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<tr>
<td>IGA (AAI)</td>
<td>Independent government agency (Autorité administrative indépendante)</td>
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<td>AP</td>
<td>Prison Administration (Administration pénitentiaire)</td>
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<tr>
<td>APA</td>
<td>Personal care allowance (Allocation personnalisée d’autonomie)</td>
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<tr>
<td>APT</td>
<td>Association for the Prevention of Torture (Association pour la prévention de la torture)</td>
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<td>ARS</td>
<td>Regional Health Agency (Agence régionale de santé)</td>
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<tr>
<td>ASE</td>
<td>Child Welfare (Aide sociale à l’enfance)</td>
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<tr>
<td>ASPDRE</td>
<td>Committal for psychiatric treatment at the request of a representative of the State (Admission en soins psychiatriques à la demande d’un représentant de l’État, formerly HO))</td>
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<tr>
<td>ASPDT</td>
<td>Committal for psychiatric treatment at the request of a third party (Admission en soins psychiatriques à la demande d’un tiers, formerly HDT)</td>
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<td>ATA</td>
<td>Temporary waiting allowance (Allocation temporaire d’attente)</td>
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<tr>
<td>CD</td>
<td>Long-term Detention Centre (Centre de détention)</td>
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<tr>
<td>CEDH</td>
<td>European Convention on / Court of Human Rights (Convention/Cour européenne des droits de l’homme)</td>
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<tr>
<td>CEF</td>
<td>Juvenile detention centre (Centre éducatif fermé)</td>
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<td>CESEDA</td>
<td>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)</td>
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<td>CGLPL</td>
<td>Chief Inspector of Places of Deprivation of Liberty (Contrôleur général des lieux de privation de liberté)</td>
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<tr>
<td>CH</td>
<td>Hospital (Centre hospitalier)</td>
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<tr>
<td>CHS</td>
<td>Psychiatric hospital (Centre hospitalier spécialisé)</td>
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<tr>
<td>CICI</td>
<td>Interministerial Committee on Immigration Control (Comité interministériel de contrôle de l’immigration)</td>
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<td>CME</td>
<td>Public health institution medical committee (Commission médicale d’établissement)</td>
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<tr>
<td>CMP</td>
<td>Mental health centre (Centre médico-psychologique)</td>
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<tr>
<td>CNCDH</td>
<td>National Consultative Commission on Human Rights (Commission nationale consultative des droits de l’homme)</td>
</tr>
<tr>
<td>CNE</td>
<td>National Assessment Centre (Centre national d’évaluation)</td>
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<td>CNSA</td>
<td>National Solidarity Fund for the Autonomy of Elderly and Disabled People (Caisse nationale de solidarité pour l’autonomie)</td>
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<tr>
<td>CP</td>
<td>Prison complex, with sections incorporating different kinds of prison regime (Centre pénitentiaire)</td>
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<td>CPIP</td>
<td>Prison rehabilitation and probation counsellor (Conseiller pénitentiaire d’insertion et de probation)</td>
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<td>CPP</td>
<td>Code of Criminal Procedure (Code de procédure pénale)</td>
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<td>CPT</td>
<td>European Committee for the Prevention of Torture (Council of Europe)</td>
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<td>CPU</td>
<td>Single multidisciplinary committee (Commission pluridisciplinaire unique)</td>
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<tr>
<td>CRA</td>
<td>Detention centre for illegal immigrants (Centre de rétention administrative)</td>
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<td>CRUQPEC</td>
<td>Committee for relations with users of health institutions and quality of health care (Commission des relations avec les usagers et de la qualité de la prise en charge)</td>
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<td>CSAPA</td>
<td>Specialised addiction treatment support and prevention centre (Centre de soin, d’accompagnement et de prévention en addictologie)</td>
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<tr>
<td>CSL</td>
<td>Open Prison (Centre de semi-liberté)</td>
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<tr>
<td>CSP</td>
<td>Public Health Code (Code de la santé publique)</td>
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<tr>
<td>DAP</td>
<td>Prison administration department (Direction de l’administration pénitentiaire)</td>
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<td>DDD</td>
<td>Defender of Rights (Défenseur des droits)</td>
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DCPAF  Border Police Central Directorate (Direction centrale de la police aux frontières)
DSCP  Public Security Central Directorate (Direction centrale de la sécurité publique)
DGGN  General Directorate of the French national gendarmerie (Direction générale de la gendarmerie nationale)
DGOS  General Directorate for Healthcare Services (Direction générale de l’offre de soins)
DGS  General Directorate for Health (Direction générale de la santé)
DISP  Interregional Directorate of Prison Services (Direction interrégionale des services pénitentiaires)
DPJJ  Directorate for the Judicial Protection of Youth (Direction de la protection judiciaire de la jeunesse)
DSPIP  Interregional Directorate for Prison Services (Direction interrégionale des services pénitentiaires)
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  National Academy for Youth Protection and Juvenile Justice (École 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)
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)
GIP  Public Interest Group (Groupement d'intérêt public)
HAS  French National Authority for Health (Haute autorité de santé)
IGAS  Inspectorate-General of Social Affairs
IGJ  General Inspectorate of Justice (Inspection générale de la justice)
IGSJ  Inspectorate-General of Judicial Services (Inspection générale des services judiciaires)
ITF  Prohibition to enter French territory (Interdiction du territoire français)
JLD  Liberty and custody judge (Juge des libertés et de la détention)
LGBTI  Lesbian, Gay, Bisexual, Transgender and Intersex
LRA  Detention facility for illegal immigrants (Local de rétention administrative)
MA  Remand prison (Maison d’arrêt)
MAF  Women’s remand prison (Maison d’arrêt "femmes")
MAH  Men’s remand prison (Maison d’arrêt "hommes")
MC  Long-stay prison (Maison centrale)
MCO  Medicine, surgery, obstetrics activities
NPM  National preventive mechanism (Mécanisme national de prévention)
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)
OPCAT  Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
OQTF  Obligation to leave French territory (Obligation de quitter le territoire français)
OSCE  Organisation for Security and Cooperation in Europe (Organisation pour la sécurité et la coopération en Europe)
PAD  Citizens’ Advice Centre (Point d’accès au droit)
PAF  Border police (Police aux frontières)
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<td>Healthcare access centre for disadvantaged people (Permanence d'accès aux soins de santé)</td>
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<td>PEP</td>
<td>Individual sentence plan (Parcours d'exécution des peines)</td>
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<tr>
<td>PCH</td>
<td>Disability compensation benefit (Prestation de compensation du handicap)</td>
</tr>
<tr>
<td>PJJ</td>
<td>Judicial youth protection service (Protection judiciaire de la jeunesse)</td>
</tr>
<tr>
<td>PMR</td>
<td>Person with Reduced Mobility (Personne à mobilité réduite)</td>
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<tr>
<td>QCD</td>
<td>Detention centre wing (Quartier &quot;centre de détention&quot;)</td>
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<td>QD</td>
<td>Punishment wing (Quartier disciplinaire)</td>
</tr>
<tr>
<td>QDV</td>
<td>Violent Prisoners' Wing (Quartier pour détenus violents)</td>
</tr>
<tr>
<td>QER</td>
<td>Radicalisation assessment wing (Quartier d'évaluation de la radicalisation)</td>
</tr>
<tr>
<td>QI</td>
<td>Solitary confinement wing (Quartier d'isolement)</td>
</tr>
<tr>
<td>QMA</td>
<td>Remand wing (Quartier maison d'arrêt)</td>
</tr>
<tr>
<td>QSL</td>
<td>Open wing (Quartier de semi-liberté)</td>
</tr>
<tr>
<td>SMPR</td>
<td>Regional Mental Health Department for Prisons (Service médico-psychologique régional)</td>
</tr>
<tr>
<td>SPIP</td>
<td>Prison rehabilitation and probation service (Service pénitentiaire d'insertion et de probation)</td>
</tr>
<tr>
<td>TA</td>
<td>Administrative court (Tribunal administratif)</td>
</tr>
<tr>
<td>TGI</td>
<td>Court of first instance in civil and criminal matters (Tribunal de grande instance)</td>
</tr>
<tr>
<td>TIG</td>
<td>Community service (Travail d'intérêt général)</td>
</tr>
<tr>
<td>UHSA</td>
<td>Specially-equipped hospitalisation unit (Unité d'hospitalisation spécialement aménagée)</td>
</tr>
<tr>
<td>UHSI</td>
<td>Interregional Secure Hospital Unit (Unité hospitalière sécurisée interrégionale)</td>
</tr>
<tr>
<td>UMCRA</td>
<td>Medical Unit in a detention centre for illegal immigrants (Unité médicale en centre de rétention administrative)</td>
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<td>UMD</td>
<td>Unit for difficult psychiatric patients (Unité pour malades difficiles)</td>
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<tr>
<td>UMJ</td>
<td>Medical Jurisprudence Unit (Unité médico-judiciaire)</td>
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<tr>
<td>UPR</td>
<td>Radicalisation Prevention Unit (Unité de prévention de la radicalisation)</td>
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<tr>
<td>US</td>
<td>Health Unit (Unité sanitaire)</td>
</tr>
<tr>
<td>UVF</td>
<td>Family living unit (Unité de vie familiale)</td>
</tr>
<tr>
<td>ZA</td>
<td>Waiting area (Zone d'attente)</td>
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2018 marked the 70th anniversary of the Universal Declaration of Human Rights (UDHR), a text that underlies the vision of human rights developed in post-war society in reaction to the barbarity of the 1930s and early 1940s. In France, texts in the same spirit had been adopted previously: the Declaration of the Rights of Man and of the Citizen of 24 August 1789, and the Preamble to the Constitution of 1946, which enshrined the notion of individual rights and freedoms along with a social vision of human rights.

The UDHR laid a new foundation for protection of rights, dignity, the subject of a dual assertion: in the Preamble, which establishes the principle of “the inherent dignity […] of all members of the human family”, and in Article 1, which asserts that “All human beings are born free and equal in dignity and rights”. On this basis, other texts appeared that extended protection of human rights. In this respect, we might mention the United Nations Convention on the Rights of the Child (UNCRC) in 1989, the Charter of Fundamental Rights of the European Union (CFR) in 2000, and above all, the Convention on Protection of Human Rights and Fundamental Freedoms, adopted in 1950 and better known as the European Convention on Human Rights (ECHR), source of all the rights recognised by the jurisprudence of the European Court of Human Rights.

Article 5 of the UDHR and Article 3 of the ECHR protect the dignity of the human being in almost identical terms: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.

It was not until 2002 that the United Nations formalised an obligation of active prevention in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT), ratified by France in 2008 and implemented by the Chief Inspector of Places of Deprivation of Liberty (CGLPL) since then.

In penal institutions, where the law stipulates that “the prison administration guarantees the respect of dignity and rights to all persons detained”, in mental health institutions taking in patients committed involuntarily, in detention centres for illegal immigrants, in juvenile detention centres and police custody facilities, the CGLPL carries out a mission of prevention of torture and other cruel, inhuman or degrading treatment, in other words, violations of the integrity, dignity and rights of persons deprived of liberty.

Unfortunately, the CGLPL’s Annual Report for 2018 shows that, this year once again, there have been no fewer violations of all the fundamental rights that contribute to human dignity, far from it in fact: the right to health, the rights to defence, the right to reintegration, the right to maintain family ties, the right to privacy and the right to practice one’s religion freely are becoming more restricted every year by a security culture that continues to impose fresh constraints.

The “Asylum and Immigration” Act marked a new decrease in foreigners’ rights, in particular by doubling the duration of detention and shortening deadlines for appeals. Yet we have said it more than once: increasing the duration of detention is a measure as onerous as it is pointless. For several years now, the CGLPL has been reasserting the fact that, if the goal is really to deport individuals in irregular situations, the length of detention currently in force – 45 days – is already needlessly long.

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1 Prison Act of 24 November 2009, Article 22.
2 Act of 10 September 2018 on controlled immigration, effective right of asylum and successful integration, and including various provisions bearing on the fight against irregular immigration and the processing of asylum applications.
The CGLPL has also pointed out that such detention is carried out under conditions that do not respect individuals’ fundamental rights: not enough staff, unsatisfactory material reception conditions, few activities, difficulties over family visits and highly problematic access to healthcare. Nonetheless, rules bearing on detention have been further toughened up, without its conditions being improved to make it more respectful of rights.

Despite the fact that the European Court of Human Rights has condemned France several times over placement of families with children in detention, neither the Government nor the legislature has had the courage to prohibit detention of minors in principle. We know, however, that such possibility is only an administrative facility made use of by certain prefectures. Since 2013, the number of foreign minors locked up with their families in detention centres for illegal immigrants has continued to increase, with no account taken of the violation of psychological integrity that placement of a child in a CRA inevitably leads to. This is why the CGLPL continues to recommend – as it has been doing since 2012 – that locking up children in CRAs be prohibited, and that only house arrest measures be implemented with regard to families with children.

Finally, the second visit to police units on the Italian border showed that, although flows have reduced in comparison with 2017, the control system remains the same: foreigners are still kept in unequipped facilities for a whole night with almost no food or water, their right to information is ignored and their rights to defence severed.

In penal institutions, 2018 was marked by a large-scale social movement, in a context of general saturation of prison capacities, forcing inmates to live and warders to work in unacceptable conditions.

At national level, first of all, it is clear that, despite all the announcements, efforts and speeches, the fight against prison overpopulation is not being won: at 1 December 2018 there were almost 71,000 inmates in France’s prisons, a number never before recorded.

Prison population inflation seems to have been inevitable in France for the last twenty years, to such an extent that prisons are no longer able to fulfil the aim of reintegration assigned to them by law. And despite a significant increase in the budget devoted to the justice system, the top priority is still creation of new prison places, to the detriment of open custody and alternative punishments to imprisonment. In this respect, the announcement of construction of 15,000 new prison places sends an unfortunate message and will inevitably lead to a reduction in resources devoted to maintenance of existing prisons; however, during its inspections over the course of the year, the CGLPL has often observed major deterioration in daily living conditions and a downslide in building maintenance quality and hygiene conditions.

It also observed a toughening up of security measures, in particular as regards normalisation of the practice of full body searches, which, even if carried out correctly, constitute an affront to human dignity, and which, due to often needlessly intrusive or humiliating search methods or the unsuitability of search facilities, are therefore unacceptable; in such conditions, the CGLPL’s opposition to Paragraph 2 of Article 57, which allows for someone to be subjected to a full body search for no reason connected with their behaviour, takes on its full sense.

And, although a few measures taken by the Minister of Justice are to be applauded, including universalisation of wall phones in cells and the “Digital in Detention” experiment, the Justice Programming Act will not enable any in-depth modification of prison conditions, and the CGLPL cannot help but wonder what real impact this reform will have on enforcement of sentences. The abolition of sentences of less than a month’s imprisonment is a positive sign, but in the end will only concern a few hundred people. In contrast, the abolition of ab initio adjustment of sentences of over a year’s imprisonment risks having an effect the very opposite of the goal of reducing the prison population. Above all, no measure relating to the summary trial procedure has been envisaged, although we know perfectly well that this procedure is at the origin of most short prison terms, the
harmful effects of which we are all well aware of. Nor has any provision been made for introduction of a binding mechanism to limit overpopulation, proposed by the CGLPL as well as by the authors of a good many reports.

The new law will not help bring about any real public policy to combat prison overpopulation; it is also worth observing that the principle of individual cells, first asserted by a law enacted in 1875, has once again been shelved, this time until 2022.

And if the overall numbers of inmates is increasing, the number of minors in prison has never been higher, even though detention of minors is supposed to be an exceptional measure. The situation of unaccompanied foreign minors, who account for much of this increase, is particularly worrying. It is all too clear that these young people are imprisoned for reasons which, most of the time, would never have led to such a decision being made if they had been living with their families. Once set free, they are excluded from the schemes provided for minors, as they are not taken under the wing of the Judicial Youth Protection Service in open custody or taken account of by Child Welfare, and they find themselves left to their own devices without accommodation or guardian, which often ends up with their falling into the hands of human trafficking networks.

As regards psychiatry, we are still waiting for a law or at least an ambitious plan to respond to the seriousness of the situation: lack of staff, dilapidated premises that do not respect patients’ dignity, greater recourse to involuntary treatment, increased use of seclusion and restraint, and overcrowding of general emergency departments due to lack of places in psychiatric wards.

France pioneered a more open form of psychiatry in the 1960s and 1970s. In those days, the idea was to deinstitutionalise psychiatry, modifying and humanising care policy by treating people suffering from mental disorders outside hospital settings, with the main goal being their reintegration into society. Some countries even drew inspiration from such practices, including Italy, which celebrated the fortieth anniversary of the abolition of its psychiatric hospitals in 2018. In France, though, the situation has changed considerably: security concerns have replaced the goal of reintegration; most wards are now closed, needlessly restricting patients’ freedom of movement; there has been an unprecedented increase in numbers of involuntary hospitalisations, facilitated by the simplified procedure of “imminent danger”; due to a lack of medicosocial facilities, hospital stays are extended, and continuity of care is by no means certain. France has gradually become one of the European countries most likely to lock up people suffering from mental disorders.

In the absence of a law, one could at least hope that the Health Plan presented by the President of the Republic last autumn would assert a will to introduce new forms of hospitalisation, limit compulsory care, and foster, support and develop alternative modes of hospitalisation. Far from it.

Yet it is has become a matter of urgency to rethink the whole mental illness treatment process: to create accessible services lending patients support in their daily lives and prevent crises, design hospitals in which, as a matter of principle, patients are accommodated in open units, with a few rare, medically justified and regularly reassessed exceptions, establish ambitions policies for reduction of solitary confinement and use of restraints, and, finally, open medicosocial facilities providing post-hospitalisation treatment; in other words, hospitalise less in order to treat patients with greater respect for their dignity and freedom.

In principal, for all places of deprivation of liberty, French law makes incarceration an exception: the Code of Criminal Procedure makes prison a punishment of last resort, confinement in a CRA can only take place if there is no other possible solution, placement in compulsory care may only be decided on with the aim of obtaining consent to care, and, for minors, reception in open educational units should be prioritised. Yet for each of these categories, the number of incarceration measures is on the increase and has reached unprecedented levels.
Following the missions carried out in 2018, and after examination of the laws already enacted and the Government’s intentions for the future, the CGLPL can only express its alarm at finding that, contrary to the principles of French law, incarceration has become the response to all society’s ills, to all transgressions, voluntary or otherwise; of the rules and standards of communal life.

Punishing “deviant” individuals by removing them from society despite the institutional violence of such measure, its consequences in terms of dehumanisation and loss of bearings, and the resulting inevitable violations of physical and mental integrity, dignity and rights, may be a “last resort” but can in no case be a sustainable way of protecting society.

French and international law both assert the fact: human dignity constitutes the basis of all rights. But there is still a long way to go to get where we need to be, and it will require the political courage shown by those who, in the past, improved detention conditions and put an end to the practice of locking up the mentally ill in asylums.

Year after year, the CGLPL has been repeating the same thing: society must not, in the name of a greater security effectiveness that has by no means been demonstrated, succumb to the temptation of reducing fundamental freedoms.

Adeline Hazan
Chapter 1

Places of deprivation of liberty in 2018

Over the course of 2018, the CGLPL carried out 145 inspection visits:

- 22 penal institutions;
- 23 mental health institutions;
- 15 health facilities taking in persons deprived of liberty (secure rooms in hospitals and a medical jurisprudence unit);
- 8 detention centres and facilities for illegal immigrants, and waiting areas;
- 4 forcible deportation procedures;
- 9 juvenile detention centres;
- 57 customs custody and detention facilities;
- 7 courts.

