with the exception of the health unit, despite several requests to that end.

The welcome booklet was updated in June 2018. Brochures dedicated to the Citizens' Advice Centre, worship, the Defender of Rights and the CGLPL are given to detainees during the new-arrival hearing.

The institution does not wish to install refrigerators in the cells of the new arrivals' wing. The toilets remain isolated by hinged doors, including in double cells.

All cells are now equipped with an induction hob.

The open wing has been secured by a video surveillance system, but the cell doors remain open at night for lack of toilets in the cells.

Computer equipment can be purchased from exceptional canteens.

The creation of two workshops is taken into account in the institution's master plan.

The information collected by the local education adviser during the new-arrival interview is transmitted to the CPU.

An acting guard was appointed in July 2019 to cover the absences of the sports instructor.

A socio-cultural coordinator dedicated to the Bayonne remand prison was recruited in 2019. His work was particularly beneficial during the lockdown.

The reorganisation of the visiting rooms has not been possible because it requires a major reorganisation of service; it will be studied in 2021.

The means necessary to better anticipate the use of visiting rooms could not be put in place. They will be sought in 2021.

Prisoners are frequently informed of the availability of prison visitors, but they are seldom solicited.

Makeshift work is planned to reinforce the confidentiality of interviews with lawyers.

Mail is now picked up by the postal officer, the USMP and chaplains in boxes that are positioned in detention and are accessible to all detainees.

The deployment of telephones in cells renders the recommendations relating to telephones obsolete.

Access to the telephone numbers of the CGLPL and Defender of Rights no longer requires prior authorisation.

The telephone number request form now specifies that the number of registered numbers is not limited.

The CDAD's intervention in detention remains to be developed. Lawyers are on duty on a monthly basis but the organisation should be stabilised because the intervention dates change frequently.

Information relating to religious services in detention is mentioned in the welcome booklet for new arrivals.

The prefecture now travels for the issuance or renewal of national identity documents. A protocol was signed in 2017 to facilitate the issuance or renewal of residence permits for prisoners.

Abusing searching has been the subject of a new framework.

Work has been carried out in the punishment wing; it was certified in 2016 and certification was renewed in 2020. A second punishment cell has been created to bring the sanction closer to its generating event.

Detainees are called upon twice a year for collective expression around different themes: cultural, religious, sports activities, canteens, incoming and outgoing prisoner guides, European elections, etc. Consultations are organised in writing, and the results are posted in detention.

The improvement of the USMP premises is planned as part of the building project.

Technical difficulties (network) still prevent drug prescriptions from being computerised.

The institution declares that the management of supervision during healthcare is individually tailored to the profile of each prisoner. Each decision is therefore individual and reasoned. However, the almost systematic removal of means of restraint leads to constant surveillance being favoured in medical sectors that are rarely secure.

The files of the Prison Rehabilitation and Probation Service are now sent systematically to the offices of the new place of detention and no longer only at the request of the prisoner.

In order to prepare for release, detainees are met with beforehand, but this procedure is difficult to systematise, particularly for the release of remand prisoners which intervenes with immediate effect.

The health unit is required to make outside appointments for detainees in order to ensure they receive healthcare after their release. It issues prescriptions upon release to allow treatment to be continued outside and a copy of the certificate of affiliation is given to the person leaving.

The Ministry of Solidarity and Health indicates that it remains vigilant as to respect for medical secrecy.

1.15 Rochefort remand prison (Charente-Maritime) – October 2017 (2nd inspection)

The CGLPL identified three best practices and made 21 recommendations.

1.15.1 *Best practices*

Best practices, which continue, concerned:

- a periodic multidisciplinary team meeting which enables general management and organisational issues to be addressed. It is the subject of a report distributed to all officers;
- the installation of a mailbox at the entrance of the institution, which allows families to question the institution;
- traceability of follow-up which promotes the quality of follow-up for persons detained by the SPIP.

1.15.2 *Recommendations*

The open wing has been rehabilitated; since the start of the health crisis, it has been used as an isolation sector for sick prisoners.

Provisions have been made to ensure the effectiveness by the prefecture services of the taking of fingerprints from persons detained in the remand prison; an agreement has been signed with the prefecture for requests from foreign detainees and the issuance or renewal of national identity documents.

Assistants are now paid according to the hours actually worked.

Newspapers are deposited in the library and are therefore available to prisoners. New subscriptions have been taken out since the inspection.

The procedures for accessing the visiting rooms are specified in the excerpt from the rules of procedure of the punishment wing given to each prisoner since 2020.

All cells in the Rochefort remand prison are now equipped with telephones.

Two annual meetings have been held with persons detained on the basis of Article 29 since January 2015. In principle, between five and 10 prisoners take part in all these commissions.

The coordination committee chaired by the ARS still does not meet every year, but the local health committee does.

The ARS was asked in July 2019 to revise the framework health protocol but has not provided a response to date. A protocol common to all the partners involved in the management of outpatient care should be completed by the end of 2020. A care protocol for detainees admitted to care by decision of the State representative remains necessary.

The systematic nature of wearing handcuffs during extractions and the permanent presence of escorts during medical consultations is the subject of a response in principle without any information allowing the reality of a personalised risk assessment to be assessed.

A project for the reorganisation or reconstruction of a USMP was set up in January 2019 but has not been acted upon for the moment.

The health unit has institutionalised a health committee, with one meeting per year, bringing together the somatic care system and the psychiatric care system.

A protocol now organises the treatment of addictions.

The health unit is now attached to a single division of the hospital.

The Ministry of Solidarity and Health indicates that it remains vigilant as to respect for medical secrecy but refers to national measures on this point.

The equipment and furniture of the health unit have been renewed but its premises have not changed.

The presence of a medical FTE for somatic care is not guaranteed.

A reflection on the strengthening of the psychiatric care system is deemed necessary by the Minister of Health but does not seem to be taking place.

A collaboration with Pôle Emploi and the creation of a local integration committee now allow for better identification of the learning programmes available locally in open environments and the search for arrangements favouring a better balance between vocational training and education.

1.16 Saintes remand prison (Charente-Maritime) – October 2017 (2nd inspection)

The CGLPL identified two best practices and made 11 recommendations.

1.16.1 *Best practices*

The head of the institution indicates in writing that certain persons detained because of their age or their criminal situation do not have to wear means of restraint. This practice remains valid.

On the other hand, the "Solidarité prison" association has disappeared and the resumption of some of its actions is not yet effective.

1.16.2 *Recommendations*

The open wing has been renovated, but the time constraints generated by the configuration of the premises remain in total contradiction with the vocation of the open regime.

There is now a procedure allowing detainees to obtain and renew their identity documents and residence permits.

Two general service jobs have been offered to women, but it is not possible to create new workshops; gender mixing has been put in place for certain activities but not for work. The control and accounting of work are now carried out on a weekly basis. Technical unemployment for lack of supply is still not subject to compensation.

The situation of the SPIP has gradually improved; its missions are now carried out in accordance with the texts. The SPIP has developed partnerships in order to offer housing prospects to the most desocialised outgoing prisoners.

The Saintes Bar has not responded to requests to strengthen its action in terms of advising and defending detainees for the implementation of sentence adjustment procedures. Nevertheless, each detainee heard in a debate for their proposed sentence adjustment has benefited from a lawyer after submitting a request.

A change of sentencing judge has allowed for a more open policy in terms of conditional releases and placements under electronic surveillance.

1.17 Strasbourg remand prison (Bas-Rhin) – June 2017 (3rd inspection)

The CGLPL identified 10 best practices and issued 67 recommendations.

1.17.1 *Best practices*

The organisation of mixed activities continues as does the possibility of mixing between minors and adults in the context of training and education. However, this mixing does not apply to minors under the age of 16.

To allow detainees placed in the solitary confinement wing, on the one hand, to not be more isolated than is strictly necessary in view of their profile and, on the other hand, to have regular access to socio-cultural or school activities, collective activity groups are still set up.

The remand prison has a website that is heavily used by families. During the lockdown, an e-mail address was made available to relatives of detainees so they could send them messages.

An officer is still assigned to the visit permit service.

The participation of the somatic and psychiatric care systems in the CPUs, mandating the people sitting there on the basis of a preliminary examination of the files and instructions on what can be reported during sessions, has continued as part of the certification process.

The possibility of involving interns on-site enables them to be trained in medical practice in a prison environment.

The prison administration is studying the generalisation of the “lessons and activities” booklet.

Education absenteeism remains managed with flexibility.

1.17.2 *Recommendations*

New tools have been integrated into GENESIS to improve knowledge of the prison population.

The proportion of people detained at the end of the week and released the following Monday has been sharply reduced since September 2017.

Overcrowding in the institution has decreased over the long term (826 inmates in 2013 compared to 641 in 2019). In 2020, the health crisis allowed for a short-term upturn without, however, the institution’s occupancy rate falling below 124%.

The rules of procedure were updated in 2018.

A technical director has been appointed and the institution has undergone an ambitious work plan: waterproofing of the channels and flat roofs of building B was carried out in 2018 and that of building A in 2019; the decrease in numbers has favoured the repair of cells and communal areas within detention; work has been carried out and the furniture renewed; the hot water system has been upgraded in two buildings; an annual renovation plan for the cells in the minors’ wing has been implemented with the renewal of furniture.

A specific welcome booklet for minors is distributed to each new arrival. Work to promote ownership of good-order measures and the disciplinary framework has been carried out during multidisciplinary meetings. A register of good-order measures is now kept within the minors’ wing and they are notified to detainees. Access to the exercise yard is systematically offered to each minor regardless of their belonging to a group defined by good-order measures. The common reflection with juvenile judges on the execution and enforcement of sentences concerning minors, recommended by the CGLPL, has not been put in place because the Minister of Justice considers that this is a matter for the judicial authority.

The presence of detainees in the exercise yard is subject to daily traceability, thus enabling any change in behaviour to be identified. The traceability of requests in GENESIS helps individualise treatment and identify prisoners who do not ask to sign up for activities.

An officer responsible for the management and supervision of the women's wing has been in place since 2020.

The schedule concerning outdoor time was modified in 2020 in order to dedicate a time slot and a exercise yard to the new arrivals' wing.

The entire institution has been equipped with intercoms since 2019. With regard to specific night surveillance, the institution declares that it applies the regulations, which does not guarantee that the prisoners concerned are not abusively awoken.

Contrary to the CGLPL's recommendation, the gratings have been maintained.

The canteen distribution process has been adapted to better respect the cold chain.

Control and monitoring measures for the work carried out have been reviewed with the concessionaire.

The deployment of GENESIS, the effective recording of working time for selected prisoners and the verification of individual situations by the head of prison labour limit errors.

A study for the creation of a toilet and shower unit next to the sports field is in progress.

A new library schedule has been drawn up, but the administration refuses to modify the pat-down search measures surrounding access to the library. In order to ensure the continuity of service operation, a second officer has been assigned to the socio-educational sector. The minors' wing has its own library with a consultation space also enabling activities to be organised.

The institution says that it studies requests for visit permits on a personalised basis but does not exclude the taking into account of criteria linked to the criminal past of the applicant. Reorganisation of the visiting rooms has made it easier to move around in detention and has improved visiting conditions. The relaxation of the conditions for booking visiting rooms will occur as part of the deployment of the "Digital in Detention" project. The modifications to the visiting room entrance area recommended by the CGLPL have been ruled out.

Improvements still need to be made to the rooms where interviews are held with lawyers.

The securing of the mail circuit recommended by the CGLPL has not taken place. The telephone recommendations have become obsolete due to the installation of phones in cells. Videophone points were to be installed in the last quarter of 2020.

Sessions with lawyers have been organised once a month since 2018.

A protocol on the handling of foreigners was signed in 2019 with the prefecture, but there is not yet any specific provision for the management of residence permits. Documents concerning detainees who do not master the French language are translated into the mother tongue of the detainee before notification. A translator can provide assistance before the disciplinary committee if necessary. The SPIP has translation tablets. Nothing is said about the recommendation to offer a larger number of books in foreign languages in the library.

With regard to searches, the institution claims to apply the regulations and review the list of people searched on a monthly basis. Internal memos have recently been updated.

The recording of video surveillance data in connection with events giving rise to the writing of an incident report is systematic and can be consulted by the disciplinary committee or transmitted to the judicial authority.

The punishment and solitary confinement wings were certified in 2018. Work to secure and cover the exercise yards in the solitary confinement wing has taken place. However, since the exercise yards are

shared by the punishment and solitary confinement wings and the violent prisoners' unit, it is not possible to open a second slot. Detainees in solitary confinement can now take a daily shower.

Procedures are communicated to the duty lawyer in compliance with the time frames set out in the Code of Criminal Procedure. The penalties pronounced are diversified and individualised with regard to the acts committed, as is the decision to withdraw sentence reduction credits.

Requests are processed within eight days.

The measures taken in application of prisoners' right of expression are now the subject of increased communication, but the people called upon to take part in this consultation are still chosen by the administration and not by their fellow prisoners.

The agreement relating to healthcare and detainees and the framework protocol have been in place since 2018.

The premises of the health unit have been renovated and the available surface area doubled. This work included the construction of a radiology room.

According to the Ministry of Justice, the CCTV cameras installed in a room exclusively dedicated to the activities of patients monitored by the SMPR were removed in 2019, after the premises were redeveloped. However, the Ministry of Health indicates for its part that despite the request of the healthcare institution, the surveillance camera has not been removed from the SMPR's activity room.

Regarding the use of means of restraint during medical extractions, no serious answer has been provided.

There is no written procedure on the terms of payment for consultations in Strasbourg hospitals. No modification of the existing procedure is envisaged for the moment.

A local prison security team will be deployed at the Strasbourg remand prison in 2021 to carry out all day and night extraction missions. Apart from extractions on night duty, all consultations in Strasbourg hospitals are carried out by officers from a dedicated team, also supported by supervisory staff. Officers are therefore fully aware of the confidentiality requirements inherent in respecting medical secrecy. Unless contraindicated or expressly requested by the doctor, the escort is not present during the consultation. The ARS for its part reiterated during discussions with the various penal institutions in the Grand Est region that the presence of prison guards during consultations and care undermines confidentiality and medical secrecy.

The Minister of Health indicated that the appointment of a single "healthcare for detainees" adviser for the Grand Est region should allow for the harmonisation of practices and the systematic holding of coordination committees, but he does not specify whether this person has been appointed.

The "health committee" combining the two healthcare systems was set up in 2019.

Regular visits to the punishment wing are carried out by one of the health unit's two doctors or by the doctor on duty. Assignment to the punishment wing does not entail any restrictions on access to the health unit.

Healthcare for detainees is now the subject of a protocol which includes a somatic care service project.

A radiology room has been created.

The use of means of restraint, which is beyond the responsibility of the health services, is being discussed at national level.

Consultation meetings take place regularly between the health unit and the SMPR, but there is no institutional manager for these two entities. Coordination committees for the health unit of the Strasbourg remand prison have been held every year, except in 2020.

Doctors now visit the solitary confinement and punishment wings at the regulatory frequency.

The hours of presence of pharmacists and assistants were increased by the 2018 protocol.

The information and awareness-raising for practitioners from Strasbourg university hospitals on the healthcare of detainees recommended by the CGLPL have not been put in place, but a national consultation seems to be under way to promote mutual knowledge of the institutions.

Computerised patient files have been operational since January 2020.

It seems that the links between the hospital and the health unit are being strengthened very gradually.

An analysis of the causes of cancellations of medical extractions is under way but does not seem to be producing any tangible results.

Notifications of unfavourable Assessment Board decisions which could be sources of tension are carried out either by the management in a dedicated office or at the registry. Other notifications are made by a registry officer in cells.

1.18 Troyes remand prison (Aube) – February 2017 (2nd inspection)

The CGLPL identified three best practices and made 38 recommendations.

1.18.1 *Best practices*

The three best practices identified remain in force; these were:

- the systematic examination in a CPU of the situation of outgoing detainees and of those whose situation has not been addressed for more than a year, which draws the attention of those involved to these people's needs;
- individual contact between each detainee and the staff outside the cell during the individual control of passes, carried out every Sunday to detect possible mistreatment taking place within the dormitory cells;
- the possibility of grouping people in solitary confinement in the exercise yard according to requests and profiles.

1.18.2 *Recommendations*

Contrary to the CGLPL's recommendation and the DAP's official standards, the institution persists in including beds installed beyond its accommodation capacity in the "operational capacity" that it shows to the judicial authority.

Evaluation board meetings have resumed.

The 3rd division's collective showers were renovated in 2019.

It has not been possible to install a shelter for people coming to the door of the institution.

The function of head of detention is again identified and filled.

Some of the mattresses and blankets are replaced every year. There are enough of them.

A note listing the materials and objects prohibited in detention was displayed in the cloakroom in 2020. It is included in the rules of procedure given to new arrivals.

Outdoor time slots dedicated to vulnerable people exist, but the configuration of the courtyards deters some people from going out.

All sports equipment has been replaced in the past three years.

Bags of laundry are available to detainees who have few or no visits whenever they request them. The institution handles the washing of personal belongings in the laundry room. There is a “washing” canteen.

Uniforms dedicated to kitchen workers have been purchased, but the configuration of the kitchens does not allow for the installation of changing rooms and a shower.

Prospecting to find jobs for the workshop has been relaunched, without any success for the moment. Two new general service positions (painters) have been created.

The classroom is now reserved for the teaching team and locked. Movements to the teaching area now seem to be fluid.

Newspapers are once again available in the canteen.

The number of visits is respected, i.e. three days for remand prisoners and two days for convicted prisoners. The visiting room has been rehabilitated but remains collective.

Meetings between the SPIP and prison visitors are not institutionalised, but the small number and seniority of the visitors provides them with easy access to the administration.

Since the end of 2019, telephones have been installed in all the institution’s cells.

The objectives of the CDAD have been reoriented towards the prevention of traffic offences.

No interpreting agency is available locally. However, several freelance interpreters work nearby.

A protocol concerning the renewal of national identity documents and residence permits has been established since 2019.

The SPIP, now assisted by a social worker, efficiently manages files relating to the allowance for disabled adults.

An incident management protocol was established with the public prosecutor’s office on 21 December 2017. Individualised incident management instructions are issued according to the risks and the dangerousness of people.

To improve the quality of incident reports, training in professional writing has been put in place and most officers underwent this training in 2017.

The punishment and solitary confinement wing is now supplied with hot water. Renovation work was undertaken there in 2018 and 2019.

It is stated that during medical extractions, the security level of the escorts is personalised; however, there are no quantified data to assess the results of these measures.

The health unit sector was renovated in 2019 (painting and creation of a fresco), but no new premises were created due to a lack of space.

The waiting period for a meeting with psychologists has been reduced from six months during the inspection to one to two months. Nothing is said, however, about waiting times for an appointment with the psychiatrist.

The remand prison has had a new vehicle dedicated to medical extractions since 2018. No extraction has since been cancelled for lack of a vehicle.

Since September 2018, the SPIP team has grown. In 2019, the service was mobilised to improve access to social rights for detainees. The service is continuing this work of (re)creating partnerships in order to set up discharge plans (accommodation, social rights, etc.) and renew existing offers.

The availability of psychologists has been doubled so that the absence of the care requested by the judicial authority does not harm prisoners.

Measures have been taken to support releases from prison with local partners – municipal centre for social action, departmental council, residence for the elderly and Secours Catholique – in order to provide for the payment of the RSA, accommodation solutions, and human support.

1.19 Villepinte remand prison (Seine-Saint-Denis) – April 2017 (2nd inspection)

The CGLPL identified eight best practices and made 58 recommendations.

1.19.1 *Best practices*

A reorganisation of service had reduced absenteeism, but the massive departures and arrivals of supervisory staff caused the benefit of this consultation to be lost. Today, the rate of absenteeism is at its highest despite favourable service for officers. The poor reputation of the institution, maintained by the ENAP, is a major problem.

The respect module is an interesting approach that aims to reduce violence and promote people's autonomy with a reduction in security constraints. It also allows for the professional repositioning of the officers concerned and improves job satisfaction. A wing for young adults inspired by this success has been created.

The regular interventions of the psychiatrist in the specific wing give the prison officers elements of understanding with a view to improving the care of detainees.

In line with the regular sessions for the analysis of practices common to prison and educational staff working in the minors' wing identified by the CGLPL, a CPU dedicated to detained minors with a weekly thematic component was set up in 2019.

The attention paid to the diet of detainees has led to a notable improvement in meals.

The postal officer continues to personally inform the detained person that a letter to be delivered in a sealed envelope has been opened by mistake and delivers it to them personally.

The SPIP continues its work of identifying and evaluating the situation of remand prisoners in order to offer the investigating judges alternatives to pre-trial detention.

1.19.2 *Recommendations*

Beyond the very positive figures on sentence adjustments (cases dealt with outside of debate in order to optimise any release), work on measures of release under dynamic constraint has been undertaken by the sentence enforcement service and is giving encouraging results. Indeed, out of 40 files presented each month, 20 are accepted by the sentence enforcement judge. A modification of the alphabetical distribution key for the prisoners of the Bobigny judicial court made in October 2019, combined with clearance transfers from the structure carried out during the first half of 2019 to the Paris-la-Santé prison complex, have helped reduce the number of placements in prison.

The rules of procedure were modified in July 2018. Copies of the version in force have been deposited at various reading points as well as at the library of the new arrivals' wing and at the central library. It is currently being updated. It may then be translated into several languages.

Some of the showers in the detention area were renovated in 2018 and 2019.

A sign indicating the existence of a video surveillance system and the access and rectification procedures, currently not very visible, will be installed at the entrance to the prison.

The removal of gratings from cell windows has not been planned.

Since 2019, new arrivals have been able to join the trustee regime at the end of their welcome period.

The range of activities has been supplemented by the activities developed by the prisoner activities commission of the trustee regime. Work there was very developed in 2019 and the number of people in paid employment has tripled.

The participants in the committees of the respect module have been better supervised and informed about their missions and their objectives. The SPIP has reinvested in all the bodies organised within the trustee regime. The terms and conditions of the various committees were reconsidered in 2019 in order to set precise and clear objectives for all participants.

The awarding of points based on the evaluation of objective and concrete facts continues and has been objectified. Another avenue of work, planned for 2021, lies in the possibility of linking the work of the PEP psychologist and the trustee regime's monitoring committee with the hearing with the detainee before a collegiate body for an assessment and determination of the objectives to be achieved during their placement in the trustee regime. The monitoring CPU meets on a fortnightly basis.

The institution persists, despite the CGLPL's recommendation, in excluding all the occupants of a cell from the respect regime after the discovery of a prohibited object or substance in disregard of the individual responsibility of everyone.

The committee recommended by the CGLPL to regularly review the decision to systematically involve security teams with certain detainees accommodated in the specific wing has not been set up.

The officers in the "specific wing" benefit from specific training (e.g. suicide prevention, mental disease, etc.).

Work is under way to grant activities to prisoners in the specific wing that match their profile. Prison visitors and the health unit have been called on to that end. No new activities are possible in the context of the health crisis. The reflection will be resumed in 2021.

The Judicial Youth Protection Service (PJJ) no longer issues booklets to minor detainees or their families.

The Judicial Youth Protection Service in conjunction with the national education system are working to increase the interventions of guidance partners and in particular of local missions whenever a need is expressed to this end. These actions are mainly intended to ensure educational follow-up and guide minor detainees as best as possible upon their release. Since September 2020, unaccompanied children have accounted for more than half of the population taken in by the institution, so they cannot be monitored on the outside.

Activity schedules (animal mediation, toy library, weight-lifting, gymnasium, circus, highway code, percussion, etc.) have been established for school holidays since 2019. The institution takes over from the PJJ for the continued intervention of the "Sport pour tous" (Sport for all) association. The health context has put a stop to all collective activities, except for school activities, and the arrival of any external workers.

The PJJ's youth workers now have access to GENESIS software in order to better share information relating to minors.

The handling of and pre-release process for unaccompanied foreign minors are coming up against increasing failures. The number of incarcerated unaccompanied minors has increased considerably and represents almost 50% of the population in the minors' wing. All stakeholders are struggling to offer appropriate care.

A sheet for assignment to sentencing institutions has been drawn up so that prisoners can express their wishes.

The processing of assignment referral files has been sped up since the inspection but remains lengthy.

The institution's organisation chart is regularly reviewed, but the question of accommodation out of absolute necessity of service continues to weigh on the assignment and retention of officers.

During the detention procedure, new arrivals are invited to place a phone call to inform their relatives. Telephones have been deployed in all cells, including those in the new arrivals' wing.

The welcome hearing in the new arrivals' wing allows dialogue to be initiated on the subject of violence. In addition, an adviser has been appointed as part of the plan to combat violence in detention.

The cost of television rental is divided up between the occupants of the cell.

The very high level of overcrowding does not allow two periods of outdoor time to be organised per day which, although in accordance with the regulations, is unfortunate. This seems well received by the prison population. Urinals have been installed in the exercise yards.

Detainees held in ordinary detention still only benefit from three showers per week. Detainees kept in the trustee regime have free access to the shower throughout the day.

The management of the canteen has not posed any problems since April 2017.

The institution has set up mechanisms for consulting the prison population in the form of menu committees, but the health crisis has limited the planned initiatives while providing an opportunity for exchanges relating to the management of this crisis.

An artistic activity room was set up in 2019 to primarily accommodate activities funded by the Regional Directorate of Cultural Affairs in conjunction with the SPIP. The number of activities varies depending on the period and funding. Library time slots have been extended as much as possible, but the ability of working prisoners to visit the library is uncertain. The library was closed for most of the year due to the health crisis.

Work to extend the entrance has not been scheduled due to the forthcoming construction of the extension to the institution. Difficulties in making appointments in the visiting room have been resolved with the introduction of online appointment booking. As part of the "Telephones in Detention" project, the Prison Administration Department is deploying a videophone system. External parties now have the possibility of reserving visiting rooms in advance.

The confidentiality of the content of letters sent to the Defender of Rights' representative is now preserved.

A photographer travels once a month for identity photos. The renewal of residence permits is organised by the new protocol for the deportation of foreigners signed in September 2020 between the institution, the SPIP and the prefecture. The SPIP is responsible for acting as a liaison between the detainee and the prefecture.

Detainees were able to exercise their right to vote at the Villepinte remand prison for the European elections in 2019 and the municipal elections in 2020. Ballot boxes were installed in addition to voting booths for postal voting. The spread of postal voting is in progress so that the system will be effective for the upcoming elections.

The institution says that it carries out searches in compliance with the regulations, but there is nothing enabling their number to be assessed.

The search rooms, installed in different sectors of the prison, where they cannot be seen from the outside, are equipped with regulatory equipment. Search rooms have been created at the registry. In the buildings, search rooms cannot be created until showers have been installed in the cells.

All levels of escort are reviewed prior to any release of a detained person and following sentence enforcement commissions granting permissions to leave or additional sentence reductions. However, there are no data for assessing the reality of this personalisation.

Minors continue to be placed in the punishment wing near remand prisoners in solitary confinement who are often involved in serious cases.

Movements to the solitary confinement and punishment wings, especially upon returning from the exercise yard, seem to have become fluid again.

External assessors in disciplinary committees are systematically summoned. The same applies to lawyers if detainees request their assistance. Their absence is therefore not attributable to the administration. An additional external assessor has been approved.

Detainees kept in the solitary confinement wing can go to the library as well as to the gym dedicated to this sector. The grouping of several prisoners in solitary confinement is possible after an evaluation of their situations, if their profiles are compatible.

Discussions are continuing between the management of the hospital and the prison administration to improve day-to-day healthcare for detainees and reduce waiting times for consultations.

The Ministry of Solidarity and Health indicates that it remains vigilant as to respect for medical secrecy. The institution considers that during medical extractions, means of restraint are used in accordance with the regulations in force, but no figures are available to assess the reality of this personalisation. The human resources devoted to medical extractions have not been reinforced as recommended.

The recruitment of medical and nursing staff remains difficult in all USs and SMPRs in Ile-de-France, which has not made it possible to increase the number of general practitioners and psychiatrists.

Since the inspectors' visit, the nursing team has been renewed in its entirety and this has also been an opportunity to reorganise the nursing schedule and tasks. Systematic reception (psychiatric and somatic) of new arrivals by the nursing team is now planned. The lack of staff in the nursing team prevents these systematic meetings with new arrivals from being organised, but if necessary, the psychiatric team intervenes quickly with new arrivals. The physiotherapist still benefits from a shared room in 2020 and his duty time has not been increased.

A specialised translator is available for the medical staff (internal service), via a dedicated line. The health part of the rules of procedure is being updated; it may then be translated into several languages, like the other parts.

The processing of requests now enables detainees to be received within a period of one week after receipt of letters. Emergencies are taken into account. Visits are made twice a week to the solitary confinement and punishment wings. Interviews can, however, take place through the gate of the cell's entrance airlock. The health unit was able to recruit several psychologists at the end of 2019. The doctor in charge of the team organises care and carries out support interviews.

The procedure implemented in the context of suicide prevention was reorganised in 2019. Participation of the health unit enables specific surveillance measures to be more effectively evaluated and defined.

1.20 Women's remand prison – Fresnes prison complex (Val-de-Marne) – September 2017 (2nd inspection)

The CGLPL identified two best practices and made 26 recommendations.

1.20.1 *Best practices*

The women incarcerated in the women's remand wing of the Fresnes prison complex are willing to invest in actions to improve their detention conditions. The management consults them willingly.

A partnership with the Paris Institute of Political Studies is still in progress to strengthen the Citizens' Advice Centre and ensure interventions within the women's remand prison. The renewal of this partnership is planned for 2021.

1.20.2 *Recommendations*

The redevelopment of the exercise yards, recommended by the CGLPL, has been the subject of studies but no prospect of implementation has yet been defined.

Rat extermination has been the subject of consultations, numerous interventions and a regional contract, and the number of dead rodents found has increased. The pest control action plan continues at the institution. While there are fewer rats in the women's remand prison than in the men's remand prison, they still have not been eradicated.

The showers will be refreshed in 2021 but will only be renovated later as part of the property master plan. Particular attention is paid to their maintenance.

The electrical network does not allow a refrigerator to be installed in each cell. The cupboards have not been changed for reasons of space.

Menus are distributed in cells at the women's remand prison at the start of each week. A "menu" committee has been set up. The autonomous kitchen reopened on 1 March 2018; it is accessible every day of the week for six people at a time.

The supply of clothing to detainees arriving without sufficient resources has evolved and now also concerns pregnant women. A partnership with an association has helped expand the supply of clothes. An external canteen has been available since summer 2020.

Latches have been placed on the cubicles in lawyers' visiting rooms to guarantee the confidentiality of the interviews.

The construction of UVFs, necessary with regard to the lengthening of stays for female prisoners, is being explored through studies which should ultimately allow at the very least family visiting rooms to be constructed.

Measures are being studied to promote discretion relating to incarceration on the visible part of mail. The welcome booklet now informs inmates of possibilities for contacting the CGLPL by post and states that this mail is not checked.

Telephones are being set up in cells and videophones will be implemented in the women's remand prison at the end of 2020.

The continuous working day has been in place since 14 September 2020. This new organisation suits everyone; it facilitates access to schooling for workshop operators.

Studies are under way to take into consideration the current tedious conditions for receiving the products delivered. No changes have yet taken place.

A sports instructor intervenes several times a week and offers two weekly sports slots as well as occasional activities.

The possibility of Internet access, recommended by the CGLPL, has been ruled out in favour of the deployment of the Digital in Detention project.

The delivery of magazines and newspapers to which the institution subscribes has been secured; they no longer seem to get lost.

The new protocol relating to the processing of requests for the issuance or renewal of national identity documents has been in place since 2019, but the processing times have so far not enabled a file to be completed before the release of the person concerned. The protocol also ensures better visibility concerning the administrative situation of foreign detainees from the moment of incarceration and facilitates the anticipation of possibilities for regularising the situation or for deportation.

With regard to searches, five service instructions were issued on 17 October 2019 in order to bring the institution into compliance with the provisions of Article 57 of the Prisons Act. Training measures have been taken and GENESIS ensures traceability. However, no information is given on the proportion of persons subject to full-body searches.

The wearing of handcuffs during extractions and the permanent presence of escorts during medical visits are supposed to comply with the regulations. The escort levels of detainees are periodically reassessed. Procedures for the use of means of restraint for pregnant women and during gynaecological examinations have been reviewed. However, nothing is said about the number of escorts carried out under the most restrictive security regimes. The Ministry of Solidarity and Health indicates that it remains vigilant as to respect for medical secrecy, including during medical extractions.

A study was carried out by the Val-de-Marne SPIP concerning the system of release under constraint, in order to draw up a programme and define procedures for managing detainees domiciled in Val-de-Marne. The granting of release under constraint has been increasing since 2017 but this movement, which was especially noticeable in 2020, may simply be the result of the health crisis.

The SPIP has a base of partners who have been working in the prison complex for several years and who are regularly called upon to set up new mechanisms to promote reintegration.

The Minister of Justice refrains from taking sides regarding the hearing before the CAP with the person requesting a first permission because this is a matter for the judicial authority.

1.21 Saint-Martin-de-Ré long-stay prison (Charente-Maritime) – May 2017 (3rd inspection)

The CGLPL identified eight best practices and made 69 recommendations.

1.21.1 *Best practices*

A monitoring unit, which meets twice a year to deal with psychosocial risks, promotes good knowledge of staff and anticipation of difficulties, tending to lessen the negative effects of the institution's structure on human resources management.

The collective reflection is continuing for the monitoring of the new arrivals' wing and another one has been set up for outgoing prisoners.

In the new arrivals' wing, which has moved since the inspection, facilities are dedicated to hearings and a common room is made available in particular for holding CPUs. In addition, incoming prisoners are invited to appear before the CPU.

The exercise yards, which are real living spaces during the day, thanks to huts allowing the storage of sports equipment, access to washing machines and the possibility of cooking, were completely redeveloped in 2017 and 2018 with direct access to sports infrastructure.

The supervision of the nursing teams, relating to professional practices, provides the opportunity to reflect on the tools used and the multidisciplinary approach.

The prior paid training of sewing operators ensures adaptation to the workstations offered by the SEP-RIEP.

General service work is enhanced by the acquisition of skills recognised by a professional credential.

The ability of the learning centre to support individual projects is a factor in the success of studies.

1.21.2 *Recommendations*

Since the inspection, the institution has undergone major construction campaigns: sports facilities, exercise yards, replacement of windows, security work, kitchens, health units, etc.

A study is under way for the creation of a cell dedicated to people with reduced mobility.

The new gymnasium, built a few metres from the front of the barracks, deprives the occupants of part of the first two levels of this building of any view of the outside and of a majority of natural light; this inconvenience cannot be corrected.

The “Cyber base” project, far from the objectives originally set, has now been abandoned in favour of the national “Digital in Detention” project.

Faced with the inappropriate behaviour of certain professionals which propagates a poisonous climate, training in the management of aggressiveness in crisis situations has been put in place; 113 officers have benefited from it. Added to this is monitoring of intervention techniques (55 officers) and training related to the installation of individual portable video cameras. Memos and reflex sheets have been distributed and the pairing of newly assigned officers has been instituted.

The updating of posted information has been improved.

The social service assistant has organised several collective information campaigns on the establishment of a declaration of taxable income.

The long-stay prison still does not have an internal video channel. No need has been expressed in this regard.

A reflection on the creation of a differentiated regime has been carried out. Preliminary work is necessary; it has been requested. The detention regime therefore remains uniform for the time being.

New spaces have been created for socialising and outdoor activities. Sports and socio-cultural activities have been set up (animal mediation, action on parenthood, local development project for externally placed detainees). Some of these activities are intended for people who rarely leave their cell; other inclusive projects are under way. Registration coupons for activities are systematically distributed in cells and information is disseminated in detention.

The socio-cultural coordinator has been replaced.

The necessary computer equipment has been provided.

The organisation of the single multidisciplinary committee (CPU) on individual sentence plans (PEPs) has been modified in order to favour exchanges with the detained person and allow them to revitalise their individual sentence plan. Care and follow-up by the PEP psychologist have been refocused on identification and reporting with a more qualitative approach.

Workers’ pay levels have been raised and are now above the regulatory thresholds. There are no unpaid general service positions. However, the readability of payslips, which depends on national software, has not been improved.

The daily presence of workers and trainees is now certified. The history of a detainee’s work and training activities within the institution is now placed in their detention file. This file is attached to the registry file in the event of the release or transfer of the person concerned.