In addition to the inspections it carried out, the CGLPL also felt obliged to react to ongoing events that have left their mark on various places of deprivation of liberty: the social movements that have affected penal and mental health institutions, setup of a parliamentary committee tasked with assessing Article 57 of the Prison Act, bearing on searches, the Justice Programming Bill, and the Act of 10 September 2018 for controlled immigration, effective right of asylum and successful integration.

Taking account of its inspections, the present situation and the in-depth knowledge acquired over the course of previous years, the CGLPL intends to use this Report to highlight the problems that currently characterise each category of institution subject to its inspection, with regard to respect of the fundamental rights of the persons deprived of liberty that they accommodate.

1. Penal institutions in 2018

1.1 Overview of inspections carried out

In 2018, the CGLPL inspected twenty-two penal institutions: 8 prison complexes, 8 remand prisons; 2 long-term detention centres; 3 prisons for minors and 1 long-stay prison.

One of these inspections, to the Rémire-Montjoly prison complex, gave rise to emergency recommendations.

For the most part, these were second and sometimes even third inspections. The CGLPL’s return to institutions it had inspected several years earlier usually revealed unsatisfactory progress.

1 The full list of institutions inspected in 2018 is provided in Appendix 2 of this Report.
It is by no means unusual for recommendations made following an initial inspection to be partially applied, in particular when they bear on procedures that the institution can manage itself without outside help: improvement of the mail stream, broadening of dialogue or improvement of internal procedures, for example.

Construction work has also sometimes been carried out: new visiting rooms here, renovation of a building there, and so on, but such innovations are only partial and often compensated by other factors, such as increased overcrowding, increased absenteeism or a lack of staff, that make it impossible to take advantage of the work carried out. For example, in one prison complex visited, a brand new minors’ wing has been unoccupied for several years as there are no staff available to open it, and minors continue to be accommodated on a floor meant for detention of adults, without the necessary facilities and, above all, with no real separation from adults. In another institution, family visiting rooms and family living units (UVFs) have been built but are not open due to lack of staff.

All too often, prison directors seem to learn very little from the CGLPL’s inspections; in many cases, far from disputing the findings reported to them, they accept them resignedly or hope that the CGLPL’s report will help them get things moving. And if there is any prospect, even distant or uncertain, of a new building going up near the institution, resignation turns into a real sense of abandonment.

Overall, therefore, it is the deterioration of detention conditions that we need to assess. It is the result of three main factors: increasing overcrowding, toughening up of security, and deterioration of day-to-day living conditions.

1.1.1 Overcrowding is on the increase

We shall not be making another general analysis of overcrowding, as this was done in a thematic report issued in January 2018 (see Chapter 2 of this Report), but simply report on the year’s findings and evolutions.

At national level, first of all, it is clear that the fight is not being won. Despite all the announcements, efforts and speeches, occupation density in remand prisons at 1 November 2018 stood at 141%, with 1,472 mattresses on the floor; on the same date in 2017, density was exactly the same (141%), with 1,473 mattresses on the floor.

At the same time, data enabling calculation of these stable figures varied. The number of “operational” prison places increased by 1.6% and numbers of prisoners by 2%. A demonstration, if we still need one, that numbers of inmates are increasing more rapidly than numbers of available places.

Statistics show other record highs. In 2018, as in 2017, three institutions had occupation densities in excess of 200%; 48 institutions (as against 37 in 2017) had densities of between 150 and 200%, while, logically enough, the number with occupation rates of between 100 and 150% dropped over the same period, from 85 to 70.

Paradoxically, the number of institutions with densities less than 100%, most of them mixed institutions (établissements pour peines), increased from 132 in 2017 to 140 in 2018.

All these figures show that the increase in prison overcrowding goes hand-in-hand with a growing concentration of the problem.

Inspections carried out by the CGLPL in 2018 confirm national statistics: for example, occupation rates of 139% (with no mattresses on the floor) were observed, as well as rates of 174% (8 mattresses on the floor), 180% (with no mattress on the floor), 178.2% (9 mattresses on the floor), 179% (no mattresses on the floor) and 176% (30 mattresses on the floor).
Beyond the general and sometimes abstract character of national statistics, readers should be aware that, behind the number of “mattresses on the floor”, inspectors were able to meet face-to-face with the inmates who slept on the floor and collect their testimonies. It is one thing to count mattresses by the thousand, but quite another to talk with their users and fellow inmates, when the latter cannot get out of bed without trampling on the former.

In May 2018, the CGLPL and the CNCDH submitted written observations to the European Court of Human Rights pursuant to the provisions of Article 36 § 2 of the European Convention on Protection of Human Rights and Fundamental Freedoms and Article 44 of the Court’s Regulations, concerning a number of cases relating to conditions of imprisonment and possible means of recourse available to inmates. Among other things, their intervention aimed to argue that material detention conditions in penal institutions are symptomatic of the overcrowding of prisons that has become endemic in France and whose harmful effects risk violating Article 3 of the Convention, and that existing remedies are not sufficient to put a stop to these infringements of inmates’ fundamental rights.

1.1.2 Security is toughening up

The general toughening up of security rules plays a part in the deterioration of living conditions in prisons. This is above all true of mixed institutions.

In one long-stay prison wing, on the occasion of the CGLPL’s previous inspection, detention operated 100% on an open-door system. In just a few years, resolute action on the part of the management had led to one of the two prison buildings being closed.

In a long-term detention centre where all buildings previously operated on an open-door regime, the system has disappeared, replaced by a “respect regime” in two buildings and a closed-door regime in the third. The choice was an unfortunate one as far as inmates were concerned; it has not provided more security, only new constraints. The “respect regime” is really no more than an empty shell; there is no evaluation or rewarding activity involved, simply a constraint that has become haphazard as the slightest lapse results in transfer to the closed-door building, with none of the guarantees that surround disciplinary procedures and which may have a whole range of consequences, including on access to family living units and permissions to leave. Rather than improving treatment, the respect regime is simply a security measure.

In another long-stay prison, the previous inspection had revealed a range of innovative practices that an audacious director had succeeded in implementing, including training sessions shared between inmates and warders, “facilitator inmate” status with holders assisting with new arrivals and during detention, participation of inmates in meetings of the CPUs handling their situations, individualised sports coaching, post-incident debriefings, and relational mediation between inmates. Now, ten years later, most of these innovations have disappeared without any negative assessments of them having been made; they have simply been forgotten, curtailed by security procedures which, in contrast, have become increasingly burdensome.

In other institutions, very strict protocols, frequent, even commonplace use of riot control gear, intervention of local support teams who take no part in daily prison life, increases in removals from cells resulting in obstruction of freedom of movement in prisons, the obligation to open doors to two warders or two warders and a ranking officer all interfere with daily life and the satisfaction of a great many fundamental rights. Deliveries from canteens and of meals become complicated and access to education, sport and healthcare is hindered. Such security measures are usually accompanied by a determination to avoid movements or group them together as far as possible; consequently, even when no solitary confinement decisions have been taken, they hamper access to activities and work.
More seriously, stays in very high-security institutions, which should be of short duration and only concern carefully selected profiles, are tending to get longer and may well concern individuals whose unruly behaviour may make them hard to manage in an ordinary detention centre but who nonetheless are not dangerous or sentenced to long terms of imprisonment. Such detention system is not appropriate for them. It comes down to implementing a solitary confinement regime without actually calling it one.

1.1.3 Everyday living conditions have greatly deteriorated

In a great many of the institutions inspected, with the exception of those most recently built, the CGLPL observed major deterioration in everyday living conditions: there was little or no maintenance of buildings, hygiene was deplorable and basic facilities lacking.

Inspectors found that material conditions of imprisonment had deteriorated between two visits by the CGLPL: premises designed in the 19th century and difficult to modify, cells without hot water or showers. Here, no respect for privacy, there, un-partitioned toilets at the entrance to each cell, and there again, showers that do not close. In some institutions, hygienic conditions are truly deplorable: mould, leaks, damp, dirt, peeling paint, graffiti, rats and pigeons at the feet of buildings, bugs and fleas in cells, and showers that are neither cleaned nor maintained. Elsewhere, an institution is in a sorry state but nothing can be done about it as a project for its destruction and construction of new buildings, which had first been announced in 2009, is taking shape and should be completed in or around 2024. Everyone is resigned to living in the present conditions until then, without being able to do anything to combat their gradual deterioration over the six years to come.

Lack of fixtures and fittings was a common finding: not enough furniture given the number of inmates, broken washbasins, blocked toilets, no refrigerators, etc.

Exercise yards are also regularly subject to unfavourable observations, being too cramped, poorly maintained, infested with vermin, damp, and with no toilets, rainwater drainage or shelter. In one institution, one of the prison buildings has no access to an external sportsground, only to a cramped weight room. The solitary confinement and punishment wings’ exercise yards are large, narrow dark areas covered with several layers of metal (gratings and concertina wire) that cannot be cleaned, so that garbage piles up on them preventing even a glimpse of the sky above.

The dilapidated state of visiting rooms does nothing to improve inmates’ living conditions. Too many old institutions still have collective visiting rooms consisting of a single large room in which inmates and their families are crammed together without the least chance of confidentiality, and where surveillance is carried out right under visitors’ noses. In one remand prison, cabins, some of them consisting of glass from floor to ceiling, have been installed in makeshift fashion in a collective visiting room: although there is less noise, confidentiality and privacy are by no means ensured and, as there is no ventilation, the glass walls give rise to a greenhouse effects that has been known to cause dizzy spells.

Finally, it is worth mentioning here the ways in which solitary confinement wings and punishment wings are configured: confined, poorly lit, often damp and noisy, which in itself constitutes an undignified form of accommodation, and still among the places where the risk of suicide is highest.
1.2 A wide-scale social movement

In penal institutions, 2018 was marked by a widespread strike following the attack on four warders by an inmate at the Vendin-le-Vieil prison complex. In a context of general overloading of prison capacities that forces warders to work at a hectic pace, performing tasks their duty periods do not allow enough time for, their safety is a very real concern.

The CGLPL has consistently shown proof of the attention it pays to the role that staff play in treatment of people deprived of liberty, which is indissociable from the respect of inmates’ fundamental rights: respect of fundamental rights in prison is “dependent on staff working conditions”\(^4\). It has also emphasised that “conditions in which people deprived of liberty are treated are the same as professionals’ working conditions, and satisfaction of their rights is an essential factor in ensuring untroubled treatment and therefore institutions’ security”\(^5\).

As the strike ran its course, 115 of the 188 penal institutions saw periods of downgraded modes of operation. There were numerous violations of inmates’ rights that led to referrals on their, their families’ or their lawyers’ part. The CGLPL was therefore led to question the Minister of Justice on the social movement’s concrete consequences on inmates’ rights\(^6\).

This referral emphasises that fact that, during the two weeks the strike lasted, conditions of imprisonment deteriorated in every way. Access to healthcare was affected, in particular for new arrivals, as was continuity of care, above all by obstacles to letting physicians and nursing staff onto prison premises and to distribution of medicines.

Hygienic conditions deteriorated. Access to showers was reduced or suspended, distribution of personal hygiene products was interrupted, and linen cleaning and waste collection services disrupted.

The structuring routines of inmates’ daily lives were disrupted, whether with regard to distribution of meals, for which minim provision was made, canteen deliveries, which were suspended, and access to activities, which was interrupted, resulting in reduction of hours worked and therefore of inmates’ resources. Due to hindrances, educational activities had to be suspended. Exercise yards were closed, and physical and social activities, religious services and library access were no longer on offer in a number of institutions due to lack of staff to oversee movement and ensure surveillance. Hence, in a great many institutions, inmates stayed locked in their cells until the strike had run its course, with no possibility of leaving them. In one institution, external activities were cancelled for three weeks after the strike had come to an end.

Maintenance of ties with the outside world was disrupted, both as regards family relationships and exchanges with lawyers and associations. Visiting times were cancelled, as was scheduled access to family living units – measures that were not announced to families, some of whom had travelled long distances. One institution took the precaution of making such an announcement in order to avoid pointless travel. An initiative to be imitated.

Distribution of letters and telephone access were also restricted, which, apart from the essential question of family ties, made it difficult to seek remedies, in particular concerning detention conditions, while the strike lasted.

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\(^4\) Opinion of 17 June 2011 bearing on supervision of surveillance and security staff

\(^5\) Thematic report bearing on staff in places of deprivation of liberty, Dalloz, 2017

\(^6\) Letter dated 5 April 2018.
Legal proceedings were hampered. Attempts to prevent judicial transfers were reported in several institutions. There were difficulties in the carrying out of sentence enforcement procedures, including cancellation of sentence enforcement committee meetings, interviews with prison rehabilitation and probation services, and permissions to leave. The CGLPL was also informed of a prisoner being released two days late and cancellation of a long-scheduled release on parole for the purpose of expulsion from French territory.

In view of these occurrences, the Minister of Justice was asked to provide details of how the situation in penal institutions was assessed during the strike, and what measures were implemented to keep the people concerned informed, and to make known what measures were being taken to guarantee respect of inmates’ fundamental rights. She was also asked to present the measures taken or planned to mitigate the consequences of these failings in treatment of prison inmates, and to indicate the number of lawsuits undertaken on the basis of prison conditions during the strike period, and the legal consequences of such litigation. Finally, the Minister was asked if any thought was being given to possible measures ensuring prison operation that respected inmates’ fundamental rights during such events.

The letter had not received a reply at the time this Report was drafted.

In order to resolve the crisis, an agreement on short-term measures was signed with one union: unrealistic yet inadequate increases in prison staff were decided on in the hope that they would be achieved in four years, even though it is proving close to impossible at present to recruit for existing jobs; compensatory measures were agreed on, but even though they are legitimate enough, they will not procure a larger workforce or better security. Pretending to consider that prisoners’ rights conflict with warders’ safety, the signatories envisage reducing the former in order to give themselves the illusion that they are increasing the latter: the widening of criteria for body searches, a system introduced in 2009 and constantly challenged since then, would give such illusion. We will come back to it. Specialised facilities for radicalised prisoners have been announced. Construction of new facilities is underway, and the CGLPL will be paying close and continuing attention to them.

The structural causes that led to discontent remain, nonetheless, which is why, when the conflict came to an end, the CGLPL publicly reasserted the need to address the root of the problem by implementing a prison “disinflation” policy.

Highlighted by the crisis, the present state of prisons puts warders and inmates alike in danger, as well as society as a whole. Prison overcrowding seems to have been inevitable for the last twenty years, although it is not the result of an increase in the population or in crime. Staff and resources are in short supply everywhere, and all too often the prison policy fails to achieve its most important objective, reintegration, and its results as regards the safety of French citizens. The announced construction of 15,000 prison places sends an unfortunate message. It will take fifteen years for its effects to be felt, doing nothing to solve current problems: it does no more than signal the priority given to prisons. As regards the present, however, it will require reduction of resources devoted to maintenance of existing prisons and to the alternative measures to imprisonment whose importance the President of the Republic had nonetheless stressed.

If we are really to succeed in putting an end to prison overcrowding, the CGLPL recommends that we stop imprisoning people suffering from serious mental disorders and those who are sentenced to very short terms.

Observing that the Prison Administration, the final link in the criminal justice chain, finds itself obliged to imprison all those entrusted to its care, the CGLPL recommends introducing a prison

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1.3 Minors in detention

In 2017, the CGLPL’s attention was drawn to the high occupation rate in Ile-de-France detention facilities taking in minors, sometimes resulting in occupation rates in excess of institutions’ reception capacities.

Considering that detained minors should never be faced with overcrowding, due to the special nature of their treatment, which should be based on appropriate personalised educational work, the CGLPL questioned the Director of Prison Administration on the significant increase in numbers of minors imprisoned, on special measures implemented in overcrowded institutions, and on how the situation might be remedied.

Recognising that a situation existed whose causes he could not control, the Director of Prison Administration stated that management measures were being taken in response to it. He specified in particular that, in order to avoid exceeding maximum capacities in minors’ wings, DISPs organise administrative transfers to distribute detained minors across their territories. In addition, the Prison Administration Directorate implements a transfer policy that seeks to harmonise occupation rates in the Paris region’s minors’ wings and EPMs with those of neighbouring DISPs, which have lower occupation rates. He also stated that the Prison Administration Directorate and the Judicial Youth Protection Service were working on implementation of joint assessment of individual situations before any transfer took place, making sure of the quality of exchanges of information between professionals active in treatment of minors and of information provided to holders of parental authority. He is looking to promote better communication to courts on detention facilities and their occupation rates, reminding them of the need to prioritise alternatives to imprisonment. Lastly, he stated that special attention must still be paid to maintenance of family ties.

Following this exchange, the CGLPL wanted its 2018 inspection plan to pay special attention to the imprisonment of minors. It therefore inspected minors’ wings in five institutions along with three EPMs. None of these inspections confirmed situations of overcrowded minors’ wings or EPMs; however, these institutions’ populations had clearly increased since previous inspections. In one of the EPMs, the population has risen from around twenty to around fifty young people, while in another, which had been overcrowded on the occasion of the previous visit, numbers have returned to normal following an active policy of often urgent decongestion transfers to the Region’s minors’ wings, in which almost 150 new places for minors have been created, complemented by two juvenile detention centres. The third EPM inspected accommodated forty-seven minors for sixty places.

 Nonetheless, these inspections highlighted a number of difficulties connected with treatment of detained minors. They are identified below.

1.3.1 Protection of detained minors

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8 Fleury-Mérogis (Essonne), Laon (Aisne), Caen (Calvados), Avignon (Vaucluse) and Besançon (Doubs).
9 Meyzieu (Rhône), Marseille (Bouches-du-Rhône) and Quiévrechain (Nord).
Protection of detained minors is first of all ensured by strict separation from adults. Hypothetically, the question does not arise in EPMs. However, it is very difficult to achieve in minors’ wings in other penal institutions. Minors’ wings usually occupy a floor in a prison wing, but movements, various activities and certain facilities are shared with adults. Relationships develop as a result. Exercise yards often provide opportunities for verbal exchanges, which are also opportunities to form relationships of dependence, usually aggravated by trafficking, of tobacco in particular.

In a large institution on the outskirts of Paris, a species of feudalism has established itself, in which each minor seems to keep up a special relationship from a distance, a kind of psychological filiation or guardianship, with an adult. The expression “mon majeur” (my adult), which is in common use among them, serves to illustrate the fact. In other minors’ wings, one cannot help but observe that minors do not move around much during exercise periods, but spend most of the time in a small area at the foot of the building, where they can talk to the adults accommodated on the upper floors. Such cohabitation can generate conflicts that lead to settlements of account when a minor is transferred to the adult wing. Because of this, some young adults refuse to go into the exercise yard.

In another prison complex, minors placed in the punishment wing find themselves on the floor below a solitary confinement wing where radicalised inmates may be held, and it has been observed that some minors leave the QD expressing opinions they did not have when they entered it. Aware of this problem, the management stated that account would be taken of the profiles of inmates placed in the solitary confinement wing when deciding whether or not to send minors to the punishment wing. The question arises as to why simply confining young offenders to their cells as a punishment is not prioritised.

In one minors’ wing inspected, the young inmates have to be protected from each other. In order to do so, the administration has organised groups of three to five young people with a view to limiting risks of attack; the various groups never meet up with one another, either for sport or for education, although scholastic levels within each group vary enormously, which does little to improve quality of treatment.

In one of the EPMs inspected, four young girls were clearly inadequately protected, being exposed to disrespectful behaviour on the part of the boys, who outnumbered them tenfold.

1.3.2 The special case of unaccompanied foreign minors

A great many institutions accommodated large numbers of unaccompanied foreign minors: 20% in a minors’ wing in the Paris region, 50% in one EPM inspected, and a third in another. In institutions in the provinces, unaccompanied minors may also arrive through transfers, in particular from institutions in the Paris region. Proportions are increasing rapidly and do much to explain the overall rise in numbers of detained minors. These young people are clearly imprisoned as a protective measure, as, in most cases, whatever they might have done would not lead to the imprisonment of a child living with his or her family.

Provisions on treatment of imprisoned minors often prove to be poorly adapted to their situation, quite apart from the problems caused by the language barrier. In addition, once released, they are excluded from the schemes provided for minors, as they are not taken under the wing of the Judicial Youth Protection Service in open custody or taken account of by Child Welfare and allocated places in residential shelters. As a result, they cannot benefit from judicial supervision and are left to their own devices without accommodation or guardian.

Professionals have nonetheless developed interesting treatment methods, including research work on families, creation of administrative files and special assistance in matters of health. The PJJ
funds use of interpreters, but does so under its own budget lines at the expense of funding of activities for all young people. Detained unaccompanied minors may be included in specialised scholastic groups (FFL – French as a Foreign Language). They are distributed among different units in order to enable better integration and avoid stigmatisation. The Education Department sometimes develops schemes including them in adapted scholastic groups, the PJJ fights with judges on their behalf, to obtain provisional placement orders and monitoring in open custody, the health unit, organising support groups for them. So, even in the absence of formal institutional treatment, the goodwill of all actors is mobilised to respond to needs, although with unequal success.

The CGLPL recommends that the public authorities carry out an evaluation of problems connected with treatment of unaccompanied foreign minors, and take all useful measures to provide them with the protection required in the context of France’s international commitments.

1.3.3 Multidisciplinary treatment

After problems of coordination between prison services and the Judicial Protection of Youth Service, the CGLPL notes that a degree of progress has been made. In minors’ wings, the two services and the Education Department are making efforts to coordinate. The Local Director of Education (RLE) regularly meets with families when they visit their children and delivers certificates of schooling enabling them to receive child benefits from Family Allowance Funds. The Prison Administration organises their schooling, encouraging minors to take an active part in classes and participate in the PJJ’s afternoon activities. Finally, one very large institution organises monitoring of minors who have reached the age of majority when they are transferred to adult wings.

In most of the institutions inspected, staff are committed to provision of treatment but have few possibilities open to them. In one of the minors’ wings inspected, the warders do everything they can to facilitate activities adapted to their charges’ profiles but find it very hard going. In another, there are very few possibilities with regard to education and educational and sporting activities – so few, in fact, that the highlight of the day is simply a walk around the exercise yard. In another, such exercise has been cut down to an hour a day, and the inmates spoke of how bored they were despite visible efforts on the part of the PJJ to provide activities.

In the best cases, varied out-of-cell activities take up around six hours a day; in another institution, minors are provided with a maximum of five hours of schooling a week, an hour of sport, nine hours of exercise, and possibly on hour of PJJ activity: a total of sixteen hours of occupation. The rest of the time; apart from any parental visits, they stay in their cells with nothing to do but sleep or watch television.

These averages may vary in both directions: sometimes schooling is cancelled as teachers have responsibilities that keep them elsewhere: meetings of various kinds, supervision of tests taken by adult inmates or, in contrast, outings organised for convicted minors – although such outings, which are difficult to prepare due to the short time that minors stay in prison, are few and far between.

The situation is more complicated in EPMs. Professionals are not always well positioned or present and the prison’s operation relies on a few highly committed and very well-meaning individuals. Despite the numerous discussions between the institutions involved and efforts to develop a timetable for each minor (delivered to them and displayed in their cells), institutional operation is still somewhat opaque. Organisation of young people’s everyday lives is a headache, with each institution feeling that it should have priority in treatment of young offenders. Agendas, although supposedly set, may change at the last minute. Such modes of operation inevitably have repercussions on the young inmates’ lives and behaviour; they are at the mercy of the adult world’s countless inconsistencies and have to put up with the lack of any real organisation. Sometimes internal rules restrict access to activities. In one institution, for example, groups of more than five inmates are
prohibited, and activities can only take place in the presence of a youth worker and a warder. All such conditions are likely to prevent activities from being carried out and participation on the part of at least some of the young people in detention.

Generally speaking, institutional operation enabling effective multidisciplinary treatment seems to be improving. All professionals concerned are on hand from the time a minor arrives at the prison and, although team members may not necessarily have the same points of view, they make certain of the consistency of actions carried out on behalf of the young people in their care. In principle, each minor’s situation is considered during meetings of single multidisciplinary committees in which the prison administration, PJJ and teachers take part. Medical units are only represented in certain institutions. There is even a case where minors attend the monthly single multidisciplinary committee meetings devoted to them, and another in which open custody youth workers are invited.

All in all then, although we have come some way in resolving the problems that marked interinstitutional cooperation in the 2000, we are yet to achieve a fully satisfactory situation in this regard.

1.3.4 Material detention conditions

Accommodation conditions in minors’ wings are very unequal; here, a building was originally designed for adults and only later shared with younger inmates; there, the wing is too small and activity rooms clearly inadequate; elsewhere, activity rooms have to be shared with adults, which makes it hard for the warders, who have to organise movements very carefully to make sure that adults and minors do not cross paths. When minors occupy one of several prison floors, rubbish is regularly thrown into the courtyard by adults accommodated on the floors above them.

In EPMs, furniture is recent but ages badly and many cells are in a very poor state, even when an active policy on repair of deliberate damage exists, which is not always the case. There is seldom any scheduled repair work, and it is surprising to note that, after ten years of operation, the materials chosen to equip cells are still so fragile, rapidly broken or destroyed altogether.

In one of the institutions visited, inspectors could not but be concerned about the effects of the new delegated management contract, as the services it provides have been adjusted downwards quantitatively and qualitatively: repainting, formerly carried out every three years, is now scheduled every five years, the service-provider’s workforce will be reduced from five to three next year, there are fewer distributions of clothing and of hygiene and maintenance products provided for, and the young inmates all say they do not get enough to eat, a fact confirmed by the professionals who work with them.

Material conditions under which minors are cared for must be improved, better monitored and better assessed, and be subject to special inspections if we are to provide an appropriate educational context.

1.3.5 The role of families

For all prison inmates, maintenance of family ties is both a fundamental right and one of the main factors in successful reintegration. This is all the more true for minors, insofar as parents have parental authority over their children and should therefore be involved in any action requiring a minor’s consent, and because children’s education is first and foremost a matter for their parents.

In practice, youth workers stress the importance of maintaining family ties, but note that families are sometimes exhausted and do not necessarily respond to their requests. According to the highly impressionistic observations collected, we may estimate that around half of parents are actively involved in their children’s care. But parental unwillingness is not the only obstacle to their participation in their imprisoned children’s education.
Recent operations to eliminate overcrowding in a number of EPMs have led to minors being transferred a long way from their family homes. Distances involved may make it hard to maintain family and social ties as well as to monitor criminal cases or prepare for release. Several youngsters met with confirmed such difficulties connected with their geographical distance.

The CGLPL has noted a number of positive local initiatives, including youth workers organising meetings with parents in their homes, providing voluntary support to families in “parents houses”, inviting parents to diploma award ceremonies, and youth workers and teachers taking part in reception of parents on visiting days.

There are still obstacles to involving parents nonetheless; we may mention, for example, the absence or rarity of meetings between health units and parents of minors in their care, and the unsuitable configuration of visiting rooms that makes any attempt at confidentiality impossible.

All institutions that take in minors should assess the role that families play in their care, and develop a plan for increasing their role in formal and concerted fashion.

1.3.6 Disciplinary measures

Discipline in minors’ wings and EPMs is subject to a variety of interpretations and practices; it is often somewhat ambiguously dispensed in the form of “good order measures”, which are more flexible and more rapid but less rigorously applied.

Best practices with regard to discipline are still based on prior thought being given to the point of the disciplinary measure, the concern being to introduce educational aspects into disciplinary procedures in order to get the young people concerned to think about their actions by adopting an attitude that combines dialogue and firmness. It would appear that this approach is a constructive one as inspectors were told that many of the inmates of a minors’ wing that applies it following a disciplinary transfer change their behaviour.

“Good order measures” (MBOs) are sometimes imposed, mainly by prison staff for incivility or refusal to take part in a compulsory activity; they include early return to cells, deprivation of television or activity, community work or failure to repair damaged cell fittings. Types of behaviour giving rise to such penalties and types of possible penalties are sometimes listed in the welcome booklet. Such measures enable the administration to react rapidly, without having to refer to the disciplinary committee. Minors met with had nothing critical to say about application of such measures, whose use appears to be proportionate. However, the procedure by which such penalties are decided on and their traceability are still usually somewhat unclear and measures taken are sometimes excessive, even illegal – for example, withdrawal of the single hour of exercise provided on Saturdays or Sundays, or of the collective meal.

In most cases, it is unusual to confine minors in punishment wings, and when it happens, such action is sometimes accompanied by a daily visit from a youth worker.

However, abusive practices have been noted in other institutions, including disproportionate use of force, inconsistent or inappropriate disciplinary action, such as deprivation of education or “punitive” organisation of daily life in the punishment wing (absence of blankets, no ventilation, no light, no right to see the psychologist, cancellation of medical appointments, reduction in numbers of showers, etc.).

The CGLPL reasserts that the disciplinary measures applied to minors should have an educational objective and must do nothing to hinder maintenance of family ties, education or children’s physical and psychological development. This being so, confinement in punishment wings must be a truly exceptional sanction.

22
1.4 Fresh debates on the search system in prisons

The Statement of Conclusions signed by the Minister of Justice and the main prison warders’ union on 19 January 2018, after the strike had ended, provided for the following measures, at the beginning of a section on “Staff Safety”:

“Article 57 of the Prison Act and amendment of the regulations on random searches

The effectiveness of Article 57 of the Prison Act will be the subject of a Parliamentary assessment in the context of the National Assembly’s Law Committee.

In addition, prison regulations governing random searches will be amended, in particular in order to enable warders to carry out such searches of cells in cases of legitimate suspicion.”

As the subject of searches is being paid renewed attention, the CGLPL feels bound to underline once again the findings resulting from its inspections.

We should first of all bear in mind the present text of Article 57 of the Prison Act of 24 November 2009:

“Searches must be justified by presumption of an infraction or by risks that the behaviour of inmates pose to the safety of persons and maintenance of good order in the institution. Their nature and frequency are strictly adapted to these necessities and the character of persons detained.

When there are serious reasons to suspect that prohibited objects or substances constituting a threat to the safety of persons or goods have been introduced into the penal institution, the head of the institution may also order cell searches to be carried out over a set period of time, independently of the character of the persons detained. Such searches must be strictly necessary and proportionate. They are carried out for specific reasons and form the subject of a detailed report communicated to the territorially competent Public Prosecutor and the Prison Administration Department.”

Full body searches are only permissible if frisking or use of electronic detection devices are insufficient.

Intimate body searches are prohibited, except for specific imperative reasons. They may therefore only be carried out by a physician not working at the penal institution and called in by the judicial authority for such purpose.”

In practice, these provisions are only partially applied at best of times. In one institution, carrying out body searches on inmates leaving visiting rooms is common practice and reasons are seldom provided in writing. In one long-stay prison, in perfect compliance with the procedure, certain inmates are subjected to systematic individual searches that are repeated for years on end, with no legal decision on the practice coming into play as the law does not provide for it. In the same institution, destructive cell searches are also carried out, providing occasions for systematic use of force. Elsewhere, there are reports of untraced systematic body searches (upon arrival, return to an open wing, permission to leave, medical extraction, etc.), while in another institution, a third of the population are searched following visits. Elsewhere again, searches are still carried out as punishments, with no traceability, as is evidenced by the warning “Calm down! If you don’t, you’ll be in for a search tomorrow!” repeated in front of members of the CGLPL by a warder who saw nothing abnormal about it, and in the presence of colleagues who showed their approval. In the same institution, a kind of “search tariff” exists, well known to its population: one month for whatever reason, three months for whatever other reason, so that, as the search schedule is known, searches are unusually frequent and spectacularly fruitless. Finally, in a good many institutions, the CGLPL collected testimonies of unprofessional acts during searches, and sometimes of searches carried out in unsuitable facilities.

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10 This second subparagraph was added to the 2009 text by Act no.2016-731 of 3 June 2016 - Article 111.
Application of Paragraph 2 of Article 57 of the Prison Act, governed in timely fashion by a Circular from the Prison Administration Department\textsuperscript{11}, does not give rise to evidently excessive numbers of measures being taken; nonetheless, the inspection procedure provided for by law (a reason showing the necessary and proportionate character of the measure, along with a report to the Public Prosecutor’ Office and the hierarchy) is not always complied with and, when it is, only formally.

Reasons given for deciding on carrying out body searches are vague and catch-all, reports to the public prosecutor’s office are sketchy, and checks on the office’s part non-existent. The CGLPL recommends that instructions be given to public prosecutors’ offices to carry out such checks.

Lastly, over the course of the year, the CGLPL had occasion to examine the operation of millimetre wave scanners (MWSs) in two institutions, used systematically after visits on inmates not subjected to body searches. This apparatus is supposed to settle the question of respect for individual dignity and privacy. In reality, image quality and zoom possibilities are such that no detail of the scanned individual’s anatomy is lost on whoever is watching the screen. In these conditions, such checks are far from settling the question of respect for individual dignity and privacy.

The rule according to which anybody refusing a body search is scanned results in any inmate who goes to the visiting room being compelled to submit to a measure of some kind that violates their privacy. Therefore, given the apparatus’ level of performance, rules on use of MWSs should be specified, and limited by a principle of necessity and proportionality to the risk.

On 12 April 2018, the Chief Inspector of Places of Deprivation of Liberty was heard by the Parliamentary Commission responsible for assessment of Article 57 of the Prison Act. She used the occasion to remind the Committee of her positions and the CGLPL’s findings regarding the Article.

As body searches are all too likely to result in serious violations of prisoners’ fundamental rights, it is to be regretted that the Prison Administration still seems reluctant to apply the Act of 2009 as was intended. The CGLPL is also opposed to the amendment made in 2016, which significantly and disproportionately extends possibilities for carrying out body searches. There is no significant data enabling demonstration that the Prison Act’s establishment of a restricted framework governing recourse to searches has led to any increase in the introduction of prohibited items into prisons.

The CGLPL is regularly referred to on this subject. In the first quarter of 2018, sixty-one letters reporting such problems were received, 6.2% of all letters received over the period. In many institutions inspected, systematic searches are still carried out on numerous occasions, for vague reasons and leaving no trace, contrary to legal requirements, and it even happens that the only reason provided in writing is “See information collected”. Nor is the principle of respect for prisoners’ dignity during body searches always complied with, either due to needlessly intrusive or humiliating search methods or because of the unsuitability of search facilities. The Chief Inspector also reasserted her opposition to the principle inscribed in Paragraph 2 of Article 57, which allows for individuals to be subjected to body searches for no reasons connected with their behaviour but simply because of where they happen to be or another person’s behaviour.

Lastly, the Chief Inspector recommended the Parliamentary Commission to strengthen the guarantees surrounding searches in prisons, and to protect vulnerable individuals in particular: securing visit rosters so that weaker individuals are not pressured by their fellow inmates, taking account of states of health, in particular for individuals taken to hospitals and the disabled, and implementing a special system for searches applicable to detained minors, in which recourse to body searches would be an exceptional measure.

\textsuperscript{11} Note of 2 August 2017 bearing on application of Subparagraph 2 of Article 57 of the Prison Act.
These recommendations were taken little notice of in the report delivered by the Parliamentary Commission\textsuperscript{12}.

1.5 Plan on the purpose and effectiveness of punishments – March 2018

The Chief Inspector of Places of Deprivation of Liberty was interested to learn of the plan on the purpose and effectiveness of punishments, presented by the President of the Republic on 6 March 2018. The fact that a President of the Republic concerns himself with the question of prisons and asserts the need to respect the rights of inmates as citizens should be applauded.

The aim of making punishments meaningful once again and some of the measures announced to achieve it are very much in line with the CGLPL’s recommendations. Short sentences are pointless and harmful, both for the individuals convicted and society as a whole. Imprisonment must cease to be the benchmark sentence. Other punishments must no longer be regarded as alternatives but rather as penal responses in their own right. They should be developed with all due speed.

The President of the Republic pointed out that imprisonment only last for a time, and that such time should be useful and spent in a place where human dignity is respected. Activities essential to prevention of recidivism and to social reintegration must be developed and complemented. The CGLPL welcomes this resolve to ensure that prisoners exercise their right to vote, and to formalise work relations in the prison environment so as to bring it closer to the outside world.

Nonetheless, the Chief Inspector considers that large-scale construction of new prison places is a wrong solution that simply sidesteps the issue. Reallocation of appropriations to the renovation of existing prisons is good news, however, although this measure, which has been announced several times in the past, has often proved inadequate, as is evidenced by the present state of our penal institutions.

\begin{quote}
The Bill on multiyear programming of the justice system, which was still being debated in Parliament when this Report was drafted, does not appear to have kept up with the guidelines provided by the President of the Republic. It is hard to see any overall consistency with the speech he made on 6 March 2018.
\end{quote}

The aim of combating prison overcrowding is not expressly included in the Bill's Explanatory Memorandum, even though the idea of avoiding the passing of prison sentences that prove unjustified or ineffective in combating recidivism is reasserted. The idea, however, is expressed more clearly by statements of principle than by restrictive measures. We can only doubt the effectiveness of the provisions bearing on modification of the scale of penalties and sentence adjustment procedures, at least in terms of reduction of the prison population. This will very much depend on the way in which courts make use of the new punishment of house arrest under electronic surveillance and the injunction they have been given to adjust sentences \textit{ab initio}.

\begin{quote}
Finally, we should make it clear that the Bill in no way modifies the summary trial procedure, nor does it include any significant provision seeking to limit pre-trial detention. Furthermore, there are no provisions bearing on the prison population control experiment, even though it was brought up by the President of the Republic.
\end{quote}

It creates the new sentence of house arrest under electronic surveillance, which may be passed for a duration of between two weeks and one year. It is a timely merger of penal constraint,

\textsuperscript{12} Information Report submitted pursuant to Article 145 of the Regulations, by the Commission on Constitutional Laws, Legislation, and General Administration of the Republic, in conclusion of work carried out by an information mission bearing on the search system in prisons and presented by Messrs Xavier Breton and Dimitri Houbron, Members of Parliament, on 8 October 2018.
suspended sentence and community service into a “probationary sentence”. Also in timely fashion, it re-establishes the possibility of the SPIP being involved in pre-sentence character investigations and extends such investigations to any proceeding in which there are requests for placement in pre-trial custody, when the applicable punishment is less than five years’ imprisonment.

Article 132-19 of the Criminal Code, which concerns passing of prison sentences, has been revised: prison sentences of a month or less are abolished, but this only really concerns some 200 people; for sentences less than six months, the principle laid down is that of *ab initio* sentence adjustment by the trial court, “unless impossible owing to the convicted person’s character or situation”; for sentences of between six months and a year, the principle is also *ab initio* sentence adjustment, “if the convicted person’s character and situation permit it, and excepting material impossibility”, restrictions whose vagueness risks making application of exceptions more frequent than that of the principle.

Article 723-15 of the Code of Criminal Procedure, which concerns sentence adjustment for persons not imprisoned, has been amended in order to abolish the possibility of adjusting sentences of between one and two years. This is very much to be regretted given that it concerns several thousand individuals.