The training commitment document governing the relationship between the prison administration, the training organisation and the trainee has been modified and now traces actual contacts between the parties.

There is nothing to suggest that general service working conditions have changed, even though an inspection by the labour inspectorate in 2020 did not note any particular difficulties.

Workers in charge of making nets can now access education like other workers.

Inmates enrolled in university education can only access the digital workspace through the teaching team. These prisoners have computers that are not connected. Monthly sessions are organised by the university library within each wing. Books are also lent for a full year; the local education unit also purchases necessary books as needed. No detainees have been prevented from receiving university documents on electronic media.

The procedure for ordering external canteen products has been modified.

A reminder of the elusive nature of the €20 in aid paid to people without resources has been issued.

Visiting rooms are now monitored without interruption.

The service of the postal officer is organised to be permanent, but with two backup officers who do not have all the necessary clearances. Since 2020, telephones have been deployed in the cells of the long-stay prison.

The existence of the Citizens' Advice Centre is made known and people likely to use its services can be supported by the SPIP. The answers given to the Defender of Rights' representative are monitored by the management secretariat.

Notifications are carried out by court registrars who move about within detention buildings and are made in a hearing office; they can nevertheless be carried out in part by those in charge of detention.

An official from the prefecture now travels to the long-stay prison every three months to take the fingerprints of detainees and processes all requests for the issuance or renewal of national identity documents. All the photographs taken at the long-stay prison comply with the standards in force.

The management issues regular reminders to the officers in charge of scheduling searches. The provisions of Article 57 of the Prison Act are applied. The number of searches carried out is controlled. Full-body searches during cell searches are no longer systematic.

The prison assessor who sits on the disciplinary committee is a detention officer and not an officer of the brigade assigned to the punishment and solitary confinement wings. Rotation of this function has been organised. The regularity of disciplinary procedures is well controlled within the long-stay prison. The number of sanctions cancelled by the hierarchical authority after their execution is very limited.

An activity room with a space dedicated to the library and a room in which a weight machine is installed are present in the solitary confinement wing, but no group activities are organised.

Computer terminals are in service allowing requests to be expressed, but a large number of prisoners send requests by post.

Participatory meetings have been organised for activities, sports, visiting rooms and UVFs.

Meetings dedicated to the assessment of escort levels are organised every three months. Nothing is indicated concerning the proportion of prisoners classified in the various levels. A note from the management of the long-stay prison dated 1 February 2019 provides for the possibility, for detainees benefiting from permissions to leave, of not using means of restraint in the context of medical extractions. The terms of use of force and means of restraint and the necessary traceability of procedures were reiterated in a note from the management of the institution dated 26 October 2017.

The processing time for requests for reassignment from detained persons is the subject of procedural work, but no information is given on its possible reduction.

Signage has been installed at the entrance to the USMP's facilities stating that it belongs to the La Rochelle hospital. Work has improved the premises of one of the health units and is in progress for the other.

The health protocol and its appendices were updated in 2018 and 2019. Health committees have been set up to formalise regular meetings, which already existed, between the prison administration and the health unit.

The clinical meetings set up by the health unit were formalised in 2018. The videoconferencing system now allows for telemedicine exchanges and consultations with other hospital departments.

X-rays are performed in a private practice located in Saint-Martin-de-Ré, which allows easy extractions for rapid treatment. The hospital group has no plans to invest in radiology equipment for the long-stay prison.

The guard responsible for recording medical appointments in GENESIS is never in possession of patient letters and therefore does not know the nature of the request, which is never recorded.

The development of telemedicine for anaesthesia consultations should help limit extractions before hospitalisation, but it is not yet operational, so that many consultations are still cancelled at the last minute.

The multi-year programme for the management of sex offenders should be formalised by the team at the assessment and care centre for sex offenders, who have benefited from an intra-prison consultation every week since 2018.

The analysis recommended by the CGLPL relating to refusals of admission to the UHSA has not been carried out.

The working hours of the health manager and the nursing staff working in the health unit should be reassessed to take into account all the missions entrusted to them.

USMP staff should include a pharmacist and also a pharmacy assistant present on-site.

Under no circumstances should medical consultations be subject to nominative statistical processing.

2. Mental health institutions inspected in 2017

2.1 Amilly Montargis hospital (Loiret) – February 2017 (1st inspection)

The CGLPL identified four best practices and made 29 recommendations.

2.1.1 *Best practices*

The facilities of the psychotherapeutic hospital unit (UHP) are recent, well designed and very well maintained.

The psychiatry unit is fully integrated into the management of the general hospital which supports its medical project.

Professional exchanges with other departments allow the psychiatry sector to be decompartmentalised and encourage applications from caregivers.

The space dedicated to activities is very well designed and pleasant and the many facilities provide a breathing space appreciated by patients.

2.1.2 *Recommendations*

The institution says that any doctor who signs a change of status travels to examine and inform the patient.

The complete legal register is in the process of being implemented, in order to be formalised in the rules.

The outdoor spaces have been equipped with furniture.

Courses on the rights of patients in psychiatry are now offered in the training programme, covering for example the different modes of involuntary hospitalisation, restraint in psychiatry and anything that can be useful in order to provide the best possible care to patients.

The welcome booklet has been updated in order to refer to all the rights of patients and to inform them correctly about the rules of everyday life.

The welcome booklet now provides for the exercise of the right to vote.

The procedure for designating a trusted person has been formalised.

Freedom of movement has been slightly expanded and the spaces available for this have been arranged.

Internet access could not be configured; however, the institution is looking for solutions to do so.

Pyjamas are worn only by medical decision and according to the patient's condition. Gowns are very seldom used and their use is subject to supply.

A paramedic is currently present in the occupational therapy unit, and there is active participation between the occupational therapy unit and the nursing teams. A weekly planning board is visible in each unit.

The completeness of referrals to the Liberty and Custody Judge is ensured according to the legislation.

Coordination with institutional representatives for the accommodation of patients who have to be discharged has been improved but remains complex.

A procedure for handing over the property of involuntary patients has been written and is awaiting validation.

Work has been carried out in the seclusion rooms to meet the CGLPL's request.

Seclusion measures are not taken for disciplinary purposes. The decision is strictly medical. The initial medical prescription determines placement in a seclusion room. It is never a response to behaviour deemed inappropriate or an act to prevent a patient from running away.

A somatic doctor is assigned to the UHP and his monitoring of secluded or attached patients is traced.

A seclusion and restraint register is in place.

2.2 Dax hospital–Côte d'Argent (Landes) – December 2017 (1st inspection)

The CGLPL identified one best practice and made 31 recommendations.

2.2.1 *Best practice*

The staff assigned to the CAP is made up of nurses with identified and assessed psychiatric skills.

2.2.2 *Recommendations*

To date, all the rooms are equipped with a call system with a repeater in the nurses' office and the pantry.

The expansion of the facilities of the psychiatric emergency department is part of the emergency department's architectural project (2022). The equipment of the seclusion room has been reviewed.

Medical projects are under way at various levels (departmental, GHT, complex).

Care practices are harmonised by the Board of the Inter-Hospital Medical Federation between the hospitals of Dax and Mont-de-Marsan.

To date, there is still no psychologist assigned to the general psychiatry unit (UPG).

Therapeutic workshop projects have been written, validated and implemented by the multidisciplinary team. The investments granted enabled equipment to be acquired and the architectural work was completed at the end of 2020.

UPG patients have been visited on Tuesdays and Fridays by an internal medicine doctor from the Dax hospital since November 2019.

A "Quality of medicinal treatment – tools for healthcare institutions" project is under way throughout the institution.

The institution affirms that the practice of seclusion remains a treatment of last resort but does not say anything about the concept of sensory isolation.

The reorganisation and reorientation of the UPG still need to be worked on with the ARS. This work has not yet been able to take place.

The current paramedic team has stabilised over the last two years and benefits from support through training and supervision: in particular job adaptation training and team training in violence management.

The operating rules of the UPG have been revised. The rights of patients hospitalised in psychiatry are disseminated by posting the "Your stay in hospital" document proposed by public mental health institutions and the Conference of CME Presidents.

Complaints and claims are centralised in a register with the management secretariat.

The trusted person is designated and informed by telephone.

A protocol has been implemented in the institution with the necessary conditions for patients to be able to exercise their right to vote within the UPG (information, proxy voting, etc.).

The chaplain comes to the department twice a year to introduce himself and educate the team. The welcome booklet mentions the possibility of using the representative of the religion of one's choice.

The free movement of patients is the rule and the institution ensures that restrictions are exceptional and respect the patient's rights.

Authorisation for patients to use the landline phone in their room or own a mobile phone or a computer is the norm and prohibition the exception.

Patient rooms can be closed if a request is submitted to the paramedic team.

The theme of sexuality will be the subject of a request to the ethics committee for a common and general reflection for the institution.

The keeping of the legal register by the reception service is complete and up-to-date. This register is not computerised but is filled in exhaustively.

The institution ensures compliance with the exceptional nature of refusals of short-term leave by the prefecture.

There are agreements with medico-social facilities to promote placements of patients whose condition allows them to be discharged from the hospital.

2.3 Douai hospital (Nord) – May 2017 (1st inspection)

The CGLPL identified five best practices and made 22 recommendations.

2.3.1 *Best practices*

All caregivers have received OMEGA training, with some having an additional session.

The regularity of the meetings of the Committee for User Relations and Quality of Care (CRUQPEC), which became the User Committee in 2016, the presence of user representatives and in particular those monitored in psychiatry, and the reports and information provided by the quality department are all noteworthy.

The welcome booklet of the Attentive Psychiatric Care Unit (USAP) has a version accessible to hearing-impaired or mute people and another for the visually impaired.

A decrease in the number of placements in seclusion and in their average duration between 2015 and 2016 was noted; since 2017, the number of placements and the average duration of seclusion have stabilised.

Socio-therapeutic activities are part of the therapeutic approach; they contribute to strengthening the caregiver-patient relationship and help mitigate the impact of deprivation of liberty for some patients.

2.3.2 *Recommendations*

A copy of the prefectural admission decision and a note specifying the avenues of appeal are given to patients.

The welcome booklet was updated in October 2020 with the insertion of information on the hospitalisation of patients admitted to involuntary care.

An audit on the completeness and traceability of the legal register has been carried out. The results are being analysed.

Caregiver-patient discussion groups are set up in each unit according to a schedule defined depending on the department. The themes are chosen by the patients. Annual “Seclusion and restraint” reports are presented each year to the User Committee.

Participation in a Local Mental Health Council (CLSM) has been part of the medical project since 2014 based on requests from elected officials. It materialised in September 2020 with the recruitment of a coordinator.

The institution monitors changes in the HAS’s recommendations in terms of quality indicators for psychiatry; an improvement action plan is being developed.

The creation of a satellite pharmacy for internal use within the Pussin clinic has not been adopted.

Since the CGLPL’s inspection, the duly completed information sheet has been systematically sent to the JLD.

The institution has repeatedly asked the Douai judicial court and the JLDs for the hearings of the Liberty and Custody Judge to be held on the premises of the hospital. The requests have gone unanswered.

An individualised care plan aimed at recovery and autonomy for each hospitalised patient is proposed and organised with the advice of the medical and nursing staff, but restrictions continue to apply to voluntary patients.

The institution does not wish to give patients the ability to lock themselves up in their rooms from time to time "because of the risk of suicide".

The institution persists in “outsourcing” sexuality (hotel room or return home) and reserving it for institutionalised couples.

A "menu committee" is difficult to set up.

The hours for making telephones available to patients have been extended, but the use of personal mobile telephones remains regulated.

The "Seclusion and restraint" report is presented each year in the CDU to user representatives and can be consulted on request by the authorities provided for by law.

The creation of a calming room in each unit is planned in the medical project in order to avoid resorting to seclusion and restraint measures as much as possible.

The entire staff of the adult psychiatry unit is trained in OMEGA interpersonal calming and negotiation techniques.

Validated procedures relating to seclusion and restraint are in the process of being signed.

Encouraging and even assisting with the maintenance of personal hygiene are part of the interventions of the nursing staff. A washing machine is available to patients for laundry.

2.4 Hénin-Beaumont hospital (Pas-de-Calais) – April 2017 (1st inspection)

The CGLPL identified three best practices and made 28 recommendations.

2.4.1 *Best practices*

The freedom of movement offered to patients in the hospital park contributes to their well-being.

The general level of constraint weighing on patients is low and makes them responsible for the organisation of their time.

The establishment of a committee dedicated to the search for medico-social reception structures which, during the inspection, facilitated the discharge of patients and the placement of people who did not have their place in psychiatry, has been expanded. Since 2018, nurses have been travelling to medico-social structures welcoming former patients in order to maintain ties and avoid re-hospitalisation.

2.4.2 *Recommendations*

Complementarity in the provision of care is ensured with the Hénin Beaumont polyclinic; emergency department interns can contact a senior psychiatrist based at the reception and orientation office of the Hénin-Beaumont hospital at any time to allow a patient to be received in the best possible conditions.

The psychiatry unit has included the theme "patients’ rights and caregivers’ responsibility in psychiatry” in its training plan. In 2021, a focus on seclusion and restraint practices will be added. In addition, a training programme is being developed and should be finalised in 2021. It addresses seclusion and restraint practices. A clinical reflection group around restrictions of individual freedoms has been set up.

A section specific to the psychiatry unit will be appended to the general welcome booklet. A written document on the rights and duties of third parties is currently being drafted. A document describing the rights and remedies of involuntary patients is given upon admission and their signature affixed.

Since 2017, the trusted person designation sheet has included the acceptance signature of the trusted person themself.

For each election, patients are informed of their right to vote (list of patients wishing to go and vote, implementation of the necessary arrangements and authorisations, information by posting, etc.).

The list of representatives of the various religions has been updated. Depending on the mental state of the patient, religious representatives may visit the care units.

The possibility of closing patient rooms from the inside is being studied.

Administrative decisions now include references to delegation of signature.

The list of documents that must appear in the legal register has been reiterated.

Since 2019, JLD hearings have taken place, with regard to involuntary patients hospitalised at the Hénin Beaumont hospital, within the Val-de-Lys mental health institution (EPSM) in Saint Venant. During the health crisis, hearings were held by videoconference in the majority of cases and in person when the need was evident.

The rules of living have been rewritten.

A survey of needs for the repair or replacement of safes was carried out for all adult psychiatry full-time hospitalisation units in March 2019. The feasibility of the work is being studied by the departments concerned.

A daily attendance record of participants in therapeutic activities is now kept by caregivers.

Psychomotor activities are still not provided for in the medical project.

An analysis of the prescriptions written by the practitioners in the psychiatry unit is carried out each year by the pharmacist. The establishment of an exchange with practitioners around this analysis is an action included in the quality improvement plan of the psychiatry unit.

The securing of the drug circuit from preparation to distribution is effective and is evaluated on a regular basis, in conjunction with the pharmacy and the quality department.

The schedule of therapeutic activities is adjusted according to the needs expressed in terms of mediation.

A sports instructor works two half-days a week, paired with a nurse providing clinical expertise.

Outings are organised according to the availability of human resources and the implicit and explicit needs of the patient.

For security reasons, there cannot be a dedicated reading space in each unit. There is a centralised library in the building allowing patients to have access to reading materials.

To fight against the boredom of patients in the units, the institution does not plan to organise occupational activities involving caregivers.

Since 2018, “menu committees” have been organised.

Seclusion and restraint are the subject of a professional practice analysis entitled “Restrictions on freedoms”. Various initiatives have also been taken to improve the quality of professional practices with regard to the HAS’s recommendations.

Work is in progress to simplify the collection of data concerning seclusion.

The theme "seclusion and restraint" will be the subject of an ethical debate within the ethics committee of the Territorial Hospital Group (GHT) in the first half of 2021.

2.5 Vendôme hospital (Loir-et-Cher) – December 2017 (1st inspection)

The CGLPL identified one best practice and made 13 recommendations.

2.5.1 *Best practice*

"Menu committees" take into account the opinions and suggestions of patients and healthcare professionals for the planning of meals.

2.5.2 *Recommendations*

The CDSP is still experiencing operational difficulties related to medical demographics.

The delivery to the patient of a document specifying the type of hospitalisation has been systematised and the patient is invited to sign this document. One copy is given to the patient and the other placed in their administrative file.

A document that complies with the recommendations is now given to the patient before performing a shock therapy procedure.

Patients have the right to communicate by telephone. However, following misuse, restrictions have been imposed for certain patients on medical prescription.

Certain restrictions on freedom of movement have been relaxed following the CGLPL's inspection.

The institution is considering installing a condom dispenser that will be accessible to patients.

The list of ministers of various denominations has been updated and posted.

The institution's information systems department is working to set up free Internet access for patients.

The institution is struggling to recruit private-practice doctors to help it in its partnership approach. In order to unblock this situation, the director of the hospital has referred it to the Departmental Council of the Order of Doctors.

The institution has inserted a statement relating to patient information on medical certificates; a patient wishing to comment on the prescription is informed that they can do so on plain paper; the text will then be attached to the medical certificate.

The difficulty relating to the organisation of the JLD's mobile court hearings has still not been resolved.

The placing of voluntary patients in a seclusion room for periods of more than 12 hours only concerns a few patients; it is henceforth strictly regulated and traced.

The institution now has a seclusion and restraint register in accordance with the law.

2.6 Vire hospital (Calvados) – December 2017 (1st inspection)

At the CGLPL's request, the authorisation to carry out the general psychiatric care activity (in the form of full-time hospitalisation and alternatives to hospitalisation) of the Vire hospital was transferred to the Caen public mental health institution, as of 25 April 2019. Indeed, the Vire hospital did not have the medical skills legally necessary for this activity and was not in a position to mobilise them. All of the observations made in the report relating to this institution are therefore now irrelevant.

2.7 Haut-Anjou hospital in Château-Gontier (Mayenne) – July 2017 (1st inspection)

The CGLPL identified one best practice and made 21 recommendations.

2.7.1 *Best practice*

Documents relating to the different involuntary hospitalisation statuses with a reminder of the law promote respect for the rights of patients.

2.7.2 *Recommendations*

The institution has added 0.1 medical FTEs and a specialist intern.

The institution has increased the working time of the social worker, which is currently 90%.

The recommendation to set up a mobility policy for carers working at night has been taken into account in the development of the institutional project. The discussions initiated have led to a shared ambition of social partners and management, namely alternating shifts to be organised for night staff, the terms of which remain to be determined.