It is to be feared that this law will not result in any reduction in prison overcrowding, very much the opposite in fact: the programme for creation of 15,000 new prison places has already been decided on, and the moratorium on individual cells has been postponed until 2022. But construction of new prison places alone will never be a satisfactory answer to the problem of prison overcrowding. Almost 30,000 new prison places have been created over the last twenty-five years, yet prison overcrowding has never been worse than it is today.

In a number of courts, it is to be noted that constructive dialogue between the judicial authority and prison officials enables makeshift management of individual situations, by bringing forward a sentence adjustment or end of sentence or postponing imprisonment, which is an effective way of limiting prison overcrowding. Such initiatives, as welcome as they are discreet, have no financial impact and considerable beneficial effects. The fight against prison overcrowding goes beyond the prison system itself and must become the focus of an active public policy involving the entire criminal justice chain.

The debates that followed submission of amendments proposing creation of a *numerus clausus*, inspired by a Parliamentary report issued under the previous Parliament, showed that the Bill’s rapporteur and the Government were both fearful of the automatic character of the measure as well as different application of punishments from one place to another for reasons unconnected with the actions penalised or with the behaviour of the detained individuals, but simply to do with prison overcrowding. It was also considered that such measure, which would be hard to implement in identical systematic fashion across the territory, could be the subject of more supple or even incentivising regulatory provisions.

These arguments do not seem very convincing, however. The CGLPL would like to point out that it does not recommend automatic *numerus clausus* but rather the creation of commissions bringing together the Judicial Authority and Prison Administration to carry out case-by-case examinations of prison sentence management and sentence adjustment measures that might be taken in order to limit prison overcrowding. In addition, the determination to comply with a homogeneous sentence adjustment policy across French soil is certainly praiseworthy, but does not correspond to reality: the CGLPL’s successive inspections of penal institutions shows that adjustment policies are inevitably

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13. Report of 28 May 2014 on the Bill bearing on prevention of recidivism and individualisation of sentences, by Dominique Raimbourg, President of the National Assembly’s Law Committee.
variable, depending on the judges’ personalities and local jurisprudences. The CGLPL can only reassert that it considers it particularly unfortunate that sentences may be passed and enforced without consideration of the conditions under which they will be carried out.

2. Mental health institutions in 2018

2.1 Overview of inspections carried out

Over the course of 2018, the CGLPL inspected 23 institutions authorised to take in involuntarily hospitalised patients: 13 specialised facilities; 7 psychiatric units in general hospitals; the specially-equipped hospitalisation unit in Marseille, and the Paris Police Prefecture’s Psychiatric Infirmary (IPPP)14.

One of these inspections, that of the Saint-Étienne University Hospital Centre (Loire), gave rise to the publication of emergency recommendations.

With a single exception, the CGLPL’s inspections of mental health institutions were carried out in a positive atmosphere and enabled constructive exchanges with staff, who listened to observations made and were sometimes even explicitly awaiting assessment of their practices. In one institution, the management and most of the staff were particularly attentive to the observations made during the inspection. In another hospital, the CGLPL felt it was received especially favourably as staff were awaiting assessment of their work, undertaken more than ten years ago, to make patients’ rights central to their treatment. In another institution, the inspectors’ findings were not disputed and some staff members were clearly pleased to hear what they had been hoping to hear. Finally, elsewhere, there is ongoing thought on procedures, and a participative approach drawing on the CGLPL’s reports has been implemented since 2008. Inspectors always find that their end-of-visit observations are received in a positive spirit, even when they make serious criticisms and demanding recommendations.

In such a context, it is now extremely unusual (if it happens at all) for a medical team to express suspicion or for inspectors’ presence at various meetings to be seen as problematic with regard to medical secrecy.

2.2 The impact of organisation on respect of patients’ fundamental rights

Observations made in 2018 showed that respect of the fundamental rights of patients under treatment in mental health institutions very much depends on institutions’ projects and resulting organisational measures.

2.2.1 Intra- and extra-hospital treatment

First of all, it is the balance, whether chosen or submitted to, between intra- and extra-hospital settings, and the measures taken to guarantee fluidity between the two, which determine an institution’s ability to ensure preventive treatment (in order to avoid crises and consequent recourse to emergency restraining measures), to only keep patients hospitalised whose state so requires, rather than those who can live in the community, and if they cannot be accommodated or monitored in an extra-hospital setting.

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14 The full list of institutions inspected in 2018 is provided in Appendix 2 of this Report.
Several hospitals that had clearly opted for openness were inspected in 2018. In one of them; it was found that the hospital’s organisation has been entirely focused on the outside world for over twenty years; One CMP, open 24 hours a day, was about to open shop in a large neighbouring town, with treatment principles expressly inspired by Italian experiments with community psychiatry: day hospitals, therapeutic apartments, therapeutic family reception places, part-time therapeutic activity centres (CATTPs), CMPs, an extramural team specialising in autism, and mobile teams active in the fields of precarity, autism, adolescence and old age psychiatry. The hospital centre also manages medicosocial bodies, including one on its own site, so that upstream and downstream treatment presents no problems.

In another institution, full psychiatric hospitalisation is losing favour and only 9 of the involuntarily committed patients are accommodated full-time, with the other 15 following the treatment plan. The institution’s project is extremely liberal, even as regards intra-hospital care: the principles here are open rooms, open units and freedom of involuntarily committed patients’ movement anywhere on the hospital’s extensive premises. The treatment plan lives up to them: high levels of individualised treatment; committed medical teams, with internal discussion always possible and transmissions efficiently conducted; a general practitioner always on hand, and pharmacists who visit units or receive patients in their offices.

Elsewhere, the permanent hospital reception centre’s nursing staff play a key role in various levels of patients’ treatment; they regulate admissions sent by emergency services, so avoiding traumatising emergency admissions when they are unnecessary, and, above all, they man telephone hotlines in the evenings and on weekends, advising and assisting outpatients at whatever time of day.

Of course, less positive examples exist.

Inspectors noted a comparable situation in two hospitals, with closure of beds not being accompanied by the necessary extra-hospital measures. Consequently, in the absence of preventive action, numbers of emergency (and often involuntary) admissions have not dropped, resulting in patients having to stay in general emergency wards for several days waiting for a bed to become free in the psychiatric unit. In one of the two hospitals concerned, emergency reception conditions were so disgraceful that the CGLPL was led to make emergency recommendations.

Another hospital is having to cope with overcrowding that obliges it to use seclusion rooms to accommodate patients although over 10% of them should really be being treated in a medicosocial facility. Elsewhere, due to lack of external reception capacities, another institution is forced to extend stays in seclusion rooms for unwarranted lengths of time, with no thought for the undignified and traumatising character of this form of accommodation.

2.2.2 The sector’s role

Institutions’ internal organisation, in particular the way in which the roles of sectors and intersectoral units are balanced, also has direct consequences on their capacity to respect patients’ fundamental rights, provision of activities and freedom of movement above all. Although, if properly applied, the psychiatric sector’s classical design may foster continuity of treatment between intra- and extra-hospital settings, if it is applied too rigorously or with too few resources, it may also lead to other aspects of treatment being neglected.

In a hospital that has remained faithful to the spirit of the sector that prevailed at the time it was built, hospitalisation is a relatively short stage in a pathway that starts and continues outside, and the institution’s focus on openness is evident (sociotherapy, and cultural events involving patients, nursing staff and local residents).
Elsewhere, the notion of sector has rather more ambiguous consequences: real interaction between intra- and extra-hospital settings (a beneficial consequence of the centre/sector division), hospital practitioners present and available in units and multidisciplinary treatment; but organisation is very different from one centre to another: one has only a single intra-hospital unit and it is open, others have three, one closed and two open. Under such conditions it is inevitable that voluntary patients are placed in closed units.

Elsewhere again, only one sector with comparable organisation provides a satisfactory extra-hospital service, and such services, along with suitable medicosocial facilities, must be developed in all the others. It is by no means certain that this can be achieved other than in hospitals’ overall projects.

In another institution, our inspectors noted that continuing sectorisation impacts patients’ freedoms and treatment: as each sector has two units, one open and the other closed, half the beds are in closed units without such division of reception capacities being analysed or validated. Voluntary patients are accommodated in closed units and open units may be closed if they receive a patient who is not permitted outside or while nursing staff are in seclusion rooms. Finally, in another institution, things are much simpler: all three of its admission units are closed even though they accommodate a good many voluntary patients.

But not all such shortcomings are unavoidable. In one institution inspected, the hospitalisation units of one of the sectorised centres are open whatever patients’ admission status may be and such possibility is under consideration in other centres’ closed units, some of which have stated that they plan to open their doors in the near future.

There is unequal development of intersectoral units. Frequently, and always to the benefit of their patients, this type of unit is put to good use for centralised organisation of sociotherapeutic activities. Here, an impressive range of activities on offer in an intersectoral facility; there, a crosscutting unit providing access to a wide variety of therapeutic activities, with diversified tools on hand and qualified trained staff. In another institution, the intersectoral sociotherapy unit organises quality activities: they are varied, focused on the outside world and accessible to involuntary patients.

Intersectoral organisation may go beyond organisation of sociotherapeutic activities and specialised treatments (autism, addictions, gerontopsychiatry, etc.). When an institution implements an active psychiatric care policy, a reception unit provides new arrivals with real guidance, as far as possible avoiding full hospitalisation or placement in involuntary care.

An “involuntary care unit” sometimes exists, developing special treatments and above all ensuring that voluntary patients preserve their freedom of movement. Other more complicated mixed forms of organisation enable more diversified treatments: for example, one closed intersectoral unit provided with a seclusion room takes in patients suffering from pervasive development and autism spectrum disorders; again, a departmental closed intensive care unit with six seclusion rooms takes in the most agitated patients along with detainees, so enabling the latter to be treated in a closed unit without being secluded, and benefit from care comparable to that enjoyed by all the unit’s other patients.

Of course, it is not the CGLPL’s job to pronounce on this or that model of organisation, but its experience leads it to make two observations:

- only effective continuity between intra- and extra-hospital care, including with medicosocial services, enables real preventive action to limit the number and seriousness of crises leading to placement in involuntary care;
- organisation into sectors that enables such continuity is not without adverse effects, which can and must be compensated by a hospital project.
In the context of current thought on organisation of psychiatry, the CGLPL recommends that guidelines be provided to improve continuity of treatment between intra- and extra-hospital settings. It requests that, whatever happens, no voluntary patient be placed in a closed unit.

2.3 A context of inadequate resources

2018 was marked by a number of widely publicised situations in which the inadequacy of psychiatric resources was highlighted. Although they may not enable confirmation that this is a general situation, the CGLPL’s findings at least provide a good many examples of it.

2.3.1 Medical demography

First and foremost, it is medical demography that is at issue. Due to the private sector’s healthcare offer on the one hand and problems recruiting practitioners in the hospital sector on the other.

| In French Guiana, the situation is extreme: there are no psychiatrists at all practising in the territory’s private sector. In other French regions, the shortage of psychiatrists in private practice is one more factor in the absence or inadequacy of crisis prevention, i.e. in the overloading of hospitals. |

Recruitment of physicians in the hospital sector is also hampered by a range of difficulties, including the poor reputation that some institutions suffer from, based in particular on the absence or inadequacy of a medical project, and lack of appeal on the part of certain territories (such as very rural areas and Paris’ outer suburbs). These difficulties are usually not mitigated by recruitment of foreign physicians, whose are sometimes not proficient enough in French to understand their patients, or by recruitment of general practitioners to act as psychiatrists.

The following situations arise as a result: sometimes, half the psychiatrists present are not authorised to sign decisions relating to involuntary care; constant rotation of practitioners in units, with some of them not practicing full-time, has led one of our inspectors to speak of “confused medical presence of psychiatrists”. This situation leads to lack of medical supervision of teams and of scientific, collegial practice of psychiatry. Nurses are sometimes left to their own devices in most departments, with no definition of care plans, and no sharing of a common culture or evaluation of practices. There are a great many prescriptions for injections or seclusion marked “if needed”, “if agitated” or “if refused”. Such measures, which are seriously prejudicial to patients’ rights, are taken without clinical examination. Medical continuity is not always ensured: one doctor replaces another without warning and, above all, without transmission.

Measures must be taken to ensure that there are psychiatrists practicing full-time in all units authorised to take in patients in involuntary care. If there are not, authorisations should be withdrawn.

The CGLPL draws lawyers’ and liberty and custody judges’ attention to the need for strict control of physicians’ statutory fitness to sign documents under examination.

2.3.2 Accommodation conditions

Although it is rare to come across institutions all of whose facilities are damaged or dilapidated (such was the case with only two institutions in 2018), it is by no means unusual to see patients accommodated in buildings that make dignified reception impossible and treatment ineffective. No institution inspected in 2018 is entirely blameless in this regard.

Most institutions, above all when they are multiwing, have undergone at least partial good-quality renovation. Nonetheless, there are facilities of very unequal quality to be seen everywhere in other such hospitals, some of which are truly shameful: patients’ rooms in advanced states of
dilapidation, not enough common areas or activities, no access for people with reduced mobility, no lifts, mould in common bathrooms, double and triple rooms whose toilets lack even makeshift curtains providing a minimum of privacy, heating problems (in one institution, the nurses recorded a temperature of 12°C in one patient’s room and the general practitioner had treated a patient for hypothermia), intense heat without air-conditioning, absence or non-replacement of basic fittings (coat-pegs, towel rails, etc.), routine maintenance a problem for hospital service staff, or such dilapidation that any form of corrective maintenance is illusory. And, naturally enough, such defects accumulate.

Regional Health Agencies must carry out rigorous inspections of material conditions for reception of patients in psychiatric facilities, and ensure that institutions implement programmes for required renovation work.

2.4 Emergency reception of patients

The often remote locations of mental health institutions, local organisation of emergency relief, and reception problems in psychiatric departments usually lead to patients in involuntary care having to go by way of general emergency departments before being provided with specialised treatment.

The inspections carried out by the CGLPL in 2018 revealed particularly shameful conditions for reception of psychiatric patients at the Saint-Etienne University Hospital Centre’s emergency department (see Chapter 2 hereunder). As a result, inspectors paid special attention to this problem during the visits that followed.

At Saint-Etienne, patients were left on stretchers for up to seven days, with no possibility of washing, changing their clothes or resting, in a corridor used by dozens of people of all ages and suffering from all sorts of pathologies. The situation was worsened by systematic use of restraints (hands and feet) on seven patients who showed no sign of agitation, simply because they were under involuntary care.

No comparable case was found elsewhere. However, in one institution, conditions for reception of psychiatric patients in general emergency departments were highly unsatisfactory, but stays did not last long and were not accompanied with systematic use of restraints. In several institutions, inspectors noted that, even though conditions for reception in emergency departments were not too bad, absence of links between general emergency departments and psychiatric departments, along with lack of knowledge of mental disorders on the part of emergency departments’ doctors and nurses, led to problems (wrong interpretation of symptoms, ignorance of the rights of patients in involuntary care, groundless fears resulting in mistreatment, etc.). Sometimes, in particular in Paris’ outer suburbs, it is the operation of emergency departments, even psychiatric emergency departments, that remains problematic.

Conversely, in one case, a psychiatrist’s and specialised nurse’s presence in the general emergency department mitigates such problems.

The CGLPL stresses the need to ensure respect of the fundamental rights of patients in involuntary care, not only in mental health institutions but throughout their care pathways, i.e. starting from the time they are admitted to an emergency department. For this to happen, as they have the necessary medical and legal expertise, it is up to psychiatry departments to keep a watch on “upstream” treatment conditions for patients they take in and implement suitable measures on exchange of information, training and even assistance.

As regards the general problem of conditions for reception of patients in involuntary care, the Paris Police Prefecture’s Psychiatric Infirmary (IPPP) deserves special attention. This one-of-a-kind facility under the authority of Paris’ Prefect of Police was inspected by the CGLPL in 2009, and was
the subject of public recommendations in 2011 calling for transfer of its resources from the Police Prefecture to the common law hospital system.

The IPPP’s role was defined by the Council of State: “admission to the Police Prefecture’s Psychiatric Infirmary is a very short-term provisional measure taken by the administrative police, mainly intended for observation of persons suffering from evident mental disorders and for their protection and that of third parties”. Although the facility is not a hospital and does not provide medical care, “admission and containment in this entity should be regarded as involuntary hospitalisation of the party concerned”.15

A second inspection of the IPPP in 2018 showed that the facility’s ambiguity persists. Patients are not properly informed of their rights and there is no real possibility of their exercising their rights of defence; for example, they cannot call a lawyer or their families, information provided on the role of liberty and custody judges is incorrect, and it was impossible to refer to one anyway as no decisions were notified, and, when anybody expresses a wish to exercise their rights, no action seems to be taken. There seems to be more concern for security than for patients’ rights.

Despite there being no lack of staff, nurses keep their distance from patients, with no activities or exchanges on offer. Patients stay locked in their rooms, only leaving them for medical interviews or to go to the toilet, always supervised by at least one nurse and a warder. Use of restraints is commonplace and untracked. Patients who arrive after 2 p.m. are not examined until the following day and are therefore exposed to the (frequently proven) risk of needless incarceration.

In spite of the CGLPL earlier recommendations, there has been no increase in provision of social assistance, no inspections are carried out by health authorities, and there is still a high proportion of committals pronounced upon decision of a State representative following time spent in the IPPP.

The CGLPL will therefore be led to repeat its recommendation to transfer the IPPP’s resources from the Police Prefecture to the common law hospital system, and will stress above all the need to lose no time in ensuring respect of all the rights of patients committed to it, because, as stated by the Council of State, these latter must be regarded as patients in involuntary care.

2.5 Everyday freedoms

The CGLPL pays constant close attention to the effectiveness of rights and freedoms, the simplest rights and freedoms in particular – those which mark everybody’s daily lives and which we often stop thinking about as their exercise is such a natural part of life. For individuals deprived of liberty, we must keep a close eye on each such right and freedom, as the situation of dependence in which they are placed may deprive them of them in almost imperceptible fashion, without their being paid any more attention than when they are exercised by free people.

The CGLPL’s inspections in 2018 highlighted three such everyday freedoms: freedom of movement, free choice of clothing, and free practice of sexuality.

Before presenting an analysis, we need to reassert a simple principle: although the law authorises administrative and hospital authorities to make decisions on committals to involuntary care, it does not allow any other restriction of freedom connected with such measure. Hence, there is nothing to suggest that a patient in involuntary care should ipso facto be deprived of any other freedom, even freedom of movement. If a decision to seclude a patient is made, it must be due to their clinical state, not on the basis of an administrative decision or organisational measure. If their freedom of

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movement is restricted, it may only be on the basis of a medical decision connected with their state, and the same is true if s/he is forced to wear special clothing. And finally, if free practice of sexuality is restricted, it may only be on a medical basis connected with a patient’s clinical state or in consideration of questions of public decency, which are the same for a patient in involuntary care as they are for anybody else.

We should also specify what the characteristics of a medical decision connected with the clinical state actually are. It is a decision taken following a physician’s private interview with a patient in compliance with medical standards. It is necessarily individual and may not take account of any external considerations, in particular regarding organisation. As it is inevitably connected with an evolving state, a medical decision must be regularly reassessed. The only conclusion that can be drawn from this rationale is that there can be no permanent, collective or stereotypical medical decision.

2.5.1 Freedom of movement

This freedom, which (as we have just said) is not in itself limited by the decision on involuntary committal, is subject to restrictions in most institutions. In the most serious cases, units are closed and this affects all patients, including those in voluntary care; in other cases, some units are open but voluntary patients may also be placed in closed units. It can also happen that, although units taking in patients in voluntary care are open, at least in principle, they are closed when a patient in involuntary care is admitted. Finally, it happens all too frequently that patients in involuntary care are systematically placed in closed units. There are also cases where access to an outdoor area, even though closed, requires prior authorisation or is even conditioned by the availability of a member of the nursing staff.

In one institution, there are no closed units in one of its centres while there are no open units in another, although they accommodate generally identical populations. The closed-unit culture is sometimes so strongly embedded that, in a hospital about whose systematic closed-ward policy the National Health Authority had expressed reservations, it was decided to provide badges to patients who were allowed out; in reality, however, delivery of a badge is subject to the physician’s agreement, which is seldom given in some units.

There are various causes for such situations: sometimes it simply seems to be a matter of habit, while elsewhere there is constant concern for security, very clearly and explicitly expressed by the fear that all staff members have of being held to blame if an incident (fugue) occurs.

Even though these measures are very unequally restrictive, we should bear in mind that all of them are abusive in one way or another: the only patients placed in closed wards should be those whose clinical state justifies it, and they should only stay in them for the necessary time. Prohibition to leave can be enforced in the context of a treatment contract, as happens in some hospitals inspected in 2018, without it being deemed necessary to close the doors, in the same way that a ban on telephoning at certain times can be justified without systematically confiscating telephones.

2.5.2 Free choice of clothing

Compulsory wearing of pyjamas would appear to be a restriction left over from a bygone age; however, it is by no means unusual to come across patients so dressed, even though this does not happen in most institutions. The very fact that this is a minority practice is enough to disqualify it. Yet it goes on even in institutions of overall benignity. Sometimes it is simply because no thought has been given to the matter, and when the CGLPL asks why patients are so dressed, the nursing staff are surprised by the question and can only say that things have always been that way or answer evasively: “they don’t have any clean clothes” or “they prefer to in the summer”. In some institutions, pyjamas are worn almost systematically by patients in involuntary care, at least for the first few days following
their admission. It is a way of identifying them; in other words, you might say, of stigmatising them. Lastly, in one very open institution, after a few days’ presence our inspectors finally understood that compulsory wearing of pyjama was a sort of compensation for the principle of openness of rooms and units, i.e. a “non-immovable” form of confinement.

The CGLPL points out that compulsory wearing of pyjamas cannot be the result of a general measure but only of a medical decision, i.e. an individualised and regularly reviewed decision taken personally by a physician after examining a patient.

### 2.5.3 Free practice of sexuality

The freedom to have sexual relations is a complex question insofar as it must take account of the rules bearing on community life, the specific vulnerabilities of each patient, of others, and of the various pathologies that may give rise to inappropriate behaviour. Although the Bordeaux Court of Appeal ruled that a general absolute prohibition was abusive, there is no indication of any special rules existing relating to sexuality.

The absence of rules and thought on the subject is nonetheless a source of difficulties: patients confronted with sexual acts do not know how to react and sometimes react badly; as patients have no rules to refer to, they adopt behaviour more dangerous than if they had some, fostering development of a clandestine sex life, hidden from view and devoid of protection.

Some institutions have referred to their ethics committees on this question; others give it no thought at all.

The CGLPL cannot set rules on what should be allowed and what forbidden with regard to sexuality. It can only recommend that the subject not be regarded as taboo and that, in each institution, the ethics committee give thought to and define prohibitions in view of the local situation, choose the necessary measures for protection of patients, and provide staff with a reassuring framework for intervention.

### 2.5.4 The right to privacy and safety

It is not unusual to come across patients who complain about being unable to shut themselves in their rooms, or at least not having a place to keep their personal belongings safe. The question of night fears, whether justified or not by recent events, is also raised.

Several of the institutions inspected have solved this problem by installing “comfort locks” enabling patients to feel secure without preventing access by nursing staff. Others make locked cupboards available to patients – a measure that may be less satisfactory but which at least provides a minimum of protection to belongings.

The CGLPL recommends that “comfort locks” be installed in all mental health institutions’ rooms, and that at least lockable cupboards be provided.

### 2.6 Avenues of appeal

In most of the institutions inspected, oversight by liberty and custody judges (JLDs) is still very much a formal affair. Happily, there are increasing numbers of exceptions to this rule. We meet judges who not only have in-depth knowledge of the texts and jurisprudence concerned and of the parliamentary debates that led to the passing of the Act of 2011, but also have knowledge of pathologies and treatments, and, above all, are ready and willing to listen.

In one institution, the nursing staff complained bitterly about the number of releases ordered by the JLD, stating that it forced them to make radical changes to procedures and practices (completeness of information, notification periods, etc.). The JLD in question was scrupulous in
monitoring any changes he brought about, progressively but with firmness and moderation, regretting that his advice fell on deaf ears and that he had no other choice but to force the hospital’s hand through his jurisprudence.

In a number of institutions, we are now seeing a gradual increase in numbers of measures lifted by JLDs, even though the trend is as yet only a modest one.

In Versailles in 2017, a JLD went beyond what the law provided for by lifting an involuntary hospitalisation measure on the grounds that, due to lack of traceability, he was unable to oversee seclusion measures (reasons and duration). His ruling was upheld by the court of appeal. Since then, all the jurisdiction’s JLDs have made the similar rulings. The Court of Cassation has yet to pronounce on this jurisprudence. Usually, JLDs in other jurisdictions consider it to be a matter of local jurisprudence and hand down different rulings. In another jurisdiction, where the JLD had ruled without a lawyer being present following a strike, the court of appeal deemed that the absence of a lawyer was not justified by “exceptional circumstances” and that it was up to the judge to designate a lawyer as a matter of course.

All such decisions are gradually reinforcing the role played by judges in assessment of decisions on placement in involuntary care. There is still room for progress, however.

The justice system therefore needs to develop jurisprudence and training programmes enabling universalised effective oversight of measures. But the law still does not specify jurisdictional competences on appeals in the field of psychiatry. For example, transfers of patients to units for difficult patients bring a real change for the worse, with significant modification of patients’ rights (better treatment, limitation of family ties, stay in a more restrictive environment, travel, etc.); yet for the moment such decisions are not subject to any form of oversight. Similarly, since the Law of 26 January 2016 came into force, placing patients in seclusion or under restraint requires a decision, but no means of appealing against such measures is provided for; the law should therefore be amended to cover this point.

The CGLPL requests the legislature to extend judges’ competence to other decisions of deprivation of liberty and measures adversely affecting psychiatric patients: placement in units for difficult patients, and placement in seclusion or under restraint, which are now the subject of “decisions”.

2.7 Action by Département-level Committees for Psychiatric Treatment (CDSPs)

A CDSP is composed of two psychiatrists, a judge, two representatives of accredited associations and a general practitioner; it is responsible for examining the situations of individuals committed to involuntary psychiatric care, in view of respect of individual freedoms and human dignity. It is informed of all decisions on admission to psychiatric care, all renewals of such care and all decisions putting an end to it in its département’s jurisdiction; it receives complaints from and examines the situations of individuals in psychiatric care, and obligatorily of patients admitted in cases of imminent danger and those who stay in such care for over a year. The Committee visits authorised institutions, checks the information contained in the register that each institution is obliged to maintain, and communicates an annual activity report to its jurisdiction’s competent JLD, the Prefect, the Managing Director of the Regional Health Agency (ARS), the Public Prosecutor and the CGLPL. It may request the JLD to lift a measure of committal to involuntary psychiatric care upon request of a State representative and may call for measures of committal to involuntary psychiatric care to be lifted upon the director of an institution’s request.

Analysis of annual reports received by the CGLPL since 2012 shows that around 50% of départements sent such reports between 2012 and 2014, but only 41% since 2015. Most of them are sent by CDSPs themselves; however, the Pays-de-
Loire ARS deems it useful to send all reports from its area of competence under the same cover, a timely measure on its part.

The quality of these reports varies considerably from one region to another, and even sometimes corresponds to the former regions in which ARS regional delegations had their head offices. A great many reports more or less comply with the list of subjects to be covered contained in the Order of 26 June 2012, but analyses and comparisons made over two successive years leave a lot to be desired. Few details are provided on visits carried out and their impact is not described. Some CDSPs even wonder what if any action is taken on their reflections, seeming not to know who makes use of their reports and whether their findings are taken into consideration.

Over 50% of départements do not send CDSP reports, which begs the question as to the reality of their active existence.

The CGLPL’s visits to mental health institutions confirm CDSPs’ lack of interest. Their stamp on registers not in compliance with the law is not accompanied by any observations, and sometimes CDSP members cannot visit units but are confined to visiting rooms during interviews with patients; some CDSPs do not even deliver their reports to the institutions they visit.

There are, however, more positive findings, such as that of one CDSP that makes full use of its competences, and, in a département on Paris’ outer suburbs, reinstallation of a CDSP that has been inactive for many years, following repeated requests from the CGLPL.

2.8 Seclusion and restraint

More than two years have gone by since the law16 added Article L3222-5-1 to the Public Health Code – an Article that is worth reproducing in full:

“Seclusion and restraint are practices of last resort. They may only be carried out in order to prevent immediate or imminent harm to the patient or another person, upon 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 to this purpose.

A register shall be kept in each health institution authorised to provide psychiatric care and designated by the Managing Director of the Regional Health Agency to provide involuntary psychiatric treatment pursuant to Article L. 3222-1. For each measure of seclusion or restraint, the register shall indicate the name of the psychiatrist who decided such measure, its date and time, its duration and the names of the health professionals who supervised it. The register, which may be in digital form, must be presented on demand to the Département-level Committee for Psychiatric Treatment, the Chief Inspector of Places of Deprivation of Liberty or its delegates, and parliamentarians.

The institution shall draw up an annual report providing an account of its practices with regard to confinement in seclusion rooms and restraint, and the policy defined in order to limit recourse to such practices and assessment of its implementation. Such report shall be communicated for opinion to the Users’ Committee provided for in Article L. 1112-3 and the Supervisory Board provided for in Article L. 6143-1.”

The following consequences result from it:
- as seclusion and restraint are practices of last resort, the institution must be able to show that measures have been taken to avoid implementing such practices;
- the psychiatrist’s decision must be taken in the patient’s presence and at the time the crisis occurs, and periodically reviewed following meetings with the patient;

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16 Act No. 2016-41 of 26 January 2016 on modernising the French health service
- the health professionals designated to supervise patients placed in seclusion rooms or under restraint must be trained for this purpose and formally identified;
- the register kept by the institution must enable effective traceability of measures and act as a support to a policy designed to limit recourse to seclusion and restraint measures.

Two years later, the inspections carried out by the CGLPL do not always suggest that the new provisions are being properly applied in health institutions. During its inspections, the CGLPL observed:

- development projects that include doubling numbers of seclusion rooms even though the law requires a reduction in their use;
- seclusion measures enforced as a form of punishment or simply for the unit’s convenience;
- decisions of placement “if necessary” ending up with enforcement of seclusion in the absence of a physician;
- measures sometimes being extended to as many as eight days;
- seclusions in patients’ rooms that are not recorded;
- numerous registers kept in purely formal fashion, with no verification and, above all, with no analysis that might enable limitation of such practices;
- registers that serve no purpose due to gaps in the information they provide;
- seclusion measures taken for “therapeutic” purposes, a practice not authorised by law and for which there is no basis to be found in medical literature;
- insightful observations on seclusion practice made by nursing staff, which medical staff take no notice of;
- nursing supervision that is neither protocoled nor properly overseen;
- almost total absence of training on the subject for nurses and doctors alike.

All too often, seclusion rooms are not suitable for the use to which they are put, or, in any case do not comply with the standards laid down by the CGLPL and the National Health Authority. There is no access to sunlight or the open air, no privacy, with surveillance cameras filming toilets and showers, toilets are not freely accessible or replaced by chamber pots, lights stay on all nights, there are no call buttons, electrical safety is not ensured, etc. During one visit, our inspectors were even led to request explicitly that no seclusion measure be carried out in a unit due to the room’s unsuitability.

In other institutions, however, work has resulted in major progress being made. Training in crisis management (de-escalation) is a key factor in reduction of recourse to seclusion and several institutions inspected do not possess restraint apparatus; there are even no seclusion rooms in one of them and the medical staff is against their creation; despite this, however, the same institution has two “secure rooms” whose status seems somewhat ambiguous. Elsewhere, restraint registers are put to good use and act as a basis for thought on practices and a policy designed to reduce their use.

It is unacceptable that, two years after their adoption, the legal provisions on management of seclusion and restraint in mental health institutions and reduction of recourse to such practices are still seen as optional rules, applied in formal fashion at best with no impact on the practices themselves.
The Minister of Health should implement a proactive policy of supervision and training in order to ensure their application.

The CGLPL will make the national representation aware of the fact that these provisions are not being applied.

2.9 Government work underway

The “My Health 2022” Plan presented by the public authorities on 19 September 2018 leaves mental health to one side. However, various bodies created by the Government and National Health Authority are carrying out work in this area.

A National Council for Mental Health (CNSM) was inaugurated on 10 October 2016, entrusted with ensuring the consistency and interoperability of the policies implemented in the various fields concerned (prevention, healthcare, social and medicsocial, accommodation, professional integration, etc.). It should foster the complementarity of professionals involved in patients’ treatment pathways by developing a crosscutting comprehensive approach to mental health issues with a view to better preventing psychological and psychiatric disorders and better assisting those who suffer from them. Four priority focuses for deliberation were set by the Minister of Health: children’s and young people’s wellbeing; prevention of suicide; monitoring of people in situations of major precarity, and development of tools facilitating implementation of local mental health projects.

A Steering Committee dedicated to psychiatry is also responsible for meeting the sector’s specific needs. It oversees application of a three-year work programme whose main focuses include reduction and supervision of recourse to seclusion and restraint practices, ambulatory care, child and adolescent psychiatry and continuity of care.

Finally, the National Health Authority oversees a Psychiatry and Mental Health Monitoring Committee, which has finalised an opinion on medicines used for treating schizophrenia and other disorders and drawn up protocols for drafting certificates in the context of involuntary treatment. Its future work will bear on law and safety in psychiatry, severe chronic mental disorders, mental disabilities, and child psychiatry.

The CGLPL is participating with interest in all such work, which, given the current approach to psychiatry, is an undoubted source of progress – slow and incomplete certainly, but usually of benefit to patients. Nonetheless, it would seem foolish to expect any real change in the French model of psychiatry, even though experiments in France and abroad may bring hope of seeing a more open form of psychiatry.

2.10 Towards a more open form of psychiatry

In 2018, the Chief Inspector of Places of Deprivation of Liberty paid a visit to the La Borde clinic in Cour-Cheverny (Loir-et-Cher), which was inaugurated in 1953 in the days of the open psychiatry movement. 110 patients are currently accommodated there on a full-time basis with fifteen or so more in outpatient care. It practices a form of psychiatry without confinement, despite the seriousness of the pathologies it treats. Patients are often admitted at the request of public hospitals where their treatment has failed; most of them are people who were previously in involuntary care.

Treatment is based on complete freedom of movement around the institution and empowerment of patients, with practices including meetings with doctors, nurses, instructors and residents organised by the residents themselves, visits to the institution led by patients, self-administration of medicines, and activities organised throughout the day.
Episodes of violence are very rare and in principle contained without use of restraint. Due to the absence of restraints, acts of violence are less frequent and less extreme, as the institution considers restraint to be a form of institutional violence that generates physical violence.

The staff, physicians in particular, only work at the clinic and do not practice outside it, in contrast to the usual situation in public hospitals. Once stabilised, many of its patients settle in the neighbourhoods and maintain ties with the clinic.

The CGLPL was also invited to the inauguration of a reception facility in Marseille known as a “Respite Centre”. The experiment consists of using a building in the city centre for reception of homeless people with psychological disorders, accommodating them for a few weeks or even months with a view to assisting in their reintegration. The project is very much in line with the “housing first” doctrine, which recommends care of people suffering from mental disorders via social reintegration in open environments. Similar projects exist in other big cities, and should soon be adapted to smaller urban areas. The inauguration took place in the presence of Catalina Devandas-Aguilar, United Nations Special Reporter on the Rights of Persons with Disabilities, who promotes the United Nations’ doctrine on deinstitutionalisation of people with mental disabilities in favour of open treatment within the community.

Abroad, 2018 marked the fortieth anniversary of the Italian law of 1978 that abolished psychiatric hospitals. In the eyes of the physician who inspired the measure, Dr Franco Basaglia, psychiatric hospitals were not therapeutic in themselves, which is why he introduced a person-centred approach, based on rights and the therapeutic alliance. With his multidisciplinary team, it took him just a few years to open the doors of such facilities, prohibit mechanical restraint and create an internal communication system with meetings between patients and nursing staff. He paid special attention to the role of nurses, with a view to making them caregivers rather than guards.

The anniversary ceremony was held in Trieste; psychiatric hospitals’ resources were diverted to open sectors: four permanently open centres with between four and eight beds each, corresponding to four sectors with 60,000 inhabitants. The teams working in them also go into the outside world, accompanying people back home, or, if necessary helping them find an apartment and carry out any formalities required. A social cooperative has been set up to help patients find work. Almost 5000 people are monitored in the “community” and a thousand or so go through community mental health centres, where the stays last an average of around ten days. Such periods, which provide a warmly welcoming environment, flexible visiting rules and permanent contact with the nursing staff during crises; are put to best use to develop a lasting external treatment formula.

In the face of the CGLPL’s findings elsewhere, these observations have led the Chief Inspector to make a public stand in favour of a more open form of psychiatry enabling doctors to “treat better by confining less”.

Although the number of beds in psychiatric units has dropped by more than half over the last fifty years, involuntary hospitalisations have continued to increase. Patients are often confined in dilapidated areas, deprived of activities and with no possibility of lasting accommodation due to lack of medicosocial facilities and consequently no guarantee of continuity of care.

In the 2000s, the caring culture developed in the 1970s under the impetus of trends in institutional psychotherapy lost its hold and it was mental patients’ (usually imagined) “dangerousness” potential that became the primary concern instead. The law as it stands today does nothing to resolve this contradiction: it protects patients’ freedom by ensuring the courts’ oversight while also stepping up social control by increasing Prefects’ powers.

17 “Psychiatrie: il est possible de soigner mieux en enfermant moins” (Psychiatry: it is possible to treat better by confining less), editorial published in Le Monde on 17 September 2018.
These days, most psychiatric wards are closed facilities, needlessly restricting patients’ freedom of movement. Yet it is possible to treat better by confining less.

The will to design new forms of care and limit involuntary hospitalisation is sadly lacking in the Government’s current thinking. Yet in order to ensure that restraint and confinement are purely temporary measures, as they should be, it has become a matter of urgency to reassess the entire treatment chain for mental illness, to create accessible services to assist patients in their daily lives and prevent crises in order to avoid emergency hospitalisation, design hospitals practising the principle of hospitalisation in open units with rare, medically justified and regularly reassessed exceptions, implement ambitious policies to reduce seclusion and restraint, and, finally, open medicosocial facilities designed to provide care following hospitalisation.

3. Reception of people deprived of liberty at health institutions in 2018

Over the course of 2018, the CGLPL inspected fourteen health institutions taking in people deprived of liberty. Previously, the CGLPL’s reports on such institutions tended to focus on conditions for reception in secure rooms; however it was decided that, as from October 2018, they would cover a broader field, to include all forms of treatment (apart from mental health care) administered to patients detained in hospitals, i.e. stays in secure rooms, movement inside hospitals during such stays and detainees’ outpatient consultations. These reports, previously entitled “Secure rooms at the hospital in …” will henceforth be entitled “Reception of people deprived of liberty at the hospital in …”.

One of the inspections carried out revealed a rather unusual situation, with secure rooms generally in compliance with all the CGLPL’s recommendations. A situation so rare that it seems opportune to provide a description of the facility concerned.