The legal registers have been modified and practices are now compliant with the legislation.

Following an audit, the space allocated to the public concerned with psychiatry will be fitted out with the installation of a bed in the reception area. The architectural competition for the restructuring of the emergency department has been launched; the project manager was chosen at the end of 2020. A secure room is provided inside the UHCD.

After a reflection held between the institution and the court, it was agreed not to change the holding of JLD hearings, in the interest of the patient.

The absence of electrical outlets in the rooms is the result of a reflection carried out within the psychiatry sector in order to guarantee optimum safety for the patients taken in.

The department is equipped with a mobile call system. Call bells are given to people with reduced mobility.

A working group on the UHP welcome booklet is in progress and all the changes were made at the end of 2020, in line with the CGLPL's recommendation.

The practice of removing patients' belongings has been modified: it takes place according to the risk of self-harm and the risk of suicide, after a multidisciplinary assessment.

The time slot for access to the garden in the evening has been extended.

Since May 2018, mobile phone access has been free. Mobile phones are only withdrawn by medical decision.

A reflection on freedom of movement within the UHP has been introduced during the welcome interview with the doctor and the drafting of the care contract.

The situation concerning sexuality has not changed; the institution puts forward the safety of patients as the priority.

The situation concerning trusted persons has not changed in this institution; they are still not contacted when they are designated, making this invalid.

The care contract is regularly updated.

Supervision of nursing staff has been in place since 2019, taking place four times a year.

The register is monitored and updated regularly.

The hospital has chosen to make mobile bells available to patients subject to seclusion or restraint measures.

Overall, the use of seclusion and restraint is tending to decrease and the use of ordinary rooms is also decreasing, since specialised rooms are now more readily available.

An internal working group was set up in September 2020 to continue improving the conditions of seclusion.

There has been a significant drop in the number of prescribed hours of seclusion and restraint. A report giving an account of seclusion and restraint practices was presented to the User Committee. Priority training on “Measures restricting freedoms and alternatives” has been set up within the institution.

2.8 Meulan-Les-Mureaux intermunicipal hospital (Yvelines) – January 2017 (1st inspection)

The CGLPL identified three best practices and made 23 recommendations.

2.8.1 *Best practices*

Assigning patients to the unit where their referring psychiatrist practises is favoured, even if it is different from that of their psychiatric sector.

The Meulan-les-Mureaux intermunicipal hospital (CHIMM) provides the necessary means for a cross-cutting range of therapeutic activities which works remarkably, in particular due to its openness to patients from extra-hospital structures.

A general practitioner is present on a daily basis.

2.8.2 *Recommendations*

The patient welcome booklet was the subject of work at the ARS, in which the institution participated in order to best adapt it to the needs of its patients.

The level A certification obtained by the institution during the last HAS certification visit on the subject of patients’ rights confirms the institution’s commitment and the effectiveness of the corrective measures put in place.

The procedure for designating a trusted person still has to be specified to caregivers, implemented and traced.

Each instruction is covered by an individualised prescription, linked to the clinical state of the patient, their context, and their mode of placement. There is no protocol restricting freedoms.

Involuntary patients have, at all times, information on their rights and the material means for exercising them.

Caregivers have a “patient access to files” procedure.

The telephone numbers in the memorandum have been updated so the chaplains can be reached, and a room is made available to them.

Patients are informed of their right to freely choose a psychiatrist through a booklet and posters in the department.

Mobile phones are left available to patients, depending on their state of health, after a medical evaluation. There are no collective restrictions on telephone access.

Some patients keep their laptop in their room, or else for security reasons it is stored in the manager’s office to prevent theft and given to the patient who has been assessed as able to use it.

In 2017, the CHIMM updated its satisfaction questionnaire, in collaboration with user representatives. Since then, the results have been analysed and presented in general and by unit; they are provided to the professionals concerned.

Since the inspection, self-employed physiotherapists have been able to come, during their shifts, to psychiatric structures for patients who cannot leave the units.

Treatment programmes no longer include day outings.

The health manager of the psychiatry unit and co-chair of the ethics committee is the strong link between this committee's work and the unit.

After several meetings with the JLDs of the Versailles court, the situation is the same. The CHIMM cannot therefore compel the court to organise JLD hearings within its walls. Only patients who refuse or whose clinical condition does not allow for travel do not go to the hearing. The institution considers the hearing as therapeutic for certain patients and favours the presence of patients.

An agreement with the L'Ecole à l'Hôpital association has been signed and teachers now travel to provide education to minors.

The institution considers that it cannot apply the recommendation that inmates hospitalised without their consent should not be systematically placed in seclusion and should benefit from the same rights as other patients as well as those from which they benefit in prison. Indeed, it does not have the necessary means of security and says it is subject to injunctions from the Public Prosecutor to prevent the risk of runaways. However, fundamental rights such as access to healthcare, the right to decent living conditions, etc., are obviously respected.

A clock has been placed in the airlock of the seclusion rooms, within sight of the patients.

The institution considers that the surveillance camera is not a substitute for the presence of caregivers but is a guarantee of safety for patients and caregivers.

The register of seclusion measures is operational and was checked by the Departmental Commission for Psychiatric Care and by the Public Prosecutor during a visit.

2.9 Tours regional university hospital (Indre-et-Loire) – December 2017 (1st inspection)

The CGLPL identified nine best practices and made 26 recommendations.

2.9.1 *Best practices*

The institution has developed a set of tools allowing for the replacement of absent staff so as not to impact the quality of care.

The institution delegates a financial budget to the psychiatry unit for specific training such as participation in conferences and congresses for non-medical staff.

The number of patients treated according to the "imminent danger" procedure remains well below the national average; this practice continues to be exceptional.

Access to voting for patients was perfectly organised through the dissemination of relevant information upstream and then by the possibility of discharge on polling days.

Patients keep their personal mobile phones, without any restrictions, subject only to their state of health.

Internet access, through the provision of a computer and the browsing assistance that can be provided by the nursing staff, promotes the future employability of patients. The provision of a wireless Internet network, to which patients can connect from their mobile phones, reinforces this dynamic.

The work carried out by the psychiatric emergency team to limit the use of involuntary care deserves to be underlined. It explains the low rate of this category of patient observed in this hospital.

The cafeterias have a driving role in A, B and D psychiatry and the therapeutic activities are numerous and diversified.

A commission of the drug committee specific to psychiatry-addiction allows for debate around prescriptions of psychotropic drugs.

2.9.2 *Recommendations*

The drafting of decisions, the reception of medical certificates and the signing of the director's admission decision are carried out during the day by the director.

Information on involuntary care decisions taken by the mayor is given orally to the patient as soon as the placement measure is pronounced and written notifications are made as soon as possible.

Since the CGLPL's inspection, adult psychiatry has benefited from funds allowing the creation of 2.5 nurse FTEs + 2 hospital practitioner positions including a somatic doctor and a psychiatrist, the renovation of all the seclusion rooms, the restructuring of a site and the significant deployment of psychosocial rehabilitation services.

A somatic doctor was recruited in early 2019 to be available to psychiatry. He devotes one day a week to each of the four sectors and intervenes on request if necessary.

Treatments are dispensed in the treatment rooms. The CHRU refers to the insufficient number of nurses to carry out an individualised interview every time a treatment is dispensed.

The procedures relating to the CDSP have been reviewed.

The CHRU has not taken measures to improve the keeping of the legal register on the grounds of insufficient staff and the absence of observations made during the visits of the CDSP and the Court President.

Due to the prospect of the construction of the new psychiatric hospital, improvements in the reception of adolescents have not been made within the still existing framework.

The windows of the emergency department cubicles have been obscured.

The bathrooms of the three hospitalisation units have been renovated; a reminder on their maintenance has been issued but poor workmanship has affected the project.

The conditions of hospitalisation in the unit for adolescents have not changed due to the presence of asbestos in the building. Only the bathrooms have been redone, separating girls and boys. The seclusion room is not intended to accommodate adults.

The first meeting of the ethics committee on restrictions on freedom took place at the end of 2019 but the continuation of the work was interrupted by the health crisis.

The terms of access to outdoor spaces could not change due to the configuration of the premises and the lack of staff.

Wearing pyjamas is medically prescribed, often during the evaluation period upon admission of certain patients with a view to securing them, and does not exceed two days.

The updating of the unit's procedure concerning mobile phones scheduled for the second half of 2019 has been postponed to the end of 2020.

Institutional reflection on the question of patients' sex lives has not yet taken place.

A computer inventory is carried out upon the admission of patients but is not printed on paper for patients due to a lack of staff and environmental concerns. The discharge inventory is not yet systematic despite the reminders made in management meetings.

For ASPDRE patients, who benefit from short-term outings, planned repeatedly over one or more days of the week, there is no longer any malfunction to be deplored, in particular measures supplementing the favourable opinion of the psychiatrist imposed by the prefect.

The use of video surveillance devices in seclusion rooms, as exists in psychiatric emergency departments, is dependent on the philosophical positioning of the department heads and teams. As these give priority to patient safety, the recommendation has not been implemented.

All seclusion rooms have been restored and reconfigured to allow access to toilets and a drinking water tap. On the other hand, the positioning of the call system is not accessible to attached patients.

Regular monitoring of secluded patients by non-medical staff is recorded in the patient's file. On the other hand, the psychiatry unit has accepted the principle of an initial duration of seclusion for a period of 24 hours, on the grounds of the lack of medical staff.

There is a non-operational seclusion and restraint register due to the recording of data on patient files that are not suited to psychiatry, especially with regard to restraint. There is talk of a change of tools that would integrate the directory with all its headings.

It has not been possible to respect all the rights of the detained patients received due to a lack of information from the remand prison regarding the regime of visits and external liaisons for hospitalised detainees. However, the institution ensures the continuity of patient care as well as the respect of fundamental rights.

2.10 Bégard psychiatric hospital - Fondation Bon Sauveur (Côtes-d'Armor) – March 2017 (1st inspection)

The CGLPL identified seven best practices and made 18 recommendations.

2.10.1 *Best practices*

Training on patients' rights continues.

The time-stamping of medical certificates and prefectural orders helps ensure and verify compliance with the deadlines set by law.

The involvement of users and their representatives within the various bodies is an ongoing policy of the Foundation and is recognised by the ARS, which has awarded "User rights" certification twice.

The organisation of summary meetings concerning a patient takes into account the availability of their guardian when one has been appointed.

A policy of constant improvement in the quality of meals, tested by regular audits, has been formalised.

Patients are free to use their personal computer and have access to three computer stations connected to the Internet.

The institution has strongly developed patient education.

2.10.2 *Recommendations*

The patient welcome procedure was formalised following the CGLPL's recommendation. The rules of procedure of the involuntary hospitalisation unit have been updated and training courses have been held.

The updating of the user welcome booklet is in progress, coupled with an "Easy to Read and Understand" welcome booklet.

Despite the CGLPL's recommendation, the municipal placement order is still not notified. The ARS will act accordingly.

The recommendation relating to the verification of the aptitude of foreign doctors is a matter of national competence.

A medical-psychological assistant position has been created in the involuntary hospitalisation unit in order to better develop the socialisation of patients.

A reflection will be launched so that the night-shift personnel regularly participate in the summary meetings of the units in which they preferably work.

Meetings between caregivers and patients are regularly scheduled in the units. In order to continue this initiative, a satisfaction questionnaire was developed by users for users in 2019.

The JLD persists in not notifying his decisions directly, but gives himself a period of reflection in order to best adapt his response.

Means will be invested so that the bar can systematically assist the person undergoing psychiatric care via a lawyer who is chosen, appointed under legal aid or court appointed.

The rules of procedure of the units mention the management of pocket money. In the involuntary care unit, a traceability sheet for cash inflows and outflows is signed by the patient and caregiver to ensure proper management. Lastly, in the various units, the individualised plan, signed by the patient, includes the weekly management of pocket money.

The socio-therapeutic and socio-cultural department has strengthened its activities with the setting up of joint workshops and events at the very heart of the various units and structures.

The detention of telephones is linked to the medical decision. However, in order to provide access to communication, a cordless telephone is given to any patient who wishes to place a call in the voluntary hospitalisation units. In the involuntary hospitalisation unit, a telephone booth is freely available.

The recommendation to install one or more mailboxes in the hospital checked by the postal officer or La Poste could not be carried out. However, this remains a project for the future.

The ethics committee published a document on the subject of "Sexuality, consent and the protection of vulnerable people". A working group is under way for reflection within the Foundation. A condom dispenser has been installed.

The institution has embarked on a process of analysing seclusion and restraint practices but does not indicate anything about its results.

2.11 Cadillac psychiatric hospital (Gironde) – June 2017 (1st inspection)

The CGLPL identified five best practices and made 21 recommendations.

2.11.1 *Best practices*

Training and assessments of professional practices focus in particular on the rights of involuntary patients and good treatment.

The status of committal to involuntary care does not necessarily result in hospitalisation in a closed unit.

The vigilance shown by the admissions unit concerning the quality of the motivations for medical certificates and the conclusions it draws from them are protective of the rights of patients in terms of adapting their admission status to the circumstances.

In light of the quality of the documents concerning the rights of involuntary patients, drawn up by the customer department and applicable to the whole hospital, they can be cited as examples.

Patients have access to the neat and pleasant park, regardless of their admission status or their accommodation unit. Despite the health crisis of 2020, this access has been maintained.

2.11.2 *Recommendations*

The hospital has worked to reduce the proportion of patients admitted as part of an emergency procedure at the request of a third party, in favour of the common law procedure. In 2019, the rate of admission to common law involuntary care at the request of a third party (SDT) became higher again (45%) than the rate of admission to emergency SDT (38%).

The welcome booklet was updated in 2018 and now contains a paragraph on the care contract.

The registers provided for by law and specified in the ministerial instruction (Ministry of Social Affairs and Health) of 29 March 2017 have been modernised and now allow for more precise statistical collection.

Since the opening of the user centre in January 2018, a lounge has been available to families on the central site, in addition to those that already existed in a number of units.

The architectural reorganisations in progress plan to generalise the use of single rooms for all care units. The situation has changed a little with the opening in 2019 of the Marguerite unit on the central site, which has already improved reception conditions. Pending the work, the hospital has studied the installation of curtains or screens between the beds of multiple-occupancy rooms, but security and movement difficulties are being encountered in the finalisation of this project.

The institution is experimenting with fitting door windows with locking black-out covers, but given the cost of the equipment, deployment will be carried out as the architectural reorganisation of the units progresses. In the meantime, temporary black-out covers are in place.

All seclusion rooms are equipped with emergency call devices (in the form of bracelets) which can be used by restrained patients.

The rate of single rooms equipped with a patient-closing system is 46%, excluding the forensic unit.

Since February 2018, a third caregiver has been posted at night in the Séglas unit to reinforce security and care. The relocation of this unit with undignified conditions is planned; it should occupy suitable premises in 2022/2023.

The restructuring of the buildings should lead to the rooms of all the units having a bathroom with a shower.

The designation form has provided for the systematic collection of the designated person's consent since 2016. This principle has been reiterated in various institutional documents. However, as the hospital does not make many scheduled admissions, it remains difficult to obtain the designated person's consent after admission.

Contact details for worship leaders have been updated. To this have been added the national numbers transmitted by the Ministry during the epidemic to allow secluded people to access the religion of their choice. Moreover, in 2019 the hospital participated in a survey in partnership with the University of Bordeaux concerning the practice of religion during hospital stays. The recommendations issued in the study report have been included in the hospital's quality action plan.

Free Wifi access is gradually being rolled out on all hospital sites.

Several steps have been taken with regard to the question of the sex lives of patients: the drafting of an institutional framework, conferences-debates, etc.

Somatic care projects are now formalised for almost all patients. The medical professionals in charge of delivering somatic care within the hospital are now all placed under the responsibility of a single clinical centre in order to guarantee continuity of access to care by managing a common schedule. Additional medical time was funded in 2020 to strengthen somatic care within local structures.

The range of activities has been enhanced by the creation of a "maison des usagers" (user centre) which offers various activities and events; reorganisation of the unit was an opportunity to rework the project and improve the clarity of the proposed activities. However, strong social tension within the hospital in 2019 and then the lockdown over several months in 2020 affected the organisation of activities.

A hotel concierge service promoting the accessibility of patients' belongings was set up in 2017. Deposit offices have been created in addition to the hotel concierge service, for all sites.

The admission protocol in the event of overcrowding was modified in 2018; it prohibits admission to a seclusion room in cases of overcrowding.

The hospital has undertaken to bring its seclusion and restraint practices into compliance. The compliance of the seclusion rooms has been the subject of an equipment plan in progress since 2018.

2.12 Castelluccio psychiatric hospital – Ajaccio (Corse-du-Sud) – April 2017 (1st inspection)

The CGLPL identified 13 best practices and made 38 recommendations.

2.12.1 *Best practices*

The best practices identified are still ongoing.

A copy of the welcome booklet in large laminated format is placed on a desk in each unit, in a visible place conducive to it being read.

The most restrictive rules for access to rooms during the day are applied with discernment, in order to encourage patient participation in activities while adapting to individual needs.

The wearing of pyjamas is never required, including during seclusion periods.

For distant families, the institution provides, for a modest cost, an apartment for the night; this system facilitates visits.

The occupancy rate of units where accommodation conditions are degraded is deliberately limited.

Combining multiple personal linen care services makes it easier for patients to keep their clothes clean.

A hair salon for patients is installed on the site; in addition, the hairdresser travels to the units on demand for patients who are not authorised to leave.

An inventory has been drawn up and an exhaustive analysis of seclusion practices with regard to the CGLPL's recommendations has been carried out; this analysis was accompanied by scoring in terms of associated risks and the result was used to define corrective actions.

Deprivations are imposed on people placed in seclusion rooms only with discernment and according to their clinical condition.

The psycho-geriatrics unit is equipped with "Alzheimer's" beds and "anti-fall" slippers are provided to patients to avoid having to resort to restraints to prevent falls.

The design of the USIP's seclusion rooms, to which a room reserved for washing and meals is attached, is of high quality.

The hospital has a unit which offers detainees the possibility of collective treatment.

The role of parents of minors is fully recognised and they receive information upon admission.

2.12.2 *Recommendations*

The legal knowledge of the head of the admissions office was updated in 2017. Training for two new employees in the admissions department has been scheduled for 2021.