“The emergency department’s dedicated reception and waiting areas are separated from other patients; following reception, detainees are taken to one or other of the rooms on stretchers.

The penal institution draws up a liaison form specifying authorised phone calls and visits. However, stays are usually too short to allow for any telephone conversations.

Rooms are equipped with a television usable without charge, bathrooms and security doors are up to standard, well maintained and clean. Patients in detention have access to a garden and can borrow books from the mobile library.

Medical and nursing staff say that they have no misgivings about treating such patients and that no regrettable incidents have occurred over the last few years.

Surveillance is carried out by police officers. They do not go into secure rooms but if a patient is considered to be particularly dangerous, the door to his room may be left ajar.

However, nursing staff stated that escorts were always present during complementary examinations conducted outside the secure area. The Départemental Director of Public Safety disputed this claim. Whatever the case,

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18 The full list of institutions inspected in 2018 is provided in Appendix 2 of this Report.
the presence of police officers during examinations should only be exceptional and upon the nursing staff’s request.”

In most other cases, not all conditions for treatment that respects patients’ rights are fulfilled.

Stays in secure rooms should last longer than 48 hours, although a number of exceptions to this principle are to be seen here and there. However, in all institutions inspected, the average length of stay is around 24 hours. This data comes from nurses’ and police officers’ statements, as, contrary to the CGLPL’s often repeated recommendation, there are few records pertaining to occupation of secure rooms, and the police do not keep them for their own use.

The effectiveness of measures taken by hospitals to ensure the anonymity of detainees’ stays varies greatly, and often none have been taken at all.

Conditions for use of secure rooms vary; it may happen that, as they are managed by the police with no participation from the hospital, patients are admitted to them without the nursing staff being informed, or despite the fact that they are not actually prison inmates (individuals in police custody, whose right of residence is being checked, or who are detained as illegal immigrants).

In one of the hospitals inspected, there are no secure rooms, so detainee patients are admitted to individual rooms and handcuffed to the bed with two police officers on guard in front of the door. They are not admitted to the main facility, but if examination or hospitalisation of an individual under close watch is required, a special system goes into operation outside and inside the hospital.

The absence of any protocol between prison administrations and hospital departments, whether at regional or local level, is all too frequent and has major consequences on the rights of hospitalized detainees.

With no reference text to base them on, procedures are not standardised but defined empirically and complied with as far as the individual memories and goodwill of the actors concerned allows them to be. As roles assigned to each actor are not defined, they are not integrated and do not form the subject of any special training programme: the police do not seem to realise the extent of their obligations and regard surveillance of secure rooms as an undue burden. Nursing staff do not know patients’ rights, contacts between prison health units and hospitals are few and far between and procedures are not updated. The CGLPL only observed one instance of prison health unit staff being given the opportunity to switch their duties temporarily with those of hospital staff with a view to fostering better mutual knowledge.

Nursing staff have little knowledge of the procedure for treatment of detainee patients and are not provided with any information that might be of benefit to their patients. There are usually no information documents for this category of patient and staff do not even bother to provide them with the hospital’s welcome booklet.

Consequently, patients’ rights are inevitably unrecognized. In practice, their right to family ties (visits and phone calls) is often on hold, they are refused access to tobacco, the open air and sometimes even television, and no activities are provided for them. Even their rights to defence (access to a lawyer and their criminal case file) are usually suspended.

The conditions under which detainee patients are accommodated in secure rooms have been repeatedly criticised by the CGLPL. The inspections carried out in 2018 only confirm these findings: toilets that provide no privacy, bed fixed to the floor, a chair and a trolley for meals, no cupboard, no clock, no TV or radio… Such are the conditions that sometimes dissuade detainees from agreeing to hospitalisation.

There are numerous breaches of medical secrecy and treatment confidentiality. In one hospitalisation unit under the aegis of the police, who alone hold the keys to it and oversee its operation, patients’ requests go through police officers and most in-room treatment and consultations
are carried out in their presence without the nursing staff calling this state of affairs into question. In all cases, external consultations are carried out in the presence of prison staff, even when doctors expressly request that other arrangements be made. In fact, doctors and healthcare managers alike rarely speak up about this situation, considering that the professional secrecy by which they believe prison warders are bound is equivalent to medical secrecy, and even that there are some forms of medical consultations that do not require confidentiality. Finally, it is worth noting that, although emergency department staff, who are used to dealing with violent situations, do not often seem worried about the profiles of the detainee patients they treat, medicine and surgical department staff, who are by no means used to crisis situations and are alarmed, even frightened, by the prison administration’s excessive precautions, tend to automatically assume that a detainee must be dangerous. In such conditions, there are very few requests for police to leave treatment rooms.

The CGLPL reiterates that custodial staff should assess required levels of security measures on a case-by-case basis in order to best maintain the fundamental rights of hospitalised detainees. The presence of security forces in a consultation or treatment room should be exceptional and, in all cases, have the agreement of the physician concerned.

These few findings show the urgent need to revise the Circular of 13 March 2006 bearing on layout and creation of secure rooms, and complement it with provisions on modes of medical treatment of detainee patients, specifying the responsibilities and roles of the various partners involved. The methodological guide to treatment of offenders might be an excellent backup to these recommendations.

Finally, it is essential to remind all practitioners and nurses that delivery of care to detainees is subject to the same rules as for any other patients as regards the right to treatment confidentiality.

4. Detention centres and facilities for illegal immigrants, border police units and waiting areas in 2018

4.1 Overview of inspections carried out

Over the course of the year, the CGLPL inspected four detention centres for illegal immigrants, a facility for illegal immigrants, five border police stations and four waiting areas19.

4.1.1 Detention centres and facilities for illegal immigrants

Overall, inspections carried out in 2018 confirm the findings reported over the course of previous years.

Despite local efforts and a few improvements made since earlier inspections, information provided to detained individual upon their arrival is still incomplete.

Official interpreters’ services are called upon with increasing frequency and legal aid associations try to step up their presence, sometimes with success, in particular in collaboration with specialised lawyers. Nonetheless, there is no reception procedure in a number of centres, no specialised staff, and notification of rights is carried out in confused fashion, mixed in with security measures and registry operations.

19 The full list of institutions inspected in 2018 is provided in Appendix 2 of this Report.
Information on life in the CRA and internal rules of procedure are sometimes lacking, and even when they exist, if foreigners cannot speak French, Spanish, Arabic or English, their understanding of living conditions in the CRA will remain very sketchy. In one very large CRA, a team of (in principle) multilingual plain-clothes police officers is responsible for maintaining a “flexible liaison” between detainees and the administration.

In CRAs, interpreters’ services are not only needed to provide information on rights and life in detention, but also to ensure all-round delivery of welcome booklets written in languages adapted to their populations’ nationalities.

Detention conditions are unsatisfactory in all centres inspected – a situation caused by a number of factors.

First of all, there are not enough staff, due to incomplete staffing tables as well as high absenteeism rates. External reinforcements sometimes have to be called in, consisting of police officers who, as they did not volunteer for the activity, see it as a form of relegation. A full number of staff present is essential if everyday needs are to be met and judicial and administrative procedures carried out as required. When there are too few, there may be no one available to accompany detainees to appearances before liberty and custody judges or administrative courts, and meetings with legal aid associations and medical and paramedical procedures are carried out under “makeshift” conditions. Lack of supervision and overload of ancillary tasks can have the same results.

Secondly, material accommodation conditions are appalling: facilities are dilapidated, cramped, poorly maintained and dirty, despite the daily efforts of cleaning teams.

During their visits, our inspectors noted a great many shortcomings, including meals of inadequate size, equipment lacking due to failures in enforcement of contracts (furniture, draw-sheets, toilet paper, etc.) and in maintenance (lighting, ventilation, cigarette lighters, etc.). In one of the centres inspected, there are not even any procedures for allocating rooms to detainees: “they fend for themselves”.

There are still too few activities on offer, as the CGLPI has had occasion to reiterate all too often: table football and TV sets at best, but usually a single television whose remote control is not always handed over to detainees. Exercise areas are sometimes nothing more than inner courtyards surrounded by walls, a situation out of line with the CPT’s standards with regard to access to the open air.

Organisation of family visits varies greatly: in one centre, cubicles have recently been renovated and visits are managed in flexible fashion; in others, visits – admittedly possible every day but short and poorly organised – are carried out in cabins similar to prison visiting rooms, with seats fixed to the floor.

Access to telephones is also subject to a variety of measures: here, people who arrive with no money are provided with a phone card enabling them to use the telephones available inside the detention area; there, mobile phones are allowed as long as they cannot record sound or take photographs; elsewhere, detainees can call from landlines but have to buy cards from the OFII, which is not always open.

Access to healthcare is still highly unsatisfactory. In only one of the centres inspected in 2018 are all new detainees seen on the day they arrive by the nurse and physician, who are generally available; however, detainees there have no access to a psychiatrist. In the other centres inspected, access to treatment is more difficult. New arrivals are not systematically examined by a doctor and medical units are not always directly accessible to detainees. Elsewhere, due to staffing difficulties, the medical department is seldom open or nurses refuse to see detainees unless a police officer is present, which is not an acceptable practice. In 2018, taking note of the persistence of such difficulties, the
CGLPL drafted an opinion on access to treatment in detention centres for illegal immigrants, which was published in early 2019.

As regards incidents, reports are usually drawn up but Public Prosecutors are not always informed of placements in solitary confinement rooms. Records of use of such rooms are largely unusable; sometimes only containing identical catch-all remarks such as “disorderly conduct”, preventing any real traceability of such measures, which are supposed to be exceptional.

In principle, solitary confinement measures are recorded in a software package for automated processing of personal data called “LOGICRA”, which acts as a detention register. It must, of course, receive the correct data if it is to carry out periodic analyses of solitary confinement measures implemented at each CRA and be able to study practices (isolation for security reasons as well as for health reasons). In addition, such traceability should enable professionals to carry out institutional work on analysis of the issues involved in and methods of recourse to solitary confinement rooms, with a view to limiting their use and seeking alternative solutions. It is well worth noting that some centres never put detainees in solitary confinement, or only for a few hours, while others have made it an almost commonplace, even punitive feature of detention management. The current heterogeneity of such practices cannot be explained by the size or architecture of centres, or by their populations’ profiles.

Finally, staff are not trained in management of difficult individuals, and so consider that they have no alternative but to use means of restraint, not always in the right way and sometimes with inappropriate techniques. Several reports received in 2018, bearing on systematic use of handcuffs for all movements in a number of centres, are telling illustrations of the fact.

Leaving is not always straightforward when deportation is not involved. In one centre located near the town centre, anyone set free is near the main means of transport; when detainees from the same centre leave for court appearances, they take all their belongings with them so as to avoid having to return to the CRA if they are released.

It is not always so easy, however. Sometimes, detainees’ situations –families in particular – pose real problems that the police themselves regret without being able to solve them. With no institutional or community care provided, they are not in the least happy about having to leave families to fend for themselves in a remote spot, with no possessions and no money. In practice, they sometimes break the rules and drive released detainees in service vehicles, but they do so at their own risk.

Measures must be taken to ensure that people set free on national soil following a stay in a CRA have immediate access to public transport and accommodation adapted to their needs.

In principle, centres have made efforts to ensure that deportations are carried out under the best possible conditions. In one of the centres inspected, a team of plain-clothes police officers, who act as a permanent “flexible liaison” between detainees and the administration, are careful to identify any “risky behaviour” in order to anticipate difficulties during deportations. In another, information on their coming deportation is occasionally withheld from detainees (in about 5% of cases).

In all centres inspected, detention periods were getting significantly longer compared with previous visits, generally increasing (except in French Guiana) from an average of less than eight days to an average of around two weeks. Nonetheless, we are still a long way from the maximum 45 days and still further from the new 90-day maximum. On a final note, it is worth bearing in mind that the average rate of deportation is still around 40%, which means that over half of detentions are actually needless deprivations of liberty.
4.1.2 **Border police units**

The border police units that were inspected all have their own specificities and it is difficult to apply the same principles to all of them: two are in French Guiana and meet the region’s very special needs, two others are located alongside the Italian border and are therefore very much marked by short-term difficulties to do with arrivals of migrants in large numbers, while the last is a more “classical” unit which only calls for the usual observations.

The units on the Italian border were last visited in 2017, when the “crisis” was in full swing. In 2018, flows had decreased. The control system on the border sector with Italy has remained largely unchanged. Premises have been enlarged and urgent maintenance work (reinforcement of walls and flooring) carried out, but one of the sites still lacked equipment (lighting, heating, air-conditioning, chairs, mattresses and blankets) and on the other site, what they have is poorly maintained. Toiletry kits are only provided on one of the sites and lack various items, and the same can be said of the sanitary fittings.

In Menton, foreigners are still kept from 7 p.m. until morning in these unequipped premises, with nothing to eat or drink but sponge fingers and a little bottle of water, which are not systematically distributed to new arrivals or at regular intervals during their confinement. Cleaning is now formally organised but carried out in random fashion due to intensive use of the premises. Direct refoulements at the border seem to have stopped. Unaccompanied minors are no longer refused entry and are systematically handed over to the ASE; an association takes them to a hostel. Even so, minors accompanied by adults who are not their legal representatives are not always considered as being unaccompanied minors.

For adults, entry refusal forms seem to be completed more conscientiously, but information that should be provided (right to contact a lawyer or consulate, right of appeal, asylum, and information on deprivation of liberty measures) is sometimes lacking.

Border police units on the borders of French Guiana work in overcrowded conditions and only accommodate foreigners for very short periods, transferring them to the CRA as soon as possible or immediately sending anyone from Metropolitan France back where they came from. Premises are unsuitable even for short stays, with no chance of privacy or even minimal hygiene, although practices noted are generally benign. As at the CRA, deportations are carried out so quickly that foreigners have no opportunity to appeal. Finally, the region has no waiting area. The police premises act as one without providing the necessary guarantees.

4.1.3 **Waiting areas**

Waiting areas inspected in 2018 are of such variable sizes that they have almost nothing in common. The smallest do not always include accommodation facilities, are less frequented and only call for the usual remarks on unequal record keeping and incomplete notification of rights. The Roissy waiting area is where difficulties really pile up. It has been receiving increasing numbers of people (6,997 in 2012; 7,930 in 2017), although numbers of asylum requests at the border have decreased (2,019 in 2012; 1,229 in 2017). In total, 66.98% of people kept there are released onto national soil and 33% deported.

Any real access to legal aid is *de facto* impossible for individuals confined there, in passenger terminals and the waiting area (ZAPI) alike: documents distributed are incomplete, the stress felt by individuals confined there prevents them from understanding their rights, not even, as sometimes happens, when they are treated to soothing, reassuring speeches that have little to do with reality; an association with no public service delegation contract is only on hand 20% of the time. Court-appointed lawyers only make their appearance when hearings are held before the JLD and are unable
to prepare for them, either by listening to what their detainee clients have to say or by getting hold of
the necessary documents. OFPRA’s ability to process the volume of asylum requests is uncertain at
best.

Procedures currently in force do not allow individuals confined to waiting areas to collect their
luggage, and, although accommodation conditions are supposedly of “hotel” quality, the reality is very
different. Facilities are dilapidated and do not even provide mattresses designed for babies. The
healthcare service is seriously lacking in resources.

The service is also faced with the problem of managing unaccompanied minors, whose
numbers sometimes exceed reception capacities. Vigilance is stepped up, but the police are powerless
when it comes to the situations of some children who have fallen victim to human trafficking gangs.
Such young people’s intermediaries know that as soon as they are placed in a hostel (when there is
room, or more often in a hotel), they will vanish into thin air, back to the people who brought them
over. Confinement of minors is sometimes presented as a rest period in an enforced journey,
providing an opportunity for the minors concerned to ask for protection. This is never the case.

The CGLPL reminds readers of the recommendation made in 1.3.2 of this chapter, on
protection of unaccompanied foreign minors.

4.2 The Act of 10 September 2018 for controlled immigration, effective right of
asylum and successful integration

The Act bearing on controlled immigration, effective right of asylum and successful integration was
definitively adopted on 1 August 2018; it was the subject of a referral to the Constitutional Council,
which declared that its provisions were in compliance with the Constitution.

The Chief Inspector has taken several opportunities to state her views on the reduction of
detainees’ fundamental rights that the Act has brought about: during a hearing before the rapporteur
for the National Assembly’s Law Committee, in a letter to parliamentarians, and in a press release. In
her eyes, extension of the detainment period and shortening of appeal deadlines are backward steps in
the law that do nothing to make the deportation policy more effective, contrary to what the text’s
authors are hoping for.

Increasing the duration of detention is a measure as onerous as it is pointless. The duration of detention prior to enactment of the law – 45 days – was already needlessly long as the average duration is only about twelve and a half days. Most deportations take place in the first few days; if they take longer it is usually because countries of return refuse to deliver consular laissez-passers. No obligation to harmonise European practices requires an increase in the detention period, which has been set at a maximum of six months – a maximum, not a goal to achieve! The maximum period of 32 days of detention, as was provided for before the Act of 16 June 2011 bearing on immigration, integration and nationality was already quite long enough.

Similarly, extension of the detainment period from 16 to 24 hours in order to check on right
of residence comes down to reinstatement of a form of police custody, although the simple fact of
being in an irregular situation on French soil has not been an offence since 2012.

Given the argument of effectiveness put forward to justify doubling the administrative detention
period and extension of detention in order to check detainees’ right of residence, the CGLPL
recommends that the durations introduced by the Act of 10 September 2018 be evaluated at the
end of one year.

Material treatment of detainees is in violation of their fundamental rights (squalid
accommodation and hygiene conditions, deprivation of means of communication, poor access to
healthcare and total absence of activities) and has not improved over the past few years. Rights to information and defence are all too often ignored due to lack of time to present them, any desire to have them understood, and interpreters to translate them. Public efforts should therefore focus on improvement of conditions of detention rather than extension of its duration.

Finally, the Chief Inspector of Places of Deprivation of Liberty finds it regrettable that the bill has nothing to say on detention of children, when France has been condemned on the subject by the ECHR on more than one occasion, in 2012 and 2016. Yet the number of families with children placed in CRAs continues to increase²⁰.

In addition to material accommodation conditions in new CRAs authorised to take in families, it is the very principle of confining children that should be called into question, in particular because of the traumas it causes and the resulting disruption of parent-child relationships. In the name of the higher interest of the child, most international institutions and NGOs recommend prohibition of confinement of foreign minors. Unfortunately, our country pays them no heed. Parliament has not taken the opportunity provided by the bill submitted to it to put an end to the confinement of children.

The CGLPL reiterates its recommendation to the public authorities to put an end to the possibility of placing families with children in detention centres for illegal immigrants and to stick to house arrest procedures for such cases.

Reservations were expressed by the Defender of Rights and the National Advisory Commission on Human Rights, as well as by the Council of State, which considered²¹ legislating on the subject scarcely two years after adoption of the Act of 7 March 2016, an assessment of which cannot yet be made. In a letter of 8 March 2018, the Council of Europe Commissioner for Human Rights deemed it useful to address French parliamentarians directly, to tell them how much he too was alarmed at the prospect of reducing deadlines for submission of asylum requests and appeals to the National Court for the Right to Asylum, abolition of the automatically suspensive nature of appeals submitted to the Court, and extension of the maximum period in administrative detention. However, Parliament showed no sign of wishing to comply with these reservations.

The CGLPL will continue its action to reduce detention periods, extend appeal deadlines and do away with the possibility of locking up children.

5. Inspection and carrying out of forced removals in 2018

The CGLPL scrutinised the carrying out of four forced removals in 2018:

- a deportation to Morocco by air;
- a deportation to Morocco by sea;
- a deportation to Italy by air;
- a deportation to Albania by air, organised by France under the aegis of the European agency Frontex.