The institution updated the data contained in the welcome booklet during the first half of 2020. It will be given to each new arrival.

Although the institution is seeking to improve its management of human resources, it remains in a situation of limited freedom in this respect and is still not able to trace and monitor the reality of the actions carried out.

Procedures for involuntary hospitalisation have been updated and incorporate the notification of patient rights. The hospital provides for tutoring action in the field of respect for the rights of involuntary patients.

The procedures for filing a complaint or claim are now clearly displayed in the units.

Documents relating to the designation of a trusted person are published internally.

Patients' comments concerning the terms of their care are not yet collected and traced.

Access to tobacco for people hospitalised in the USIP is now taken into account on an individual basis and in a measured way. Access to telephone communications in the USIP is now organised. Arrangements for organising visits should be improved with the USIP's rules of procedure currently being revised.

The hospital has set up a reflection to harmonise professional practices relating to the sexuality of patients, the conclusions of which are pending.

A review of the inventory procedures for property and valuables left fully available to patients was scheduled for September 2020. Object retrieval is one of the topics of this review.

The staff in charge of cleaning intervenes without delay when an area of the unit requires it. The dysfunction encountered during the CGLPL's inspection was an isolated case.

Despite the CGLPL's recommendation, the hospital persists in removing razors to ensure patient safety.

A course of action concerning meals in care services is in the process of being validated.

The hospital is establishing a project around therapeutic and occupational activities. Indeed, non-therapeutic activities are a key point in accompaniment towards the patient's discharge as well as in their socialisation; this point is one of the priorities in the management of psychiatric care. A project around therapeutic activities was to be completed by the end of 2020.

JLD hearings are held, in accordance with the law and the agreement with the court, on the premises of the hospital, at least once a week.

The templates of orders have been modified by the judge. A reminder on the quality of reasoning for medical certificates will be issued.

The Departmental Commission for Psychiatric Care came to the hospital in 2018 and comes as needed but still does not carry out an annual visit.

The college of health professionals provided for in Article L.3211-9 of the Public Health Code is organised and meets regularly.

Several series of renovations have taken place since the inspection (bathrooms, a veranda); the institution's master plan is currently being formalised and will include the rehabilitation of the oldest care units.

Healthcare for minors will evolve within the framework of this master plan, but no details are given on this point.

Work relating to the systematic night transport of people from the South of Corsica hospitalised involuntarily and the conditions of this transport, which constitute mistreatment and a source of clinical aggravation, has been initiated but remains to be continued.

The procedure for placement in seclusion rooms was updated in November 2017. It incorporates the ban on the programming of this placement.

A register of seclusion and restraint measures has been in place since July 2017.

The general seclusion procedure has reserved decisions to place a patient in a seclusion room solely for therapeutic cases that escape de-escalation techniques since July 2017; it therefore excludes the systematic seclusion of patients from detention.

The institution indicates that naked screening of patients upon admission to the USIP has never been implemented.

The USIP's development project is still awaited. It seems that this closed unit with a strict regime still takes in voluntary patients. Similarly, there have not yet been any developments concerning the activities of this unit.

Detained patients have access to tobacco under the same conditions as everyone else.

2.13 Lorquin psychiatric hospital (Moselle) – October 2017 (1st inspection)

The CGLPL identified two best practices and made 16 recommendations.

2.13.1 *Best practices*

All newly recruited employees who have no experience with the psychiatric environment benefit from a training module on the specific features of psychiatry. In addition, OMEGA violence prevention training is mandatory for all healthcare personnel.

The time-stamping of medical certificates and prefectural orders helps ensure and verify compliance with the deadlines set by law. It would benefit from being extended to the director's decisions and municipal orders.

2.13.2 *Recommendations*

In 2017, all emergency personnel were made aware of the obligation to search for third parties before hospitalisation for imminent danger. A form has been created attesting to the impossibility of contacting a third party in the context of hospitalisation in psychiatric care for imminent danger; this form can be consulted in the document management software program. The number of admissions under this status has decreased within four years from 142 to 87.

The director's admission decision is drawn up in compliance with the legal time frames for all admissions between Monday and Friday. This decision for weekend admissions is drafted on Monday morning.

The welcome booklet has been completely updated and all the rights of involuntary patients are mentioned as are the contact details of the JLD and the CDSP.

The digitisation of the legal register is expected to bring it into compliance.

Refreshment work was carried out in the extended care unit in 2019; work on the post-acute care unit will begin in early 2021.

Since 2018, the multi-year “patients’ rights and well-treatment” training course has been reintroduced. It is intended for nurses and caregivers. In the institutional document base, documents relating to regulatory provisions are accessible to all staff.

An item concerning information on the standard on patients’ requests for confidentiality has been added to the admission checklist. A guideline for patient confidentiality requests is being drafted.

An organisation is in place around physical and artistic activities and balneotherapy. A schedule is distributed within the units concerned or throughout the institution; these activities are led by nurses and an art therapist. A cross-cutting "activity centre" project was to be finalised by the end of 2020.

The hours of medical presence in the units are linked to medical demographics. Currently, these demographics are favourable, in particular taking into account a partnership with the Fann hospital in Dakar, allowing the arrival of associate medical trainees.

A note now organises deposits of precious objects in the possession of patients on their arrival.

Patients are accompanied to the Jury hospital equipped with a hearing room in accordance with the organisation requested by the JLD.

The seclusion room was brought up to standard in 2019 and 2020.

A reflection concerning the transformation of the USPA’s calming room into a seclusion room is in progress.

The seclusion and restraint register is now automatically populated with data from computerised patient files. The annual results are taken into account for the implementation of institutional actions.

2.14 Saint-Cyr-au-Mont-D’or psychiatric hospital (Rhône) – February 2017 (1st inspection)

The CGLPL identified six best practices and made 14 recommendations.

2.14.1 *Best practices*

The institution has set up individual tutoring for new employees taking up their post, as well as a “tutoring day”.

Lawyers meet with patients in wards before hearings, including patients designated as not hearable.

The institution has set up evaluations of professional practices on therapeutic seclusion, restraint and restrictions on freedom which enable tools for good professional practices to be developed, for example an email alert for seclusion exceeding seven days.

The computer traceability of all rules and restrictions on freedom testifies to real consideration of this dimension of care; it will ultimately allow for an exhaustive analysis of practices.

The hospital offers, in a way that is integrated into care, an art therapy activity and promotes the works of patients, both inside and outside the institution.

The institution has developed an appropriate, varied range of physical and sporting activities with professional supervision.

2.14.2 *Recommendations*

Despite the CGLPL’s recommendation, the institution has only been visited once in three years by the CDSP.

72-hour admission and discharge decisions are now systematically sent to the intra-hospital care units along with information on the means of appeal and the form to be communicated to the patient. However, monthly decisions are not subject to this procedure: in fact, documents are sent to the patient's care structures but are not systematically provided to the patient and are not subject to any particular traceability.

Instead of television, the institution promotes the development of the 4G and Wifi network with the installation of relay terminals in the wards in order to optimise connections with patients' personal devices when they are authorised.

Since 2017, the dissemination and use of the discharge questionnaire has been improved. The institution is also working on the construction of a user project.

In order to better take patients' observations into account, several processes have been formalised and the *Cortexte* media have evolved in order to ensure the traceability of patient information and any comments. As the tools are now available, it is necessary to set up audits to verify the application of these measures and their traceability.

The opening hours of the user centre have been extended and the activities on offer diversified. The will of the institution is still to not identify this structure as a place of care. Since 2018, an average of 40 to 50 patients have benefited from its services every half-day it is open.

There has been no significant change in the staff required for the proper functioning of the wards. The defined security staff have not changed since 2017 and it is always possible to use temporary staff to complete the teams if necessary. Nevertheless, the existing activities have been maintained.

Activities related to care projects have been widely developed.

The institution has formalised a procedure for the admission of detainees and planned times for discussion with the prison administration in order to organise transport. All documents related to the care of detained patients were reviewed in 2019 or 2020. 50% of hospital days are spent outside a seclusion space for detained patients.

The seclusion spaces have been equipped with clocks visible to the patient and the installation of anti-suicide hooks in the showers is being studied.

The hospital has drawn up a protocol for the use of seclusion and restraint in accordance with the HAS recommendations and is adopting a policy to reduce the use of these practices.

The ethics committee met in March 2018 and ruled on the non-necessity of formalising the issue of tobacco in seclusion rooms: "it should in no case be formalised but should be studied individually".

2.15 Sevrey psychiatric hospital (Saône-et-Loire) – January 2017 (1st inspection)

The CGLPL identified 11 best practices and made 26 recommendations.

2.15.1 *Best practices*

The institution has set up job adaptation training on psychiatric care for nursing staff.

Use of *Planipsy* software secures, in addition to the legal register, the controls inherent in involuntary hospitalisation and the management of the stages of the procedure.

The CDSP regularly visits the hospital and contributes, through its avenues of reflection, to putting in place changes for constantly improved care.

At the time of notification of involuntary care, a document which details the course of hospitalisation in understandable terms is given to the patient.

The institution's welcome booklet has been completely updated, incorporating useful information for respecting patients' rights, such as the role of supervisory authorities and that of the judge.

A writing workshop for psychiatrists, led by a philosopher, aims to improve the relevance of medical certificates.

Clinical pharmacy practice continues to develop within the adult psychiatry units.

The freedom of movement of patients, which is broad, is based on their clinical condition and not on the legal status supporting the initial measure of hospitalisation.

In some units, patients are received at the end of the clinical meeting by one of the caregivers, in order to hear the summary of their situation and the objectives to be achieved.

The richness, diversity and originality of the activities (in particular those related to animals) offered, on medical prescription, underlined during the inspection, have been developed in particular by using new technologies.

2.15.2 *Recommendations*

In July 2017, the institution's welcome booklet was updated in its entirety.

Since November 2019, a space dedicated to the care of detained patients has opened; the update of the reception procedure for detainees at the hospital is being finalised.

The reconstruction of the most dilapidated units is scheduled for 2022. Pending the construction of new buildings, a renovation programme is under way. Some of the rooms have been equipped with call buttons; the rest of the rooms will be equipped by the end of 2020.

Since March 2018, a mediation-prevention-security team has been created within the institution to reinforce the units, on an urgent or scheduled basis, and to provide security functions.

The mobility of night staff for the updating of knowledge could not be set up for lack of volunteer day workers to carry out a night shift.

The procedure surrounding the assignment of a voluntary patient to a closed unit is currently being updated.

Since December 2017, acknowledgements of receipt for all decisions have provided for the collection of patient observations.

The procedure defining methods for appointing the trusted person and the person to be notified has been in force since January 2018.

Nothing is indicated concerning the reservation of rooms for patients who are staying temporarily outside the hospital.

The site has 4G coverage allowing patients to access the Internet via smartphones. To date, there is no project to deploy a secondary telephone network reserved for patients.

Many patients do not have sufficient autonomy to manage their key.

Hygiene kits are given to patients who need them.

In 2017, the institution set up a working group bringing together doctors and caregivers to improve the conditions of hospitalisation of detainees.

Patient admissions to seclusion rooms instead of ordinary rooms are tending to diminish.

A renovation of the seclusion rooms is in progress.

The institution implemented a training programme in 2017 to improve seclusion practices.

Modifying the status of a voluntary patient placed in a seclusion room comes up against the difficulty of finding an outside doctor. However, this difficulty has been greatly offset by the transformation of voluntary care into care at the request of a third party in an emergency and no longer into care for imminent danger since 2017.

The system of discharges of less than 48 hours has been redefined and the notice period reduced.

Since 2018, an automotive fleet replacement policy has been in place.

Patients are now informed of all rights arising from the summons to the JLD hearing.

The layout of the space dedicated to detainees has been thought out with a view to facilitating meetings between detained patients and the JLD within this space.

A monitoring committee for protected adults was set up in 2017. It is made up, among other things, of legal representatives from the hospital and from outside. The meetings have been suspended due to the absence of the leader; there are plans to resume this work in 2021.

New indicators have been set up within the quality department to better monitor adverse events and acts of violence.

2.16 Yonne psychiatric hospital in Auxerre (Yonne) – March 2017 (2nd inspection)

The CGLPL identified two best practices and made 40 recommendations.

2.16.1 *Best practices*

A hairdresser works full time in the institution.

Patients are offered a choice between several starters and two hot dishes daily. A dietician and a full-time assistant nurse on secondment by her side supervise the individual ordering of menus.

2.16.2 *Recommendations*

A communication campaign on involuntary care aimed at referral partners was carried out in January 2019 and updated twice to ensure compliance with the legal conditions for admission at the request of a third party in an emergency or for imminent danger. It is requested that unsuccessful searches for third parties be systematically traced during admission for imminent danger by means of an attestation of a fruitless search for a third party.

Prefectural orders are reasoned in accordance with the provisions of Article L.3213-1 of the Public Health Code.

Institutional training for healthcare staff on the legal framework for involuntary hospitalisation in psychiatry was rolled out in 2018. The continuous improvement programme for the quality and safety of care provides for the performance of an audit on the presence of the signed document notifying the decision in the patient file.

An unscheduled hospitalisation procedure for minors in the event of an acute situation has been drawn up with the medical community and presented to the authorities. It reaffirms the general principle of admission of minor patients to the hospitalisation unit for adolescents.

The welcome booklet and the rules of procedure have been updated and presented to the authorities in order to mention all the procedural and fundamental rights specific to people hospitalised involuntarily. It is given to each patient entering full-time hospitalisation.

The rules of living have been harmonised and are presented on a specific poster. A working group has been set up to harmonise the rules of living for all open, closed and minor units and to develop support.

The legal register is kept in accordance with legal obligations.

The Yonne CDSP was renewed in 2018.

Visits by legal and administrative authorities have taken place since the CGLPL's inspection.

Practical institutional training for healthcare staff on the legal framework for involuntary hospitalisation in psychiatry was rolled out in 2018. An information leaflet relating to the rights of patients in the context of involuntary care is given to patients with caregiver support.

The requirements of Article L.1111-6 of the Public Health Code relating to the trusted person are implemented. Sixty-three percent of patients designated one in 2019.

In the closed part of the units, access to tobacco is now organised more flexibly according to the patient's situation.

Access to the open air in the courtyards of the units remains strictly regulated.

Consent to temporary hospitalisation in the closed sector is systematically collected for patients admitted under the voluntary care regime following a medical request in agreement with the patient or at the request of the patient.

The institution allows free access to the telephone at the patient's request, unless there is a medical contraindication, by providing a telephone in each unit.

The local ethics committee was referred to concerning the subject of emotional and sex life.

Medical and nursing time devoted to somatic care has been extended. A somatic follow-up procedure has been drawn up for patients on admission and for long-term patients.

A system for the organisation of care guaranteeing the confidentiality of exchanges during the dispensing of treatments and the measurement of vital signs has been defined. Professional awareness-raising has been carried out.

Nursing time is specifically dedicated (2.5 FTEs) to the organisation of socio-therapeutic and sports activities.

A reflection on the course of care for detainees is being carried out in order to limit hospitalisation time in secure rooms and favour direct UHSA admissions from prison complexes.

The institution takes care to promote the role of lawyers within the framework of involuntary care.

A courtroom compliant with the legal provisions has existed since 2017; it was modernised in 2019.

Respect for professional secrecy is now mentioned in the schedules of specific administrative and technical clauses of the institution's security contract as well as in the job description of the officer from the security company.

For security reasons, the officer from the security company may still be called upon to intervene in the care units.

The presence of video surveillance cameras is mentioned on the display panels placed at the entrance to the open unit and at the entrance to the closed unit.

A reflection is under way for the drafting of an agreement between the hospital and the police as underlined in the memorandum of understanding dated 10 June 2010 between the Ministry of Health, the Ministry of Justice and the Ministry of the Interior. It is one of the actions carried out as part of the Yonne territorial mental health project.

The reception of overflow patients with regard to the number of authorised beds in the closed units is limited as much as possible but sometimes remains necessary due to the shortage of beds and the number of requests for admission to involuntary care.

A reflection on the feasibility of a call or listening system available in the seclusion rooms is in progress.

Clocks have been installed in the airlock of the seclusion rooms.

Patients placed in seclusion rooms still do not have direct access to sanitary facilities and are forced to wait for caregivers to come by or use the urinal bottle and bed pan to relieve themselves, often soiling themselves.

The wearing of pyjamas for secluded patients is not systematic, but on prescription.

The HAS's good practice recommendations on practices for secluding and restraining voluntary patients have been integrated into all of the institution's procedures.

A reflection on calming practices has been carried out with the provision of a de-escalation lounge since 2018.

"As needed" seclusion prescriptions have been abolished in accordance with the HAS's good practice recommendations.

The electronic register for the extraction of seclusion and restraint practices has been set up.

2.17 Vinatier psychiatric hospital in Lyon (Rhône) – September 2017 (1st inspection)

The CGLPL identified 13 best practices and made 28 recommendations.

2.17.1 *Best practices*

The institution has set up individual tutoring for new employees taking up their post, as well as specific training in psychiatric care.

The ethics board has taken up the subject of restrictions on freedom and is driving an institutional reflection on this issue; this reflection should be supported.

The arrival of a police officer (OPJ or APJ) to establish voting proxies and grant permissions to leave to certain patients promotes the effective exercise of the right to vote.

The systematic presence of legal representatives at the hearings of the Liberty and Custody Judge testifies to their involvement in the monitoring of protected adults.

The Lyon Bar has set up mandatory training that lawyers must undergo before they can be assigned to JLD hearings in psychiatry.

Prior to the JLD hearing, lawyers talk to their clients in the care units, which enables them to become aware of the hospital conditions and meet with patients who cannot be heard or who refuse to appear.

Access to patient rooms and cupboards has been facilitated by the installation of electronic keys.

The short-term hospitalisation unit is experimenting with animal mediation; this experiment is still in progress.

The institution has set up a unit that offers psycho-educational programmes for families.

Some rooms have a specific bench or chair allowing the doctor and nurse to sit next to the patient.

The provision of a calming room for moments of crisis, within the hospitalisation units, reduces the use of seclusion rooms.

The computer traceability of all rules and restrictions on freedom testifies to real consideration of this dimension of care by the nursing staff; it will ultimately allow for an exhaustive analysis of practices.

Prior to a scheduled admission to the child psychiatry unit, the unit organises a visit of the premises for families and presents the operation and themes of the therapeutic project.

2.17.2 *Recommendations*

The delivery of the welcome booklet is formalised by a procedure, the latest version of which dates from 2017.

The rules of procedure have been corrected; the quality committee has drawn up a document of recommendations allowing a degree of standardisation with drafting proposals.

The legal register has been digitised.

Entry controls have been put in place to ensure that family visiting hours are respected. Measures were taken to allow family visits in compliance with the health conditions of 2020.

The relocation of outdated units is planned.

The institutional project and the medical project (2019-2023), in which the fundamental rights of patients are specified, have been drawn up.

Information is given to patients in the emergency room (UPRM) or at the UHCD, at a time when they are not always in a position to understand. It is therefore planned to provide this information in the hospitalisation units.

The notion of trusted person is still little used. Patients are informed of this possibility, but signatures are difficult to collect. A quarterly indicator has been created and around 60% of forms are signed.

Contact details for chaplains of all faiths are disseminated in all units.

Since the start of the health crisis, patients have had their phones and their clothes in emergency units and hospitalisation areas.

The list with the addresses and telephone numbers of all the authorities likely to be contacted by patients has been redone and the welcome booklet has been modified.

The ethics board organised a half-day of information on sexuality in 2019 that was open to all. Two nurses are trained in this topic to train the staff. Reflection work is under way with the care teams.

The satisfaction questionnaire is now included in the contract of objectives. Each unit sends 30% of satisfaction questionnaires to its active file.

The collection of patient observations, which must be formally implemented for any medical decision, when the medical certificate is written, will be dealt with as part of a patient record-keeping audit.

The laundry problem still continues despite a marked improvement in the laundry circuit. The issue of hygiene kits is being studied.

Sixty positions are currently vacant and there has been a delay in recruitment, particularly for nurses, due to the health crisis. However, catch-up work is in progress.

The question of the schooling of minor patients has been dealt with in one of the two units concerned.

A patient file has been created for night-shift workers.

The ARS will ensure that the CDSP report is sent each year.

The representative of the State in the *département* or their representative, the Court President or their delegate, and the mayor of the municipality or their representative still do not fulfil their visiting obligations.

The ARS will liaise with the court so that an agreement on the terms of intervention is established.

The judge does not notify his order at the hearing, but the procedure and time limits for appeal are sent by any means enabling receipt to be proven.

Some patients ask to stay in pyjamas so as not to soil their clothes in the absence of laundry service. Work is under way to educate staff, especially those in emergency services, who are still in the habit of putting patients in pyjamas when they arrive.

The seclusion rooms have been partially brought into compliance.

An operational register providing real-time information on practices of seclusion and restraint should be set up, in accordance with the rules imposed by Article L.3222-5-1 of the Public Health Code. Comparisons are made division by division, unit by unit. Restraint is constantly decreasing, with an obligation to monitor it at least hourly.

For the fire services, a computer query enables computerised care records to be extracted, as well as the file of patients in seclusion in the institution, on demand and in a few seconds.

2.18 Georges Daumézon psychiatric hospital in Orléans (Loiret) – February 2017 (1st inspection)

The CGLPL identified six best practices and made 36 recommendations.

2.18.1 *Best practices*

The presence of UNAFAM and the attitude of psychiatrists, who travel to meet with families after their working hours, allow for better exchanges of information.

Pyjamas are not systematically put on for incoming involuntary patients.

The presence of an administrative employee and a nurse when decisions are notified should enable patients to be better informed about their situation, on the condition, however, that specific training in involuntary care and the related rights is given to all employees.

The conditions of JLD hearings, which give a prominent place to dialogue and explanations, compensate for the excessively solemn organisation of the courtroom (judges placed on a platform, dock, etc.).

The use of washing machines by patients within the units is a therapeutic approach helping facilitate reintegration.

The introduction of a self-service area in the Corbaz A and B units promotes patient autonomy.

2.18.2 *Recommendations*

A copy of the admission decision taken by the director is now systematically left with the patient after its notification has been signed and a document setting out the rights of involuntary patients listed in Article L.3211 of the Public Health Code is now given to the patient and displayed in living areas.

A joint analysis of inappropriate admissions to psychiatry of patients requiring hospitalisation in a somatic care unit is still coming up against difficulties.

The information on appeals given in the director's admission decisions has been corrected.

A new version of the welcome booklet is in progress.

The entries in the legal register now comply with the requirements of Article L.3212-11 of the Public Health Code.

The institution's ethics group has begun to reflect on sexuality, freedom and vulnerability.

To limit the effects of overcrowding, which mainly affects one unit, the rebalancing of bed assignments was to be considered in December 2020.

The seclusion room renovation plan has been implemented in most units.

Refurbishment work on the Mezie unit has been scheduled.

Maintenance and repair work on two hospital units is in progress.

The procedure for designating the trusted person has been defined and explained to caregivers.

The nurses are trained to identify all patients at the entrance and a social worker dedicated to each unit intervenes for assessments and actions.

Information on voting was not provided in 2020 due to the pandemic.

Patients now have up-to-date information on how to access worship services.

The Van Gogh unit, which operates in closed mode, has moved in order to facilitate its opening, in accordance with the objective of reintegrating patients for which it was created.

Telephone booths have been installed in closed units.

A wide range of television channels are offered, but the technical measures necessary to allow patients to access the Internet for free still need to be taken.

All units now have visiting rooms allowing patients to meet with their loved ones in the strictest privacy.

The ARS underlined the institution's commitment, as it is working to implement corrective actions, in particular integrating cross-functional work on seclusion with teams.

The maintenance of the free ordinary room upon leaving the seclusion room is effective. Transfers of secluded patients between units continue to be based on needs and capacities.

The seclusion and restraint action plan is working to ensure that minor patients are under no circumstances placed in seclusion at night in rooms in adult wards that do not have a call button.

Mobile bells were rolled out in 2020.

Patients admitted to full-time voluntary hospitalisation are no longer secluded for more than 12 hours without their status being changed to "involuntary care", so that they may benefit from the legal guarantees attached to deprivation of liberty.

The computerisation of the register has been undertaken, but presents many biases. Action-training work is currently under way with prescribing physicians in order to improve the quality of prescription entries to facilitate the analysis of indicators.

The establishment of the security team, in progress during the inspection, obeys a protocol clearly positioning the team as a solution of second resort, with physical control being carried out by caregivers.

The handing over of outgoing persons' property is now anticipated so that no one is retained on the weekend solely because the office is closed.

2.19 Paul Guiraud psychiatric hospital in Clamart (Hauts-de-Seine) – January 2017 (1st inspection)

The CGLPL identified six best practices and made 18 recommendations.

2.19.1 *Best practices*

The close involvement of user representatives, who each month examine all files relating to complaints and claims, makes it possible to obtain answers to their questions, prior to the meeting of the User Committee.

The satisfaction questionnaire is sent by post to the patient's home one to three weeks after discharge with a prepaid envelope for sending their response.

Court-appointed lawyers, who each year undergo specific training in this litigation, come to meet with patients the day before the hearing in the units. Such a practice is likely to reassure patients, who can thus talk with their defender and meet him before the hearing, in places that are familiar to them.

The installation of a washing machine in each unit allows laundry to be done for free for patients who cannot afford to have it cleaned outside. These people can also be involved in it, if their condition allows it.

The creation of a team of intersectoral nursing assistants in charge of reception and reinforcement facilitates contact with families; moreover, it has the ability to intervene at any time in support of the nursing staff.

In the Rodin unit, when a caregiver-patient meeting is organised, the report is then displayed in the unit.

2.19.2 *Recommendations*

Negotiations have been started with the departmental council to have a small plot of fallow land on the edge of the hospital and they are still in progress.

The patio has been completely vegetated and the forecourt is being redeveloped.

The closets in the patient rooms could not be enlarged, but storage boxes are available for storing additional items.

Patients in the Béranger unit now benefit from hallway lighting all day long.

The information booklets on the rights and appeals of involuntary patients are regularly updated. The last update was in May 2020.

Specific training in the care of involuntary patients is now offered to professionals.

The readability of the legal registers has been improved.

The Deputy Prosecutor made a visit on 16 November 2018. Judicial and administrative authorities are effectively received when they so wish.

Following the lifting of the lockdown, appointments were made with the mayor and the court.

A poster presenting the provisions relating to the examination of complaints and claims can be found in each care unit. These rights are also contained in the welcome booklet given to each patient.

A reminder was sent to the medical community and to medical secretaries on the importance of notifying administrative decisions. Difficulties persist, however, for the notification of decisions of monthly maintenance in care programmes.

At the end of 2017, the practice of care programmes that could be analysed as full-time hospitalisation with short-time discharge was terminated.

To make it easier for patients to access their personal items, safes are being installed in the rooms.

Work has been carried out by the User Committee in order to harmonise the rules of living in all general psychiatry units; this work was validated by the CME in 2020.

Access to tobacco is now the principle. However, the patient's state of health may justify restrictions. Smoking is reserved for outdoor areas only.

In order to guarantee patient privacy and respect for medical secrecy, medications are now dispensed individually at the care station.

Patients benefit from activities carried out by specialised professionals (occupational therapist and art therapist).

In principle, beds are reserved for patients requiring care in seclusion. However, pressure on bed capacity does not always allow them to be left vacant.

The register of seclusion and restraint measures is established from computerised patient files. The register is automatically populated after each prescription.

2.20 Nice university hospital (Alpes-Maritimes) – April 2017 (1st inspection)

The CGLPL identified one best practice and made 24 recommendations.

2.20.1 *Best practice*

The trusted person is invited to participate in the scheduled weekly meeting between the referring psychiatrist and the patient. This practice remains in effect.

2.20.2 *Recommendations*

Work is in progress to update the CHU's welcome booklet. In addition, patients are informed of their rights before each hospital stay.

The recommendation to review the agreement that organises patient transfers in the *département* could not be implemented, although the institution is fully aware of this issue.

The internal rules of living specific to each unit are posted, but they do not seem to have been harmonised. Permissions to leave the unit are common and a medical reflection is under way to leave open the doors of the units which are currently closed. Nothing is said about the recommendation relating to the definition of internal rules of living in psychiatric emergency units.

On medical advice, the majority of patients keep their mobile phone (except in seclusion).

All units were rehabilitated in 2020 – paint, lights, furniture, relaxation areas, air-conditioning, blinds, etc. – largely contributing to improving the conditions of patient care. All units have been equipped with new furniture as well as Internet access in a dedicated room.

A reflection is under way to allow postal officers to go directly to the wards.

People hospitalised involuntarily have the same rights as other patients. The rights of detained patients are respected, as are the rules of confidentiality required by the Nice remand prison.

The freedom of movement of voluntary patients is still not guaranteed. A procedure respecting the freedom of movement of hospitalised patients still needs to be implemented in the CHU's closed adult psychiatry units and in the psychiatric reception centre.

The smoking rooms have been modernised and rehabilitated. Ventilation has been reviewed.

Free access to the telephone is guaranteed except in cases of seclusion.

A reflection on the sexuality of full-time hospitalised patients is under way. The rules of procedure mention the possibility of accessing information and prevention.

The confidentiality of hospitalisations is respected by the teams, but no protocol guarantees it.

Regional work is in progress on equalisation and the evolution of funding in psychiatry.

Various procedures have been put in place to reduce overcrowding problems, but nothing is said about their results.

A schedule of proposed activities is kept regularly on a wall chart and updated each week.

Psychologists intervene on an occasional basis to provide supervision, and discussion groups are being considered.

The use of the seclusion room as an ordinary room sometimes remains unavoidable.

Access to tobacco during times of seclusion is formalised.

The seclusion rooms have been renovated in accordance with the CGLPL's recommendations. A reflection is under way to position a blackout curtain so that patients in seclusion may not be seen, but this subject is being debated.

Transported patients are always accompanied by caregivers. Patients are not mechanically restrained. Moreover, if restraint were to take place, it would be subject to prescription.

The deployment in 2021 of speciality files in the computerised patient file will include a module devoted to seclusion and restraint and will thus promote the traceability of these measures. The placement of a voluntary patient in seclusion can only be exceptional and does not exceed 12 hours.

2.21 Reims university hospital (Marne) – June 2017 (1st inspection)

The CGLPL identified six best practices and made 24 recommendations.

Since 1 January 2018, the Marne public mental health institution (EPSMM) has brought together all of the public healthcare services in the Marne *département*, with the exception of a multi-sector child and juvenile psychiatry unit attached to the Reims university hospital (CHU). Thus, as part of the implementation of the Champagne university hospital group, the adult psychiatry activities of the G10 university complex have been transferred to the EPSMM.

2.21.1 *Best practices*

A specific manual on patients' rights has been drawn up for doctors and caregivers.

The delivery of the rules of procedure is an integral part of the welcome procedure, including a time for explanations regardless of the information the patient may have received beforehand.

The implementation of the rules concerning patient access to tobacco in the psychiatric emergency structure has been made more flexible by the individualisation of decisions and collegial reflection on the subject.

Patients have the key to their cupboard and when one of them loses it, it is replaced.

Evaluation time within the psychiatric emergency structure (SUP) is used to seek the consent of patients admitted as an emergency.

Physical restraint is only exceptionally practised.

2.21.2 *Recommendations*

The operating rules of the psychiatric emergency unit have been revised to broaden entry and exit rules during the day, taking into account the patient's condition.

The institution does not wish, contrary to the law, for the granting of permissions to leave for patients in involuntary care by decision of a State representative to be able to result from a tacit agreement of the prefect.

The maintenance of patients in psychiatric emergency services for more than 72 hours has decreased significantly.

The "cash and valuables deposit" procedure specific to the Reims units was updated in March 2019 with a manager travelling on-site for the return of valuables.

Essential information on patients' rights and all collective and individual rules of living are mentioned in the EPSMM's welcome booklet given to each patient according to a formalised procedure.

An "adolescent sector" project agreed with the ARS is in the process of being rolled out.

The wearing of pyjamas on medical decision is exceptional.

Since December 2019, the EPSMM has been deploying a system for the closing of rooms by patients from the inside in order to preserve safety, respect for privacy and intimacy. Two actions are included in the institutional training work of the institution: "how to approach sexual violence" and "sexuality and psychiatry".

Satisfaction questionnaires can now be returned anonymously.

The Reims library is involved in the process of offering reading material for the psychiatric emergency structure.

The methods of organising and administering medications comply with the recommendations and the procedure updated in December 2019.

A user representative, member of the User Committee, sits on the EPSMM's ethics committee; it is up to the committee, if necessary, to request the support of an external organisation.

The "adolescent sector" project provides for the creation of emergency and crisis beds from the beginning of 2021; sequential beds are scheduled for 2022.

The care of minors is adapted on a case-by-case basis according to their disease and the risks observed and after a multidisciplinary reflection carried out by the child psychiatry and adult psychiatry teams.

In 2019, the institution carried out a process to reduce the number of seclusion rooms based on an inventory and arbitration by the management board and the CME concerning dedicated rooms. The strict definition of seclusion rooms is integrated in the institution and protocols are updated and applied to this end.

The seclusion rooms have been brought into compliance subject to the structural constraints of the existing buildings.

Physical restraint practices are recorded in a register in the same way as seclusion practices and a policy aimed at limiting their use is now being implemented.

The status of voluntary hospitalisation for secluded patients is now changed to involuntary care when seclusion is prolonged.

3. Detention centres for illegal immigrants inspected in 2017

3.1 Lille-Lesquin CRA (Nord) – May 2017 (2nd inspection)

The CGLPL identified three best practices and made 10 recommendations.

3.1.1 *Best practices*

Best practices, still in force, concerned:

- the procedure for the arrival of detainees, which takes on a form of benevolence;
- the daily cleaning of the premises, communal areas and each room;
- immediate access for detainees to the medical unit without a prior appointment, between 9 am and 5 pm.

3.1.2 *Recommendations*

A welcome booklet is being developed.

A list of prohibited items has been drawn up. It is translated and given to detainees.

Menus are posted on the doors of the CRA restaurant each week for the following week, but no consultation is carried out.

Sports and leisure facilities have been set up.

The traceability of stays in health confinement rooms is ensured by the medical unit.

Two health confinement rooms are equipped with a television but not with books, for security reasons.

Since 2019, a psychologist has been on duty at the centre twice a week for all detainees.

The protocol linking the CRA to the Seclin hospital still needs to be updated and, due to the opening of the new area in the first half of 2021, it will be on that date.

3.2 Metz-Queuleu CRA – October 2017 (3rd inspection)

The CGLPL identified two best practices and made 16 recommendations.

3.2.1 *Best practices*

Best practices, which are still in force, related to:

- very fluid access to the registry and the luggage room in order to withdraw money and personal items;
- free access to the medical unit of the detention centre for illegal immigrants (UMCRA).

3.2.2 *Recommendations*

Chairs have been set up in front of the registry counter so that people can sit down and have the opportunity to ask questions.

Persons in custody in the facilities of the zonal directorate are supervised by the detaining agency and not by the CRA staff.

The maintenance contract was reassessed with the service providers to be in line with the occupancy rate. Cleaning is now daily.

A microwave oven was installed in the dining room, but it was removed since it was a source of tension between detainees and used to express fits of temper. However, it is exceptionally made available to detainees in the dining room during the Ramadan period to enable them to heat up their meal.

The multi-sports grounds in the men's section and the women's-family area were refurbished at the end of 2019. Each of the five buildings in the men's section, made up of seven double bedrooms, has a TV room; each building in the women's section has at least one TV room; work has been planned for 2021 to create an occupational building (men's section) and a recreational-cultural area (women's section), each equipped with a TV room. The CRA has been provided with books in French and foreign languages, game consoles, board games, toys for children and sports equipment.

The design of the building's structure (shuttered concrete ground floor) prevents the neon lights in the seclusion rooms from being replaced with lights reproducing natural light. Windows cannot be installed for security reasons.

Despite the CGLPL's request, the detention of children has not been abandoned. It is subject to legal and practical precautions. In 2020, the average duration of family detention was 18 hours at the Metz CRA.

It was suggested that OFII representatives display a list of prices for the main products that detainees order through them. At this stage, only oral information is provided on request.

While no psychiatrist or psychologist intervenes at the CRA, the CRA's health centre nevertheless schedules, if necessary, consultations with the emergency and liaison psychiatry department of the regional hospital. As part of the renewal of the Metz CRA's health agreement for 2021, discussions will focus on the intervention of a psychologist. As soon as a person's condition requires full-time psychiatric care, they are transferred to an authorised psychiatric institution for hospitalisation.