²⁰ 41 children were confined in CRAs in 2013; 305 in 2017.
²¹ Opinion of 21 February 2018.
The deportation organised under the aegis of Frontex, which was responsible for its coordination and funding, concerned twenty-two people and was overseen by an Italian “monitor”. An Albanian police officer, three representatives of the DCPAF trained for this type of operation by the European agency, an interpreter and the Albanian “People’s Lawyer” (the country’s Ombudsman) were present. The deportation was part of an operation organised by France, every week for a year, in order to remove individuals of Albanian nationality from French detention centres for illegal immigrants. It was organised on an Albanian aircraft by Albanian nationals (a physician, a psychologist and thirty-three escorts, including one woman) and in compliance with the Frontex protocol.

The CGLPL’s inspection showed that collection (by French police officers) of the deportees, from three detention centres for illegal immigrants was carried out in satisfactory fashion for the individuals from the two nearest centres but had been more stressful for those coming from the centre farthest away.

From boarding onwards, operations were carried out by the Albanian staff aboard the aircraft, and the French border police’s role was over. Checking of deportees’ files prior to their being handed over to the Albanian authorities showed no anomalies. Procedures had been highly formalised by Frontex and participants were proficient in them.

The other inspections carried out by the CGLPL enabled it to see what action had been taken on its previous recommendations, examine conditions for carrying out forced removals decided on pursuant to the European Parliament’s and European Council’s regulation of 26 June 2013, the so-called “Dublin III Regulation”, and inspect material conditions of treatment during deportations by sea.

As regards its earlier recommendations, the CGLPL can only find it regrettable that documents containing reasons for conviction had been handed over to a destination State’s authorities. It also regrets that no measures were taken to deliver a minim sum of money to the deportees, who were left with no resources.

The Government must adopt the measures required to ensure that no deportee is left in the destination country without having at least enough money to pay for a day’s food, a night’s lodging and the transport necessary to get to their place of refuge.

Finally, despite a degree of professionalism among some of the teams responsible for deportations, there is still excessive use of handcuffing, in particular with hands behind the back. The practice has even become systematic in places were such was not previously the case. This worrying development requires the attention of the police hierarchy. It is true that some units are now equipped with abdominal straps, which enable front handcuffing, but this facility should not lead the police to sacrifice the principle according to which handcuffing of deportees is an exceptional measure, connected with their behaviour and justified on a case-by-case basis.

The deportation decided on pursuant to the Dublin III Regulation was carried out under satisfactory material conditions, but the deportee’s rights were ignored: his request for asylum was refused with no in-depth examination, his wish to be returned to his country of origin rather than to Italy was never taken into consideration, although it would have been possible to return him to the country whose nationality he held. The observations made on systematic handcuffing and total lack of resources upon arrival also hold for this situation.

22 4 from Belgium, 4 from the Lille-Lesquin CRA (Nord), 11 from the Coquelles CRA (Pas-de-Calais) and 3 from the Metz CRA (Moselle).
As regards the deportation by sea, it concerned an individual who was particularly strongly opposed to his departure, expressed by highly agitated even violent behaviour at the CRA, but who finally calmed down in the company of his escorts, who kept conversation going once his return to Morocco was inevitable. After an initial period of uncertainty connected with lack of preparation of accommodation conditions on the boat, the escorts (perhaps inspired by the CGLPL’s presence) decided to dine with the deportee in the passengers’ dining room, then allow him to wander about the boat freely like any other passenger. The file handed to the Moroccan authorities only contained the consular laissez-passer and the Prefectural Order setting the country of return, with no reason prejudicial to the party concerned.

A number of inspections considered by the CGLPL were called off due to the uncertainties that always accompany organisation of this sort of mission; they will have to be rescheduled. They concern forced removals of families by State aircraft, deportations by road, flights to Central Africa and “Dublin” flights to Northern Europe.

6. Juvenile detention centres in 2018

6.1 Overview of inspections carried out

Over the course of 2018, the CGLPL inspected eight juvenile detention centres, two of them for the third time; five for the second time and one for the first time. Unfortunately, findings differed little from those reported following previous inspections.

6.1.1 Unstable structures

Structural instability is still the main characteristic of CEFs, some undergoing repeated crises while others have no stable management, and others again seem unable to succeed in recruiting or stabilising trained teams.

Crises had marked the recent past of four of the eight institutions inspected. In one, a series of incidents had come to a head in May 2015 with a fire caused by the minors; its authorisation had been suspended as a result and a new association authorised. In another, the CEF had just come to the end of a long period of social crisis and had been taken control of by the PJJ and restructured. In a third, the acting director “parted ways” with four youth workers “on his own initiative, due to lack of supervision”. In a fourth, the director and four youth workers had been convicted for acts of violence and the centre had been closed for a year.

Even in the absence of any obvious crisis, the centres are finding it hard to maintain stable teams. In one centre, for example, a close-knit, experienced management team has designed a coherent service project but is having major problems recruiting specialised youth workers; there is only one, most of the others being sports instructors or coaches and three with no qualifications at all. Under such conditions, certain staff members did not possess the skills or experience required to implement appropriate educational action, seeing themselves rather as guards and maintaining the balance of power when they have to impose restrictions on the young people in their charge, or cultivating a “big brother” attitude towards them and using vocabulary unlikely to encourage higher standards of behaviour.

23 The full list of institutions inspected in 2018 is provided in Appendix 2 of this Report.
Another centre had not had a complete team since September 2014: the institution’s director (the second since it opened), who had been off work since January 2018 (sick leave followed by maternity leave), returned for four days in September before taking another month’s sick leave; there had been four educational unit heads in succession, absenteeism among youth workers was at record levels, and the institution even had to close for two months due to lack of staff.

In a third institution, there are increasing numbers of voluntary departures and disciplinary dismissals, one of them (just before the CGLPL’s inspection) following allegations of violence, and a situation obtains in which poorly trained youth workers “do what they can” under the eye of a management that “makes sure things don’t go off the rails”. Training programmes and sessions analysing practices with an external psychologist help maintain a precarious balance.

Stable teams are not the only guarantee of better respect of minors’ rights, however. Although, in one of the centres inspected, the team’s quality and stability are undoubtedly at the origin of the quality treatment observed; in another, a no less stable team – but one rarely subjected to external inspections – seems to lack dynamism, so much so in fact that many of the observations made during the CGLPL’s two previous inspections still apply, sometimes even more so.

We cannot overstate the need to institute professional and properly monitored management teams and recruit qualified youth workers or train them through internal promotion. As the CGLPL repeats every year, we cannot entrust young people in difficulty to constantly changing or poorly trained staff.

Measures of all kinds (attractiveness, status, training, supervision, location, etc.) must be taken to ensure staff stability in juvenile detention centres.

6.1.2 Unequal material conditions of treatment

At one of the centres inspected, the building – a fine 19th-century residence graced with the title “château” – has been renovated. Minors have rooms with bathrooms and comfort locks, and there are very pleasant relaxation rooms at their disposal. They are allowed to decorate and paint the doors to their rooms, and they appear to appreciate their environment.

Everywhere else, however, the situation could not be more different.

One centre is in a state of advanced deterioration; it was already in such a state when the CGLPL last inspected it and nothing has been done since to improve the situation: windowpanes are cracked at best, frames are sometime so damaged that windows can no longer be closed, showers and toilets are collective, some rolling shutters are blocked in closed position, others in open position; 3 of the 12 bedroom doors are completely unusable. The current state of the property is put down to the poor quality of its original construction and to the wilful damage caused by its residents over the course of time. Whatever the cause, such inaction is unacceptable.

Elsewhere, we found common areas that are dirty and untidy, a kitchen that does not meet hygiene standards, where no inspection bodies are called in (“because it is not compulsory”), and meals prepared by untrained youth workers with no interest in cooking. Elsewhere again, the building, although recent, shows all the signs of a chaotic management history, worsened by the longstanding lack of a technical assistant; our inspectors saw rooms that were admittedly poorly maintained by their occupants, but were already in a sorry state before they moved in: graffiti, broken doors, etc.

You cannot set about educating children in such surroundings.

Material conditions of accommodation in juvenile detention centres should form the subject of a ministerial inspection programme, and the necessary measures (renovation work, maintenance,
standards, technical checks, etc.) must be taken to ensure that the education of children placed in them is carried out in an environment suitable for such purpose.

6.1.3 **Painstaking educational monitoring**

Educational monitoring is probably the area in which it is easiest to find best practices being implemented. The CGLPL’s inspections highlighted real determination and genuine success in this field in several institutions.

In one centre, a wide range of activities is on offer. Consequently, its young residents are always supervised by the adults who organise them. Schooling is provided in accordance with children’s levels, although it is not always possible to enrol pupils in nearby schools; however, the CEF’s teacher does everything possible to avoid young people dropping out of school following their placement. Elsewhere, the search for external resources regarding health, sport, culture, vocational discovery courses, schooling and community action gives young people daily opportunities to go outside the centre. Elsewhere again, camps are frequently organised involving all the minors in residence, with programmes combining sport, culture and citizenship; attention is paid to residents as individuals and to their interaction with the group as a whole (birthdays, “goodbye ceremonies”, etc.); a comprehensive, personalised and interesting vocational awareness-raising programme is also on offer.

However, even in the best of cases, weekends and school holiday periods are still often marked by a return to inertia. It sometimes also happens, even if only occasionally, that treatment seems more occupational than truly educational, with activities on offer to minors guided more by youth workers’ own interests and skills than by any individualised educational project.

These often remarkable efforts are only rarely made the best of through rigorous formalised educational monitoring: institutions’ core documents (educational plan, service project, welcome booklet, young people’s meeting notebooks, etc.) do not always exist, and when they do practices do not actually comply with them. Monitoring documents on young people, required for their later treatment, are often inadequate, and, although it was decided to maintain them more meticulously following a previous inspection by the CGLPL, it has to be said that this good intention did not result in action being taken. In one of the centres inspected, there is not even a meetings notebook to record collective discussion. Sometimes, the point of the individual care file (DIPC) is not understood: the document exists but is only updated in random fashion, and sometimes not at all, so that several documents have to be consulted in order to get a picture of a minor’s progress.

6.1.4 **Inappropriate and sometimes brutal internal order**

It must not be forgotten that children placed in juvenile detention centres are there for education rather than security reasons. Like all children, they must be protected by the institution responsible for them and everything a CEF does should focus on its educational purpose. Yet forms of security organisation that sometimes almost amount to imprisonment, disciplinary measures counteracting educational projects and various forms of violence persist.

Although, in most of the centres inspected, efforts are made to limit confinement of minors, it sometimes happens, if only exceptionally, that a CEF is more closed than an EPM (prison for minors). Living, administrative and healthcare areas are highly compartmentalised; getting from one to another requires the opening and closing of a great many doors; any fluidity of movement is prevented along with young people’s ready access to the nurse or psychologist, and such organisation does nothing to encourage informal exchanges. Furthermore, in living and accommodation areas, all doors are locked, requiring minors to be accompanied whenever they move. Such organisation seems incompatible with CEFs’ educational calling.
Use of restraint, which in practice means pinning minors down on the ground – often regarded as a “technique” during previous inspections – seems nowadays to be seen as a largely unacceptable practice requiring incident reports to be drawn up. Consequently, it is gradually disappearing, as are other control techniques that have more to do with brawling than education.

In the same fashion, and in compliance with the PJJ’s strict instructions, body searches are being replaced by frisking accompanied by inspections of bags and pockets. When different practices come to light, they result in investigations by the PJJ’s local directorates, which ensure compliance with national standards. Such return to the norm can lead to over-reaction: in one centre inspected, the prohibition of abusive checks was interpreted as covering all checks, leading to a huge increase in drug use.

Informal sanctions also tend to be disappearing under the effect of ongoing pressure from the CGLPL and the PJJ’s authorities. Management teams are being especially vigilant in this regard. Nonetheless, the reality of what is happening on the ground sometimes escapes them: prohibiting cigarettes as a punishment is still commonplace despite instructions, use of force mentioned in reports arouses no reactions, confinements to rooms or deprivations of activities go unnoticed, etc. Such actions are often carried out by staff who are completely ignorant of the profession and happily admit to them with no consideration of their educational consequences.

More serious are the objectively violent forms of behaviour arising from the criminal justice system: blows, repeated inappropriate behaviour on the part of a youth worker, removal of young people’s mattresses if they horse around at night and recurrent acts of brutality were all observed in one centre and only resulted in disciplinary measures accompanied by referral to the Public Prosecutor at the inspectors’ insistence.

6.2 Continuity of treatment of minors

If juvenile detention centres are seen as places of confinement dedicated to minors, they are not the only facilities in this category: minors can also be confined in penal institutions (prisons for minors and minors’ wings) as well as in psychiatric hospitals and detention centres for illegal immigrants, where they may be placed with their parents.

These facilities are run in accordance with very different rationales and temporalities. But their succession does not provide the continuity necessary to lives that have known nothing but ruptures. Young people’s fragility, and often that of their loved ones, absence of stable conditions, irregular schooling, the fragmentation of their very existence should lead to concern that ensures these children the stability and peace of mind essential to acquisition of calm, decisive forms of behaviour. But the frenetic pace of disrupted existences is often countered by an equally rapid pace of solutions that are never followed up.

Not only are these children’s lives in turmoil, their treatment is too. A child placed in a special school is hard to handle, rebels, starts stealing, is arrested and appears before the children’s court. He will be moved to a reinforced educational centre and, if his misdeeds continue, given a suspended sentence and finally placed in a juvenile detention centre. From there, if he absconds or commits an offence, the law provides for such placement to be revoked and he will be incarcerated in a prison for minors. Instability is a given in these children’s lives. And in addition, at every step, despite the efforts of the open custody youth worker – the so-called “fil rouge” (guiding thread – responsible for

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24 DPJJ Note of 30 November 2015 bearing on violation of fundamental rights through use of “search” practices in public sector institutions and services and the authorised associations sector.
monitoring him – he will come up against a range of different people, distinct teaching methods, and possible changing assessments of his personality and behaviour. There will not necessarily be any consistency or lasting evaluations of his development.

These “tranches” are all the more divided up and separated because confinements are only for short periods – an average of a few months in CEFs and the same in penal institutions. There is no question of extending detention periods, of course, but these brief durations must be coordinated with each other; it would seem that they are not, or at least not nearly enough, as each sequence has no contact with the next. It is striking to see how many juvenile detention centres and penal institutions lack information on what has become of their former residents. The manager of one institution stated that the only source of such information was the postcards that some children sent him after they left.

Even memories of what happened over the course of a fixed period are difficult to put together, due to pressure of events and the staff’s lack of time. For example, the CGLPL’s inspections reveal that the individual care files (DIPCs) provided for by law are very unequally completed. Yet adults’ memories are essential to proper monitoring of children.

The same array of successive measures applied to juvenile offenders can also be applied to children in mental distress. The brief hospital sequence may come about after a series of different treatments and prior to new treatments. Conversely, the CGLPL has also been referred to recently with regard to several situations in which children have been hospitalised in psychiatric units for months and sometimes years on end, in conditions of total isolation, as some regions possess no facilities designed to take in minors. Once again, we are not questioning the practices of competent professionals, who do what they can with resources they have no control over.

The CGLPL requests that the announced review of the Ordinance of 2 February 1945 bearing on juvenile offenders provide an opportunity to introduce consistency and continuity into the pathways of minors confined to places of deprivation of liberty.

Still on the subject of continuity, we have to stress the impossibility of providing unaccompanied minors with satisfactory care. Their numbers are increasing; their situation has already been referred to twice in this Report, with regard to penal institutions and to waiting areas. In both cases, we have seen that the justice system and the police, also lacking the legal means to ensure their protection, resort to groundless confinement in order to provide what they believe is provisional protection – an illusion as there is no follow-up. Everyone knows that, once released, these children risk falling back into the hands of human traffickers.

The CGLPL recommends that legal means combined with the necessary measures in terms of public policies be introduced to ensure the protection of unaccompanied minors.

6.3 Towards the opening of new juvenile detention centres

In a report on the juvenile detention centre system submitted to the Government in July 2015 by the General Inspectorate of Social Affairs (IGAS) and the General Inspectorate of Judicial Services (IGSJ), a clear assessment was made of CEFs’ inadequacies, every finding in which has been corroborated by the CGLPL’s observations.

Weaknesses highlighted include:

- inadequate quality of educational plans,
- no control over discipline, exercise of which may tend towards too much tolerance, too much restriction, or violence,
- insufficient involvement of families and open custody youth workers in educational action.
Team instability, weak supervision and the youth and inexperience of staff are often at the root of these ills.

The report was followed by a “PJJ action plan in response to the recommendations made in the report of July 2015”. Yet the inspections carried out by the CGLPL in 2018 do not reveal any significant changes in the CEFs’ situation, control of which remains woefully inadequate. Situations of violence, abusive disciplinary practices, dilapidated premises, dysfunctional teams and poor educational provision were all observed. The lack of any serious policy on assessment and monitoring of young people placed in CEFs and prisons leads one to fear that their time there will only be one more rupture in a life that has usually already known too many.

Yet on 27 September 2018, the Minister of Justice presented a programme for creation of twenty new CEFs, complementing the fifty-one that have been operating since 2002. According to the Ministry, ten calls for projects had already been launched, one of which had already been selected.

The CGLPL stresses the folly of such a project, which consists of extending a system that has proved impossible to manage in its current size and whose results have been subjected to no serious assessment, despite numerous operational controls. It requests at the very least that, if the project has to go ahead, the necessary precautions be taken to ensure that qualified management teams and youth workers are recruited. At present, CEFs’ locations, their staff’s status and existing training programmes all prevent this condition from being fulfilled.

7. Custody facilities in 2018

As is the case every year, inspections of custody facilities concerned police, gendarmerie and customs premises.

Inspections highlighted the determination on the part of professionals on the ground to implement the CGLPL’s recommendations, evidenced by their often close attentiveness to end-of-inspection observations and even by memos aiming to apply recommendations made in one of its police stations to an entire Départemental Directorate of Public Security (DDSP). In this respect, we can emphasise the determination shown by senior police officers and gendarmes to improve their procedures and practices despite a frequent lack of resources.

Conversely, the security concerns following recent terrorist attacks, in particular the one committed in Marseille by an individual who had recently been released from prison, have led security forces to adopt a “zero risk” policy resulting in increasing numbers of people held in custody.

Finally, the CGLPL was surprised to note that, despite the observations it made in 2017 on holding people overnight for no justifiable reason in police cells in the Paris suburbs, the Justice Programming Bill provides for extension of custody only in order to enable an individual to be brought before a court during working hours in courts that possess no cells of their own, essentially for police departments’ and judges’ convenience. It nonetheless continued its investigations on this specific point, in Paris, its suburbs, and regions alike.
7.1 Police

In 2018, the CGLPL inspected 31 police units (apart from border police): 16 coming under the Public Security Central Directorate and 15 under the Paris Police Prefecture.25

Accommodation conditions for individuals in custody, as well as staff working conditions, are highly unsatisfactory. Poorly maintained dilapidated premises, unusable antiquated toilets, and cramped overloaded offices are the settings most frequently observed.

Toiletry kits are often lacking, in particular for women; blankets are poorly maintained, there are not enough mattresses, showers cannot be used as there are no towels, cells, toilets and even offices are pervaded by unpleasant odours, heating does not always work and is sometimes not even installed in cells. Police officers, forced to endure similar conditions, get used to the situation, with some units not even seeming to be aware of the possibility of having toiletry kits available or the existence of cleaning contracts for blankets. In Paris and its inner suburbs, these problems are combined with lack of space in sometimes overcrowded collective cells. A few local initiatives, such as getting blankets washed at a neighbouring hospital, are effective in limiting deterioration of treatment conditions. All too often, the material conditions in which individuals are held in custody are neither inspected nor monitored by custody officers.