The use of the personal protection system is recorded in the detention register as well as in seclusion reports and escort reports.

Asylum applications are received in an envelope by the registry, then sent in a sealed envelope to the OFPRA by Chronopost. In practice, the association responsible for legal assistance collects the form from the registry and then assists the applicant foreigner in filling it in. The CRA's registry then sends it to the OFPRA.

Handcuffs are used in accordance with Article 803 of the Code of Criminal Procedure. Police officers have discretionary power and must act with discernment, method and professionalism. According to a circular from the Minister of the Interior, this is a strictly regulated measure that aims to ensure the safety of the detained person and the police officers who manage their movement.

Rules relating to the conditions for informing detainees of their departure are still not formalised at national level.

For operational reasons, the organisation of departures, which requires that detainees be woken up during the night in a way that is intrusive and anxiety-provoking and is difficult to manage for the escorts, cannot be modified. The possibility of deportees spending a night in a CRA near the airport before their departure is not being considered.

It is not possible to make the administration responsible for escorting people released outside public transport operating hours to the train station. On request, the administration can make contact by telephone with an association, previously contacted by the Order of Malt France or the OFII, to report these late releases which nevertheless remain exceptional.

3.3 Nice CRA – April 2017 (3rd inspection)

At the end of its inspection, the CGLPL had found no best practices and had made 22 recommendations.

The registry systematically delivers the document on detention rights translated into the UN languages upon arrival at the CRA. This document is also posted in the office of the registry.

Each detainee has a bed and a bedside table where they can store their personal belongings, and they can access the luggage room, but they have no storage options in their room.

So that any damaged or broken door separating the toilets from the accommodation rooms can be replaced quickly, a stock of additional doors has been ordered. During the period of suspension of the CRA's activity linked to the health crisis, all seven doors of the rooms and sanitary facilities were renovated.

All regulatory displays translated into eight languages were reproduced after the painting of the ground floor walls (May-June 2020).

The security work carried out provides free and continuous access to the courtyard, from 7 am to 11 pm, without physical police surveillance. The protective net has, however, been kept above the courtyard. To limit the prison-like appearance of the exercise yard, the smoothing of the walls through the placement of iron plates to prevent climbing and a curved Plexiglas return wall at the top of the fence are being studied.

In 2019 and 2020, the living areas (bedrooms and communal areas) were completely renovated. The shower thermostat was repaired during renovations carried out between 2019 and 2020.

Detainees who have a mobile phone can use it freely, if it does not include a digital camera, in order to preserve the right to privacy. In this case, the chip can be removed from the telephone and left with the detained foreigner, in order to insert it into a mobile telephone which can be lent to them by the OFII. Moreover, telephones are freely accessible within the detention centre.

A waiting room is now operational for visitors to detainees. The work carried out during the summer of 2019 tripled the surface area of the visiting room and helped create a room dedicated to families.

The outdoor area is freely accessible, except between 11 pm and 8 am. Books and game consoles are now available.

A stock of clothes handed over to the OFII has been added to the cloakroom.

The seclusion register is now rigorously filled in by all the persons concerned by this measure and it is effectively checked by the CRA's management.

The solitary detention cell is only used for one detainee.

A psychologist took up her duties at the CRA in 2019 at the rate of two shifts per week. The confidentiality of consultations is respected. Police officers inform all detainees of the possibility of consulting her.

A professional telephone interpreting system has been put in place.

The detention registers were targeted during the visit of the prosecutor in charge of illegal immigration on 9 January 2020. The traceability of the authorities' visits is well guaranteed.

The list of lawyers is displayed in a protected place (dining room) where detainees pass four times a day. The Forum Réfugiés association also informs all detainees on this subject.

The police van is only used for very short trips within the Nice urban area.

Only reasons relating to public order prevent detainees from being informed of their departure date (detainees who could harm their bodily integrity). Informing the detainee and the medical unit is the principle.

The recommendation stating that a person who cannot be identified to obtain a pass should be released immediately is only answered via a review of the procedure.

3.4 Oissel CRA (Seine-Maritime) – October 2017 (3rd inspection)

The CGLPL identified one best practice and made 23 recommendations.

3.4.1 *Best practices*

In addition to a poster, in the six languages of the UN, relating to information on fundamental rights, the centre offers a poster with pictograms in each living unit (men, women, families) summarising the main useful information in detention such as access to healthcare, telephone calls, visiting hours and meal times.

3.4.2 *Recommendations*

Improving the signage for accessing the CRA and improving public transport service still do not seem to have been requested from the competent authorities.

Article L.8252-2 of the Labour Code (rights of foreign employees) is posted in the detention areas, in the six UN languages.

No substitution (imprisoned persons) or relocated (persons in custody) detention is to be recorded in the detention centre. All services must report on arrival and present a detention procedure. Therefore, any other case is now excluded. Only consultation of the EURODAC terminal is accessible to other services but only on presentation of a mission order issued by a prefecture. This terminal is not located in the detention areas.

The possibility of writing as well as correspondence materials will be made available to each detainee upon the opening of the occupational activities room. Similarly, the purchasing and installation of a mailbox do not seem to be problems in themselves but remain linked to the implementation of a system for the pricing and postage of any mail.

For safety reasons, it has been deemed preferable not to attach toilet paper dispensers. The absence of latches in the toilet facilities is only intended to guarantee the safety of those detained, by allowing for more rapid intervention, in particular in the event of a suicide attempt.

Each detainee is equipped with a complete hygiene kit. This service is not limited. Purchases of comfort hygiene products (branded shower gel, specific shampoo or particular toothpaste) can be made by the OFII.

Cleaning is carried out daily by a company. All rooms were equipped with a thermostatic tap in 2020 to guarantee a constant temperature of tap water. Specific meals as well as food supplements are offered on medical recommendation.

Access to healthcare is guaranteed by the university hospital 7 days a week. A psychologist is present in the detention centre two half-days a week.

Detainees have permanent free access to the patio in their detention area. However, access to the courtyard remains limited to favourable weather conditions and is subject to the availability of the personnel present in order to guarantee its security. This availability may be hampered due to the accomplishment of other missions (judicial appearance, hospital conduct, visits of detainees, etc.). The opening of an activity room will help overcome these problems. Detainees have full and permanent access to the patio in their detention area. The appointment of a detention coordinator has enabled practices to be harmonised.

Until the autumn of 2020, the company responsible for providing food for detainees received multiple reminders concerning the quality and quantity of the meals offered. As part of the renewal of the contract, food services have been reviewed in order to ensure sufficient service in terms of quantity and quality.

All of the waterproofing and insulation work on the roof of the detention centre was carried out in 2019. A double-flow mechanical ventilation system was also installed. During winter 2019-2020, no specific claims were made and the level of heating improved significantly.

The ban on bringing smartphones into detention areas has been maintained. A mobile phone compatible with detention can be supplied by the OFII. Access to the contact lists of telephones left in the luggage room is possible.

For security reasons (physical and cyber security), technical opinions regarding the feasibility of Internet access equipment are expected.

The situation of visits remains unchanged: they are carried out in rooms without a video surveillance system. During visits, the glass door is closed in order to guarantee the confidentiality of the exchanges while maintaining a necessary level of surveillance.

The appointment of a detention coordinator was approved in the last half of 2019; he is in charge of the occupational activities file. The TV rooms remain uncomfortable; the rest rooms in the women's area have been improved. The installation of video projectors is under consideration. Facilitators are present every week. An agreement has been signed with the municipal library. Books and board games have been offered.

The appointment of a detention coordinator took effect in the second half of 2019. He has implemented a protocol for harmonising professional practices. The management of the centre has changed and a new mode of governance has been established. Staff are equipped with body cameras to prevent disputes concerning ethics and respect for rights.

Each detainee is placed in therapeutic seclusion at the request of the doctor or the medical service. A record of the doctor's visits in the register is his responsibility. A service mention is recorded in parallel by the head of the brigade.

Medical interviews are confidential and are carried out in the facilities dedicated to the medical team. At the express request of the doctor, if he considers that his safety justifies it, medical interviews can be carried out in the presence of guards.

Detention files are forwarded by the prefectural authorities. If, upon admission to the centre, it is found that a medical document mentioning the disease of the detained person is included, withdrawal and transmission to the medical unit are carried out by the registry.

The Rouen public prosecutor's office, which has territorial jurisdiction, visited the CRA in early 2018, but there was no visit by the Rouen public prosecutor in 2019.

The working conditions of the representatives of the OFII and the France Terre d'Asile association cannot be improved without heavy work which is under study.

Handcuffs are used in accordance with Article 803 of the Code of Criminal Procedure. Police officers have discretionary power and must act with discernment, method and professionalism, while respecting personal dignity and the principle of proportionality in consideration of the circumstances of the case. The "hands in front" transfer belt system has proven completely satisfactory. This system has therefore been implemented in the user units. Therefore, handcuffing "behind the back" for long trips is no longer used.

Each release measure is notified by the judge when the detainee is presented to the court. A translator is used to translate this decision if necessary. Prefectural release decisions are made in the same way. They are also issued in cooperation with the France Terre d'Asile association. A translator is used via the ISM Interprétariat platform whenever the situation requires it.

The creation of a public transport line is the prerogative of the local authorities.

3.5 Saint-Jacques-de-la-Lande CRA – January 2017 (3rd inspection)

The CGLPL identified six best practices and made 27 recommendations.

3.5.1 *Best practices*

Best practices, which are still in force, related to:

- the establishment of a "detainee card" which includes all useful information;

- exhaustive traceability of all incidents which could usefully allow team feedback, but does not yet seem to have led to this practice;
- the absence of admission to psychiatric care at the request of the head of the CRA as a third party; an agreement has been signed since the inspection with the attached psychiatric hospital;
- respect for medical secrecy prohibits the use of another detainee or a police officer for interpreting purposes;
- the organisation of on-call support from volunteer lawyers who have received *ad hoc* training. The numbers of these lawyers are displayed in detention.

On the other hand, the systematic lifting of detention after several days of hospitalisation, noted as a best practice during the inspection, is now coming up against prefectures refusing to do so without a medical certificate.

3.5.2 *Recommendations*

Three CRA posting signs should be installed very soon.

The recommended call button device could not be installed. However, a redevelopment project for the centre is under way in order to install an intercom in the courtyard of each building. The installation of comfort locks in the bedrooms is under consideration.

The family studio is now equipped with a television.

For the safety of detainees and police officers, the shutters of the rooms remain closed. A reflection is currently in progress in order to replace the current shutters with opening shutters. All cabinets have been removed and replaced with lockers to limit damage.

Three years after the inspection, studies are still under way to replace a bench and an awning.

Secure remote controls now allow detainees to adjust the television themselves. Ultimately, all the rooms will be equipped with a television; the detainees will be able to change the channels directly on the television.

Leisure facilities have been installed; a sports instructor now comes in once a week and board game sessions are organised twice a week. Various games are made available to detainees.

The “women and families” building is now accessible to people with reduced mobility.

In the sanitary facilities, no satisfactory solution has been found for the installation of hooks and soap dishes. A new study is currently in progress.

A detention coordinator has been appointed to ensure the normal functioning of the CRA without reinforcing security measures. His mission is, in particular, to monitor “difficult” people through a mediation role. The position has been twofold since 2018.

Greater attention is now paid to people who have hygiene requests or complaints. The opening hours of the laundry room have been extended; detainees can ask the guards for the renewal of products and feminine hygiene kits now contain sanitary protection.

The poster relating to the absence of pork in meals has been modified so that Arabic-speaking detainees are properly informed. A document written in nine languages is given to each detainee upon arrival describing the two types of menus served at the centre. The detainee ticks the box indicating the chosen menu.

Detainees can now buy correspondence materials or keep the ones they have when they arrive. The detention coordinator can provide a correspondence kit to each detainee who requests it.

Cell phones with camera systems are still not allowed in detention. A posteriori inspections of the phones could lead to a deterioration of the general climate. It is therefore preferable to maintain this prohibition.

Discussions are being held in order to deploy a computer station with access to the Internet; however, the criteria of robustness for the computer equipment seem difficult to satisfy. The wider deployment of Internet access, which raises security issues, has not been planned. Although detained foreigners do not have Internet access, they can check their e-mail from the Cimade's office.

Free telephone cards are given to needy detainees despite the difficulty encountered by the centre in obtaining such cards in shops.

Despite the absence of a legislative or regulatory provision authorising the police to prohibit sexual relations during a visit and use this as grounds for interrupting it, the administration considers that the premises are not suitable for "intimate" relations during visits; these are therefore prohibited, as respect for the privacy and intimacy of detainees cannot be guaranteed in an open space and under surveillance.

The OFII mediator is present every day of the week on the basis of 10 half-days, but activities have been removed from his missions.

The window of the door of the solitary detention cell cannot be obscured, even partially, at the risk of preventing the detainee from being supervised. A mattress is now available; it is cleaned after each use.

The agreement with the hospital was reviewed in 2019.

No procedure is currently planned for detainees to benefit from psychiatric care, but a psychologist is now present at the centre one day a week to receive detainees who request it.

Detainees who so wish can benefit from a medical examination on their arrival at the centre, but this is not systematic.

Detained diabetics are still forced to perform their injections in the presence of police personnel. Nothing is said about the recommendations to guarantee medical secrecy, secure the procedures for handing over paramedical equipment or make condoms available to detainees.

Foreign-language health prevention documentation is now available in the UMCRA waiting room.

Notification of measures of release without summons (without notification of an order) will now result in the delivery of an information form, translated into the language of the person released. When the detainee is released by the prefecture but is placed under house arrest, their house arrest is notified to them by an interpreter. In the event of the release of the detainee following a court decision, the order is notified to them via an interpreter and on this occasion, their rights and obligations are reviewed.

Bus tickets are given to people released without financial resources when they leave the centre.

3.6 Paris-Vincennes CRA – February 2017 (2nd inspection)

The CGLPL identified one best practice and made 18 recommendations.

3.6.1 *Best practices*

The CGLPL had noted a best practice which remains in force: the dissemination of information and rules to be observed through images and pictograms facilitates good understanding by all those detained, in particular those who do not master the French language. In addition, the legal aid association can be reached at any time.

3.6.2 *Recommendations*

Since 2017, supervision has been significantly strengthened. However, it remains difficult to obtain the commitment of civil servants, with recently graduated police officers assigned to the CRA aiming to pursue their careers in public or investigative units. In 2021, specific modules will be put in place for trainee police officers.

The public prosecutor and the deputy prosecutor visited Paris CRAs 1 and 2 in 2020.

The information provided to detainees has been updated according to the latest legislative amendments.

The rooms of CRA 2 are equipped with beds, chairs and tables only. No additional furniture has been installed for security reasons, with the equipment available being misused or damaged by detainees. The monitoring of the cleanliness of the premises and maintenance is carried out seriously by the site managers but meets the conditions negotiated with the service provider.

The service provider provides food for new arrivals during meal times. People received at the CRA outside these times benefit from food distributed on their arrival.

The staff carrying out missions relating to the organisation of visits have been reinforced. The installation of a room outside the site for visitors has supposedly been referred to the town hall of Paris, which does not seem to have been contacted.

The nursing staff alone decides the degree of privacy they wish to have with their patient according to their behaviour. In addition, medical staff have an alarm in the event of a physical attack and can request the presence of a police officer.

Upon arrival, detainees systematically benefit from an interview with a nurse, but not a medical consultation. Detainees have free access to the infirmary and to the doctor with no other limitations than the imperatives of regulating flows of detainees in the corridor and ensuring the availability of caregivers.

Only substitution treatments for narcotics and the use of prescribed drugs for certain diseases are subject to immediate control by medical personnel.

The medical service is notified of movements by e-mail the day before so that it can organise the transmission of treatments for one or more days.

The detention register does not track events related to detention, but detention is tracked in LOGICRA software. Procedural steps are recorded on a sheet of the administrative procedure kept by the registry, a copy of which is given to the detainee.

Since the opening of the Paris court, the material conditions for waiting to appear before the JLD or before the court of appeal have been improved.

Detainees are invited to keep documents related to immigration detention with them, but some choose to leave them in the safe. The rule in force allows detainees to access their safe outside the hours provided for by the regulation so that they can exercise their fundamental rights, apply for asylum or launch an administrative appeal.

Foreigners placed in the CRA benefit from an interpreter to help them prepare their asylum application; the interviews take place in a dedicated room. A police officer remains nearby. Nothing is said about the confidentiality of exchanges.

Asylum application files of detainees are transmitted via the delivery of an envelope guaranteeing the confidentiality of the detainee's declarations.

The access of the legal aid association's representatives to the accommodation area is restricted, limited to procedural urgency or the detainee's inability to move. These personnel are escorted into the accommodation area for their safety. The rule is that detainees move to the administrative areas when their name is called.

In general, as a rule, handcuffing is not used in Parisian CRAs. However, pursuant to the Circular of 14 June 2010 on the harmonisation of practices in detention centres and facilities for illegal immigrants and during escorting, officials shall assess the need to handcuff according to objective elements such behaviour that is dangerous for the detainee or for others. The random and unpredictable nature of this security measure, which strongly depends on the context, the personality of the detainee and their behaviour, appears incompatible with the effective implementation of a priori and a posteriori traceability.

Rules relating to the conditions for informing detainees of their departure are not formalised and this information is not traced. Departure forecasts are displayed except when the persons concerned are

psychologically unfit to receive this information, when their provision is likely to threaten public order inside or outside the detention centres, or in order to avoid any delaying strategy against deportation.

4. Juvenile detention centres inspected in 2017

4.1 Bruay-la-Buissière CEF (Pas-de-Calais) – April 2017 (1st inspection)

The CGLPL identified two best practices and made 13 recommendations.

4.1.1 *Best practices*

The management had produced a "welcome booklet for new staff". Since the inspection, this document has been enriched with a "booklet by function" for each profession.

The precisely formalised welcome procedure, which promotes the reception of youth, the continuity of care with the open environment and the involvement of families, continues to be used.

4.1.2 *Recommendations*

The work recommended by the CGLPL to limit the risks linked to the very structure of the premises (easily accessible roof and an unsupervised enclosure lined with spikes, etc.) are the subject of requests slowed down by the fact that the centre is classified as a historic monument. However, video surveillance has been reinforced.

All malfunctions related to the building were checked in 2018; this was followed by work to make the upstairs floor accessible to people with reduced mobility. An ongoing restructuring project provides for the separation of the girls' area from the boys' area with dedicated sanitary facilities. Work permits are awaiting validation.

All professionals now take part in service meetings.

The maximum capacity of the institution is never exceeded, as the CEF does not take in new youth to replace a runaway minor. Since September 2017, the age of minors has been scrupulously respected during admissions.

Due to a lack of personnel to assist the teacher in place, the CEF cannot increase the number of hours of schooling provided internally. To overcome this difficulty, national education – PJJ agreements provide for periods of immersion in high schools and classes have been set up with the Compagnons du Devoir association for minors wishing to work in building trades.

The CEF increased its capacities after the CGLPL's inspection for the reception of young people who do not master the French language due to the reception of unaccompanied minors. The secularism advisers of the national education system and the PJJ regional directorate intervene to promote the return to school of radicalised minors.

Various partnership agreements have been signed since September 2017 allowing minors to work on their social and professional integration. In addition, two integration advisers have been appointed and have drawn up a list of companies allowing young people to carry out internships. Citizen projects also contribute to this integration of minors.

The youth workers recruited now all have training giving them the ability to accompany minors during a sports initiation. The CEF has developed a schedule of activities combining sport, culture and health, relying on qualified external workers to secure care.

The CEF continues to encounter difficulties in establishing a protocol with the child psychiatry sector of the local institution. The child psychiatrist is however available in complex situations, but in order to

have more consistent follow-up for minors, he no longer provides team support. Exchanges are planned to allow professionals to better understand the context of each person's care.

Training in radicalisation is regularly offered and associations address this topic during institutional meetings; on-site training was requested and delayed by the health crisis. The secularism and territorial citizenship adviser intervenes regularly within the CEF, to support the educational team.

4.2 Forêt d'Orient CEF in Lusigny-sur-Barse (Aube) – February 2017 (2nd inspection)

The CGLPL identified two best practices and made 12 recommendations. An operational check carried out by the inter-regional directorate at the end of 2018 focused in particular on the points which were covered by the CGLPL's recommendations.

4.2.1 *Best practices*

The best practice of involving technical youth workers in daily life and night watchmen in evening activities is maintained. It ensures a diversity of views and contributes to a more in-depth and accurate understanding of minors.

Openness to the outside through sporting activities still persists.

4.2.2 *Recommendations*

The CGLPL having noted the insufficient presence of healthcare personnel, the CEF has made a major effort in this direction: a youth worker responsible for the medical monitoring of minors has been identified and multiple partnerships have been entered into. There is still no nurse, but five healthcare professionals work in the centre. Partnerships with associations enable health education actions to be taken. An infirmary has been created as recommended and a health file is now prepared for each minor received and is clearly distinguished from their administrative file. On the other hand, the agreement with the local psychiatric department was refused by the latter, which nevertheless remains available if necessary.

The CGLPL having recommended improving the keeping of files and strengthening their reference role in care, a working group met on this subject and, from 2018, the operational audit mission noted improvements in the maintenance, accessibility and confidentiality of minors' files. Tools for monitoring the outcomes of minors have been simplified which, as the CGLPL hoped, has facilitated their ownership. An obsolete handbook on the date of the inspection has been withdrawn and a new reference document is being produced.

According to the DPJJ's statements, the participatory body recommended by the CGLPL exists "informally" and a satisfaction questionnaire is under study, which, although commendable, cannot take the place of a formalised participatory body.

The role of families, the reality of which the CGLPL had observed while recommending that it be better formalised, has been mentioned in the juvenile handbook and should soon be given overall consideration by the managing association. The authorisation forms submitted by the holders of parental rights upon the arrival of young people have been reviewed in imitation of those used in public-sector CEFs; in particular, the rules relating to image rights have been tightened.

The CGLPL having requested that the CEF be able to provide more precise information on the conditions of release, these are now described in the placement report and discharge plans are all presented in the annual report. On the other hand, contrary to the CGLPL's wishes, the PJJ does not have information on the future of young people after they leave child protection services.

4.3 Pionsat CEF (Puy-de-Dome) – May 2017 (3rd inspection)

The CGLPL identified three best practices and made seven recommendations.

4.3.1 *Best practices*

The organisation of supervised and regular activities, announced with sufficient notice, was recent and clearly contributed to the care of minors. Efforts have been made to continue this movement, but professionals need to be constantly supported to maintain this momentum.

The institution regularly requested placement extensions and renewals, with the agreement of the young person, in order to be able to finalise discharge plans. This palliative measure remains necessary because a lack of anticipation of discharge plans is still to be deplored with default orientations and a lack of consultation with open environments.

The institution continues to promote the return of young prisoners if they are in a constructive and willing mindset.

4.3.2 *Recommendations*

The service project has still not been updated. The successive changes of management have been an obstacle.

The content of minors' files has been reworked: educational and psychological reports are included. An end-of-detention file is given to judges and open environments.

Individual care files are now filled in with the minors and the open environment either on the day of their arrival or one week after their arrival; they are then updated one month after their arrival.

The CGLPL recommended that in order to guarantee the confidentiality and privacy of a minor's telephone conversation, the presence of a youth worker should be avoided, unless the psychological safety of the minor is not guaranteed, and that measures should be taken so that, from the living room, the minor cannot make calls to persons other than those validated by the CEF. Nothing is said on the first point; on the second, it seems that technical solutions are being sought with the telephone operator.

Precautions have been taken to prevent unauthorised persons from gaining access to medications and the form used to monitor compliance with drug treatment is now rigorously completed by the nurse and youth workers who distribute the treatments. Medical files and documents are now kept in such a way as to respect medical and professional secrecy. However, nothing is said about the recommendation to keep pillboxes in conditions that preserve medical secrecy.

4.4 Sainte-Menehould CEF (Marne) – June 2017 (2nd inspection)

The CGLPL identified one best practice and made 25 recommendations.

4.4.1 *Best practices*

Gender mixing is implemented by ensuring a numerical balance of girls and boys.

4.4.2 *Recommendations*

Everything necessary has been done to ensure that minors can freely access the toilets while preserving their privacy (installation of locks that can only be operated from the inside) and drink without depending on the supervision of a youth worker.

The general ventilation system has been protected from damage and has been the subject of a general upgrade.

Staff qualification and training remain areas of concern for the association. In 2018, while the team was complete, the lack of qualification and training of some of the people recruited was still to be deplored. Decisions were taken relating to staff members identified as being sources of certain malfunctions. Since then, a recruitment procedure, support for incoming professionals and a training plan have been put in place.

In order to bring care into compliance with the operating regulations, a conflict resolution procedure has been put in place, the welcome booklet for new professionals has been updated, regular meetings with the department head are held and job descriptions have been revised. The deployment of educational containment as well as the notion of sanctions have sparked discussions among the CEF's staff. The first updated documents were to be published in 2020.

The young people's file now provides an overall understanding of their situation, with the aims of developing a diagnosis, designing action plans, carrying out their evaluation and keeping a record of the actions undertaken.

In order to make the individual care file an operational document, this file has been supplemented by a personalised support project that is co-created by the young person and the youth adviser, regularly reassessed by the heads of educational services, presented to the parents and the partners of the PJJ, and sent to the referral judge.

In order to restore confidence between professionals to discuss possible attacks on the physical integrity of minors, conflict resolution procedures have been put in place and two protocols have been written, one on the subject of violence, the other on that of abuse. The institutional project no longer mentions the use of restraint, which no longer seems to be a daily practice. Professionals from the institution have taken part in reflections relating to "punishment as an educational driver" and "educational containment".

Information on the remedies available against the judicial measure is now given during the admission interview in accordance with the procedures provided for in the admission protocol and the welcome booklet. Regulatory postings are now visible.

The letter sent to families when minors are received has been reviewed and completed in accordance with the CGLPL's recommendations. Parents receive the welcome booklet given to the minor and are regularly involved and informed of their child's achievements.

Young people are no longer deprived of telephone calls or physical contact with their parents for any reason other than the decisions of the referral judge. Regular contact with parents has been included in the responsibilities of each lead youth worker.

Internships are fully integrated into the personalised support project and any systematic link between collective living at the CEF and internship authorisation has been removed. In 2019, on average, four to five young people were on internship every day.

Access to digital content is now organised and regularly monitored.

Two periods of in-room rest are now organised during the day.

Reinforced support for the CEF has been put in place by the territorial directorate with regard to secularism. Respect for the principles of secularism and neutrality has been integrated into the association's rules of procedure. Provisions for religious meals have been clarified. The practice of worship within the institution is now purely individual and limited to the space of the bedroom. The operating regulations do not, however, detail the measures taken by the institution with regard to the exercise of worship, and a PJJ audit mission indicated that they should be clarified.

Each mail check by department heads is now carried out in the presence of the young person.

The confidentiality and traceability of the drug distribution procedure are now ensured.

A "punishment" protocol and the current operating regulations constitute the benchmarks in terms of rules of behaviour and punishments for young people and for youth workers. There are no longer any punishments limiting access to hygiene products. The power to decide on and lift punishments is now

organised; the head of educational services is the guarantor of the punishment and the youth worker of the educational work that should result from it.

The CGLPL recommended that the use of restraint, which is prohibited by the national guidelines for judicial youth protection, be abandoned. One year after the inspection, this measure was still not effective. Subsequently, two texts recalling this prohibition were given to the employees against signature and were presented by the PJJ. Training in risk management and work on recommendations for good professional practices are implemented on a regular basis.

4.5 Saint-Paul-d'Espis CEF (Tarn-et-Garonne) – March 2017 (2nd inspection)

The CGLPL identified five best practices and made 20 recommendations.

4.5.1 *Best practices*

The participation of minors, within the framework of educational workshops, in the maintenance and development of the premises remains in force. Decisions concerning minors are always presented to them during a weekly interview with the head of educational services. The reinforcement of the medical and nursing team, which had improved and structured the provision of healthcare to minors, is still effective, as are the healthcare protocols intended for the educational team which allow any difficulty to be reported without delay. Internal and external professional awareness-raising courses are still offered.

4.5.2 *Recommendations*

The management team, which was incomplete during the inspection, has been supplemented and an institutional project has been adopted.

Some of the improvements recommended by the CGLPL have been made; the rest are being programmed as part of a larger project.

The steering committee provided for by the Circular of 10 March 2016, which did not exist at the time of the inspection, now meets once a year.

The files of minors are now kept up to date. Moreover, all educational documents, starting with the welcome booklet, have been updated. The individual support document has been updated in order to optimise its use in the minor's personalised project.

The terms and conditions of visiting rights for families have been reviewed in order to allow them to come and see their child from the first weeks of admission with a tour of the institution and in particular of the room where each minor concerned is housed. The tenor of contacts between minors and their families has been reviewed with a view to better involving the latter in individualised projects. Work with families has been integrated into the institutional project.

The role of the youth advisers is now formalised in the institutional project. In addition, a five-year professional development plan has been drawn up to consolidate the function of youth adviser, and training in professional writing has been carried out.

Individual schedules, mentioning the activities and the names of the participants concerned, are now offered to each minor. The number of teaching hours has been increased and access to sports activities for all has been favoured, in particular through the registration of minors in local sports associations, taking their aspirations into account.

The organisation of teaching has been reviewed internally and partnership agreements have been signed with the middle school and the rural family home of Moissac.

The CEF has complied with the Order of 27 December 2010 relating to the payment granted to minors entrusted to the public sector of the PJJ.

The setting up of religious menus is now decided by the management in direct contact with the holders of parental authority and not by the cook alone. An intervention by the secularism and citizenship adviser took place in 2018.

The practice of searches has been interrupted: a visual check of the minor's personal belongings is now carried out.

The institutional project now clearly shows the procedures related to transgressions committed by minors and the levels of intervention are now clearly identified by the educational team. In addition, the prioritisation of "remedial" sanctions and the opportunity given to minors to propose steps to be taken in this direction have been developed.

To resolve difficulties in finding a reception structure at the end of the placement period, the CEF has initiated joint work with the open environment services; this work is still in progress.

Appendix 5

Inspectors and staff employed in 2020

Chief Inspector:

Adeline Hazan, *judge* (until 16 July 2020)

Dominique Simonnot, *journalist specialising in justice issues* (from 14 October 2020)

Secretary General:

André Ferragne, *Chief Inspector of the French armed forces*

Permanent inspectors:

Chantal Baysse, *Director of Prison Rehabilitation and Probation Services*

Mathieu Boidé, *counsellor to the administrative court and administrative appeal courts*

Anne-Sophie Bonnet, *former ICRC delegate* – delegate for international relations

Alexandre Bouquet, *Director of prison services*

Luc Chouchkaieff, *public health medical inspector*

Matthew Clouzeau, *Chief Superintendent of the French National Police Force*

Candice Dagestani, *judge*

Maud Dayet, *Director of prison services*

Céline Delbauffe, *lawyer*

Jean-Christophe Hanche, *photographer* (since 2 May 2020)

Anne Lecourbe, *President of the judiciary of administrative courts*

Agathe Logeart, *journalist* – delegate to the scientific committee (until 28 February 2020)

Danielle Piquion, *judge* (until 30 March 2020)

Yanne Pouliquen, *former lawyer in the associations sector* – communication delegate

Julien Starkman, *psychiatrist, hospital practitioner* (since 1 March 2020)

Vianney Sevastre, *civil administrator* (until 30 August 2020)

Bonnie Tickridge, *health executive*

Marion Testud, *Director of the Judicial Youth Protection Service* (since 1 February 2020)

Cédric de Torcy, *former director of a humanitarian association* (until 28 February 2020)

Fabienne Viton, *Director of prison services*

Inspectors responsible for case referrals:

Hanène Romdhane, Legal Affairs Director, *judge*

Maria de Castro Cavalli, Deputy Legal Affairs Director, *Attaché of Government departments*

Benoîte Beaury, *political scientist and archivist*

Kevin Chausson, *lawyer*

Sara-Dorothée Guérin-Brunet, *engineer and political scientist*

Maud Hoestlandt, *former lawyer*

Mari Goicoechea, *lawyer*

Estelle Royer *lawyer, former executive in the associations sector*

External inspectors:

Hélène Baron, *former attaché of prison services*

Christine Basset, *lawyer*

Dominique Bataillard, *psychiatrist, hospital practitioner*

Annie Cadenel, *former nurse in the psychiatric sector and association manager in the social and medico-social field*

Betty Brahmy, *psychiatrist, hospital practitioner*

Jean-Francois Carillo, *general of the gendarmerie* (since 30 January 2020)

Michel Clemot, *general of the gendarmerie* (until 8 July 2020)

Marie-Agnès Credoz, *judge*

Aline Daillere, *police, justice and prison consultant*

Patrice Duboc, *hospital director*

Isabelle Fouchard, *research officer at the CNRS in comparative law*

Capucine Jaquin-Ravot, *academic, doctor of law*

Gérard Kauffmann, *Chief Inspector of the French armed forces*

Francois Koch, *journalist*

Augustin Laborde, *assessor at the National Court of Asylum*

Agnés Lafay, *judge*

Philippe Lescène, *lawyer, former Chair of the Bar*

Pierre Levené, *former General Delegate of the Caritas France foundation*

Bertrand Lory, *former attaché to the City of Paris*

Jacques Martial, *lawyer*

Annick Morel, *General Inspector for Social Affairs*

Philippe Nadal, *Chief Superintendent of the French National Police Force*

Dominique Peton-Klein, *public health chief physician*

Bénédicte Piana, *judge*

Marie Pinot, *public health medical inspector*

Bruno Rémond, *former chief auditor at the Court of Auditors*

Michel Roszewitch, *former company director*

Dominique Secouet, *former manager of the Baumettes prison multimedia resource centre*

Michel Thiriet, *former hospital director*

Cedric de Torcy, *former director of a humanitarian association* (since 1 March 2020)

Administrative services:

Christine Dubois, *Senior Attaché of Government departments*, administrative and financial director

Agnes Mouze, *Attaché of Government departments*, archivist, in charge of monitoring reports and recommendations

Franky Benoist, *administrative manager*

Nadia Dahi, *executive assistant* (until 30 April 2020)

Juliette Munsch, *executive assistant*

Mariam Soumare, *executive assistant* (from 2 June 2020)

In addition, in 2020, the CGLPL hosted, for professional training or on fixed-term employment contracts (CDDs):

Billie Allam (student at Panthéon Sorbonne University)

Laura Détienne (law student)

Dounyazadé Douah (student at the IEP of Strasbourg)

Lisa Farault (student at the IEP of Strasbourg)

Amélie Ben Gadi (lawyer)

Léopoldine Gebler (judicial trainee)

Ilan Jarjir (student at University of Nice)

Nina Larrouy (student at University of Le Mans)

Sarah Maquet (law student)

Basma El Majoub (judicial trainee)

Charles Miraillé (student at Panthéon-Assas University)

Antoine Siffert (law student)

Appendix 6

The rules of procedure of the CGLPL

The Act of 20 January 2017 conferring general status on independent government agencies and independent public authorities provides for the adoption of rules of procedure within each authority. In light of said provision, the CGLPL has merged two existing documents: the Code of Conduct and Service Regulations. The CGLPL's rules of procedure were published in the *Journal officiel* (Official Gazette) of 23 December 2018.

This text, as well as all of the other reference texts, may be consulted in full 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

The centre in charge of referred cases deals with the substance of letters sent directly to the CGLPL by persons deprived of liberty and their close relations by verifying the situations recounted and conducting investigations, where necessary on-site, in order to try to provide a response to the problem(s) and identify possible problems of a more general order and, where need be, put 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 unannounced 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 a draft report, which is sent to the head of the institution, in order to obtain the latter's comments on the facts ascertained during

the inspection. Except in special circumstances, the head of the institution is given one month to reply. In the absence of a response within this deadline, the Chief Inspectorate 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.

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 convenes the inspectors having conducted the inspection, in order to edit the report if necessary. The final report, referred to as the "inspection report", is sent by the Chief Inspector to the appropriate ministers having competence to deal with some or all of the facts ascertained and recommendations contained therein. Except in case of urgency, a deadline of between five weeks and two months is set for responses from ministers.

Once all of the ministers concerned have made their observations (or with no response forthcoming after three months), these inspection reports are then published on the CGLPL website.

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.

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