The toiletry kits (for men and women) and wool blankets, either single-use or washed after each use, distributed in some police stations should be made systematically available.

When a police station is housed in new premises, whose quality is usually impeccable, it often happens that nothing is provided for their maintenance. Consequently, the facility deteriorates rapidly, as has happened with those built ten or twelve years ago.

Personal items, spectacles, bras and so on, are still removed almost as a matter of course, despite a number of local directives that this must not be done indiscriminately. Although spectacles are always returned for court hearings, such is not the case for other items, whose return often depends on a judicial police officer’s goodwill. Despite the dictates of the law, the summary document on rights is never given to individuals held in police custody. It can also happen that notification of rights is carried out in cursory fashion, with no explanations, and comes down to a simple signature, which is apparently not always collected at the start of the procedure. It is especially unfortunate that, in at least one of the police stations inspected, such practices have the support of the Public Prosecutor’s Office.

The summary document on rights must be given to individuals held in police custody, as provided for by law. Lawyers are asked to make sure that this measure is carried out and to initiate any actions required to see that it is complied with.

Records are seldom kept up to date. Understaffing and lack of oversight does not help: information is left out, preventing proper monitoring of measures carried out; there is confusion between various types of records (for example; in a record supposedly devoted to drunk and disorderly cases, inspectors found information on foreigners detained in order to check on their right of residence). Records only rarely enable measures taken when individuals are placed in custody outside police station premises to be monitored, and never enable the monitoring of a police custody measure that is initiated in one unit and continued in another.

The CGLPL’s inspections revealed a great many needless deprivations of liberty.

Even though public prosecutors sometimes reluctantly admit the truth of its

25 The full list of institutions inspected in 2018 is provided in Appendix 2 of this Report.
findings, or wrongly suppose that it is not the CGLPL’s job to make them public.

On all sites where the police are unable to receive instructions from the Public Prosecutor’s Office after a set time of day, the situation results in individuals being placed in police custody for the entire night, during which nothing is done and at the end of which immediate release may well be decided on. In the most absurd cases, individuals placed in police custody spend the whole night in a cell even before their first hearing. In one of the police stations inspected; examination of two samples made up of 100 custody measures revealed that two thirds of individuals spent all or part of the night on the premises, a third of whom spent the whole night. Elsewhere; figures are even higher: in one case, most individuals are placed in custody in the evening or during the night: in 2017, 87% of individuals in police custody for less than 24 hours had spent all or part of the night in cells (in 2016, the figure was 89%); in another, 90% of individuals placed in custody spent at least one night in the cells, while 53% of individuals arrested between 10 a.m. and 12 noon are released before 7 p.m., but nobody is released between 7 p.m. and 8 a.m. Admittedly, it sometimes happens that anyone placed in custody during the night is granted an initial hearing following notification of the measure, but only very rarely.

This situation is above all the result of the difficulties police have in contacting Public Prosecutor’s Offices outside normal operating hours.

In one of the places inspected, a strict policy enforced by the Public Prosecutor’s Office bearing on respect of rights was complied with by the police: anyone handcuffed has to be placed in custody with a view to placing them under the control of the justice system; if the Public Prosecutor’s Office is not informed within 30 minutes, the individual concerned is released (which is what happened with four people while our inspectors were present). Elsewhere, no minors may stay in custody for a full night without prior authorisation from the Public Prosecutor's Office for Minors’ hotline, whatever time the arrest took place. If a hearing can be arranged in the evening as judges can be contacted during the night, such situations arise less often.

In the Paris Police Prefecture’s jurisdiction, these problems are coupled with those resulting from departmental centralisation of the judicial police out-of-hours service, which makes any action other than notification of custody measures impossible.

Although some police officers suggest that the length of procedures is due to the cumbersome notification of rights requirement, most of them recognise that it stems from a genuine organisational difficulty. Nor is it at all certain that there are no “police sanction” aspects to this state of affairs, which, all in all, no one really finds regrettable. In the Paris suburbs, such habits are shared by lawyers, who make no move when the measure is first implemented, but only make an appearance when it is time for the first hearing, which means that anyone in custody has to wait up to twelve hours without legal advice.

In one of the units inspected, a dematerialised custody record entitled *Informatisation de la Gestion des Gardes à Vue* (IGAV – Digitisation of Management of Custody Measures) has been introduced, and has won officers’ approval due to its user-friendliness and the amount of time it saves. The Decree that led to its creation specifies inspection authorities’ right of consultation, citing the CGLPL in particular.

The main development in police custody procedures in Paris is the judicial police’s recent move to the premises of the new Court of First Instance. The CGLPL inspected the unit a few months after the move. Everything now happens in one place, with custody facilities grouped together, each including cells, interrogation rooms, offices for interviews with lawyers, and two videoconference cabins. A physician from the Paris UMJ (Hôtel-Dieu) is on duty from 9 a.m. to 5:30 p.m. It is therefore no longer the individuals in custody who have to be moved to the various
departments to be interviewed, but the other way round. Such organisation secures custody measures and rationalises movements, avoiding any possibility of crossing paths with witnesses or victims. The premises are kept in excellent condition and operation is fluid, with cells providing accommodation in line with the CGLPL’s usual recommendations. However, account should be taken of the length of periods in custody, switching off lights in cells at night, providing more varied meals, setting rules for access to showers, and providing for a smoking room in the custody area. Rights are for the most part respected, but in practice it is impossible to communicate with friends or family and extensions of custody periods are mostly authorised without referral to the Public Prosecutor’s Office.

7.2 Gendarmerie

In 2018, the CGLPL inspected 18 gendarmerie units.26

In general, facilities provided in units visited are similar to those commonly observed in the gendarmerie, well-maintained premises in small-sized units, which are only equipped with cells but have no anthropometry facilities or facilities for carrying out medical examinations or interviews with lawyers. Hearings are often held in the sometimes shared judicial police offices.

However, well-equipped “judicial areas” including showers exist in some very recent premises designed for large-sized units.

Custody cells are usually basic affairs. They are not always heated, and one of them was even put “out of service” following observations by the CGLPL; in another unit, the brigade community’s commander had taken the same decision a few months earlier. Only one was found to be dirty. The necessary fixtures and fittings are usually in place, with a few interesting innovations here and there: fitted sheets and bolsters, or washed blankets delivered in blister packs. Usually, however, they are washed only occasionally.

In most gendarmerie units, custody measures are managed with a human touch: a few provide fresh food and rolling tobacco, most allow meals to be taken in a rest area or even in a dining room set aside for use by individuals in custody. Almost all units inspected allow families to bring in meals, changes of clothing and towels. It is therefore unusual to come across a brigade where individuals in custody have nothing to eat for breakfast – but it can happen.

In the same spirit, the judicial police in principle pay close attention to the rights of individuals held in custody, despite a few regrettable habits such as systematic removal of spectacles and bras, and sometimes even shoes. However, means of restraint are generally used with discernment, and searches and their inventorying are carried out by the rules. In principle, notification of rights is properly conducted.

Conditions for recourse to doctors or lawyers very much depend on the location of the unit concerned, as well as the quality of its relations with its neighbourhood. Although, in principle, nearby hospitals are called upon for medical examinations, a few residual problems were noted as to units’ ability to get lawyers to come in.

Overnight supervision remains the main weak point of the gendarmerie’s custody system. There are still too many units where individuals placed in cells are only kept watch on by officers passing by on their rounds, and sometimes do to not even have a call button available. The judicial police officers responsible for measures therefore run risks they are not equipped to deal with. Every time it observes this kind of situation, the CGLPL recommends that anyone who has to stay the night in a cell be taken to a neighbouring police or gendarmerie unit where officers are permanently on

26 The full list of institutions inspected in 2018 is provided in Appendix 2 of this Report.
duty. Although such practices are still rare, they are on the increase when a neighbouring gendarmerie unit has officers on duty round the clock, or sometimes for other reasons, such as lack of heating in cells. This therefore proves that such transport is possible; it is necessarily unusual as only a few people are kept in small units overnight; it should therefore be systematised.

Lastly, in one region our inspectors noted a practice in gendarmerie units in which an officer is designated as advisor for custody procedures and carries out inspections identical to the CGLPL’s. He also travelled to meet with our inspectors during one of their inspections. This way of going about things is the best possible guarantee that the CGLPL’s recommendations are fully incorporated into internal monitoring of units inspected. It can only be strongly encouraged.

7.3 Customs

In 2018, the CGLPL inspected five units coming under the General Directorate of Customs and Indirect Taxation (DGDDI).²⁷

In general, material reception conditions in customs facilities are adequate. Customs detention facilities are provided with toiletry kits for men and women, and sometimes with bedding kits (fitted undersheet, top sheet and pillowcase); blankets are clean. Individuals placed in customs detention are not handcuffed and may be taken to the town centre at the end of the measure. In other cases, front handcuffing is systematic and, in principle, rights are respected. Overall, customs officers take care to respect fundamental rights.

Conversely, detention cells may be too cramped and make any attempt at confidential discussion impossible. In one unit visited, the needlessly painful technique of cuffing hands behind the back is still employed when detainees are being transported in customs vehicles, in contrast to customs officers’ usual practices.

Finally, inspections on the part of Public Prosecutor’s Offices do not comply with the annual periodicity provided for by law.

7.4 Treatment of individuals involved in trafficking illegal products by body packing

The CGLPL visited two units in which people deprived of liberty are “hospitalised” long enough for them to evacuate the “pellets” of illegal products that they have ingested and which have to be evacuated naturally.

While waiting for evacuation of “pellets” to take place, detainees are under constant surveillance by the police, including during use of bucket toilets, whether in emergency wards or ad hoc bedrooms. Detainees are then obliged to sort through their own faecal matter in the presence of a police officer.

Such procedures constitute humiliating treatment.

²⁷ The full list of institutions inspected in 2018 is provided in Appendix 2 of this Report.
8. Presentation of people deprived of liberty before courts in 2018

Over the course of 2018, the CGLPL visited seven Courts of First Instance\(^{28}\) in order to monitor their respect of the fundamental rights of people deprived of liberty.

This year was marked by modification of the scope of inspections carried out: up until October 2018, visits to courts largely focused on their jails. However, these facilities are not the only factors to be taken into account in assessing how people deprived of liberty are treated in a court: their fundamental rights may be disregarded in other places, on the way to the courtroom itself, for example, including for appearances before judges who are not part of the criminal justice chain (family judges, guardianship judges, etc.), and in the courtroom itself, in particular since glass docks were installed. Hence, the CGLPL’s reports on courts will no longer be entitled “The jails at the TGI in …” but rather “Presentation of people deprived of liberty before the TGI in…”

The configuration of courtroom docks can sometimes hinder exchanges between defendants and their lawyers, or at the very least undermine their confidentiality. In two of the courts visited, the docks evidently reduced the ease of exchanges between defendants and their lawyers, and interpreters if any. There are various types of design, the most secure being the most detrimental to the rights of the people placed in them. In one, it is impossible to hear what is being said in the court, communication with the lawyer requires putting one’s ear against one of the rectangular openings in the glass; microphones, not all of which work, are not adjustable. Such conditions result in an appearance cut off from what is actually going on in the courtroom, and the defendant becoming no more than a spectator. Judges no longer allow defendants to leave the dock, as was once permitted at their lawyers’ request. One more recent configuration includes protected panels of thick glass, including on the ceiling, with skylights set at two different heights. The same difficulties arise, with the further problem that nothing of what is happening in the courtroom can be heard in the dock and visibility is also poor due to reflected light. This more recent design is even more problematic than the previous one.

Certainly, the fad for installation of secure docks that marked 2017 died down somewhat when the project was frozen by the Minister of Justice in December 2017 and some of the docks installed in Paris’ new Court of First Instance were removed. However, those that survive are still a hindrance to the rights of defence and show an apparent disregard of (EU) Directive 2016/343 bearing on presumption of innocence, which asks Member States to refrain from presenting suspects or accused persons as guilty parties, in the courtroom or in public, by use of physical restraint measures such as handcuffs, glass docks and metal cages and barriers.

Consequently, the CGLPL recommends total abolition of glass docks in courtrooms, and, at most, installation – on a case-by-case basis and only for the most dangerous situations – of removable protections or docks designed to ensure respect of the rights of defence.

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\(^{28}\) The full list of institutions inspected in 2018 is provided in Appendix 2 of this Report.
8.1 Jail cells

Use of cells is on the increase in all courts visited, due in particular to increases in appearances before judges. In parallel, the PJJ reports an increase in its presence in courts, mainly owing to the assistance it provides to unaccompanied foreign minors. As a result, the police often have to cope with reception capacity problems. This being so, as the CGLPL says on all its visits, exhaustive records should exist tracing jail activity and be available for inspection by senior police officers and the judicial authority.

It is regrettable, however, that as there is a sorry lack of reliable records, it is impossible to measure the problem with any degree of accuracy. In some courts, no record at all is kept of placements in jail cells; in one of them, the record is only updated during the working hours of a reserve police officer assigned to guarding the cells, but nothing is known of what happens when he is off-duty; and finally, in another, the police keep an informal record of whose existence senior officers and the Public Prosecutor’s Office appear to be ignorant.

In a large court in the Paris region authorised to accommodate people deprived of liberty, including overnight for individuals scheduled to appear in the morning, stays in jail cells may be as long as twenty hours, and in practice such periods are often in addition to a previous forty-eight hours in police custody and are frequently extended while awaiting transfer to a penal institution following a decision on immediate imprisonment. Consequently, current material reception conditions should be regarded as unacceptable: only the most basic food is provided (cheese spread on sliced bread), water can only be drunk directly from the tap, with no cups provided, the shower is unusable and feminine hygiene needs are totally ignored. For individuals taken out of cells, however much time is needed to carry out the formalities concerned, including a simple ten-minute notification, schedules are always the same: wakeup call at 5:30 a.m. and return around midnight, as there is only one shuttle a day. In both cases, jail cells are cramped and there are too few of them, sometimes resulting in the police having to lock up three people in individual cubicles. Almost 10,000 people are subjected to such treatment every year.

Similar conditions are to be found in smaller courts: not enough cells or interview rooms, total absence of hygiene, basic food with no dinner provided for in many cases, and very sparing provision of tobacco – which, in fact, contravenes the smoking ban in force on the premises but which is tolerated as there are no outdoor areas.

In other courts, however, suitable facilities have been provided for: all cells contain toilets and a working water point (although no call button); premises are cleaned throughout on a daily basis, although without succeeding in countering the facilities’ growing dilapidation effectively.

Finally, elsewhere, in smaller courts, premises have been recently renovated and better adapted to their purpose, and hot meals are even served.

The CGLPL recommends that material conditions for reception of people deprived of liberty be upgraded overall. In order for this to happen, a ministerial plan for work to be undertaken will have to be drawn up (hygiene, lighting, heating, toilets, etc.) and each court should be asked to formalise local reception conditions (movement, food, surveillance, right to go out into the open air, traceability, etc.) as well as keep a record of jail cell use. There should be more inspections by first presidents.
8.2 Movement

In most recently built or renovated courts, movements of people deprived of liberty are kept separate from those of the general public, with a few rare exceptions. Very occasionally, jail cells are located on the same floors as the judges themselves. It can sometimes happen that dedicated itineraries are only usable for part of the day and that people deprived of liberty have to take public routes when they are not.

Despite this situation, there is uncontrolled use of means of restraint. Here, cuffing hands behind the back is systematic, even along protected itineraries; elsewhere, handcuffed individuals cross paths with the public.

The CGLPL therefore reiterates that movement of handcuffed individuals should in all cases be the subject of reflection carried out under the aegis of First Presidents, with a view to finding a balance between security requirements and detainees’ dignity.
Chapter 2

Reports, opinions and recommendations published in 2018

1. Emergency recommendations on the Saint-Etienne University Hospital Centre’s psychiatric department (Loire)

In application of the emergency procedure, the Chief Inspector published recommendations on the Saint-Etienne University Hospital Centre in the Official Gazette of 1 March 2018.

When the CGLPL finds that there has been a serious violation of fundamental rights, Article 9 of the Act of 30 October 2007 enables it to refer its observations to the competent authorities without delay and require a response from them.

In this case, the recommendations were addressed to the Minister for Solidarity and Health and she was given three weeks to reply.

During the visit paid to the Saint-Etienne University Hospital Centre (UHC) from 8 to 15 January 2018, our inspectors observed treatment conditions that seriously violated the rights of people hospitalised in the institution. They noted unacceptable reception conditions in the general emergency department, abusive seclusion and restraint practices in full hospitalisation units, and lack of information to patients on their rights.

When the CGLPL’s initial findings were disclosed during the visit, they were taken seriously into account by the hospital’s medical and nursing staff. A letter sent to the CGLPL by the Director on 23 January testified to a determination to change. But the seriousness and structural character of the findings made it impossible to leave the institution to tackle the problems on its own.

Which is why the CGLPL recommended that:

- the infringements of rights described in these recommendations cease immediately, reception in the emergency department in particular;
- initial treatment of patients at the UHC be carried out in full respect of human dignity and that the necessary resources be deployed to ensure possibilities of appropriate forms of hospitalisation;
- institutional thought be given to seclusion and restraint practices, in compliance with the stipulations of the Act of 26 January 2016 and the recommendations made by the CGLPL, the French National Health Authority and the Council of Europe through the revised standards published by the European Committee for the Prevention of Torture (CPT);
- training on access to rights be delivered to nursing staff and information provided to patients be organised as appropriate to the various stages of hospitalisation, with health officials ensuring that such access to rights is monitored.
2. Opinion of 12 December 2017 on respect modules in penal institutions

Since 2015, a number of French penal institutions have drawn inspiration from the Spanish model of “módulos de respeto” and tested out “respect modules”, schemes whose goal is to “reduce acts of violence, ease tensions in prisons, define new rules on respect for people and life in prison, give fresh meaning to prison service professions, integrate warders into detention teams, change detainees’ behaviour (respect for the rules of prison life, and on hygiene, noise and violence) and make detainees responsible for their life in detention”\textsuperscript{29}.

The CGLPL deemed it important to study the scheme currently being deployed and make recommendations insofar as, on the day the opinion was published, eighteen prisons had implemented it and twenty more institutions planned to inaugurate such a module between 2018 and 2020.

Following completion of the study, the CGLPL considers that these experiments actually constitute a new detention system that calls for reconsideration of all existing systems. The respect system as currently implemented is of interest inasmuch as it promotes self-sufficiency and eases security constraints. Prison atmospheres are calmer and there is less violence. Warders carry out their duties in a different and more rewarding way, generating greater job satisfaction.

In remand prisons, which usually have a closed-door regime, incorporating a respect system means that detainees are allowed out of their cells, less dependence on prison staff, easier access to telephones and information on daily life, greater mutual respect, promotion of personal initiatives, recognition of individualities and mitigation of the shock of being incarcerated.

In long-term detention centres, however, incorporation of a respect system does not necessarily lead to better exercise of fundamental rights. As they focus on reintegration, such centres have long applied an open-door principle or differentiated regimes (open and closed sectors). By implementing a respect system, a number of institutions have done away with the open-door regime. Juxtaposition of only two systems – closed and open in respect – contributes to a closed-door trend in long-term detention centres. The respect system should not be a pretext for doing away with the open-door system, but should be regarded as a supplementary regime.

In its Opinion, the CGLPL also suggested avenues for thought on definition and harmonisation of the systems applied in these wings: rethinking the terms of the “contract” between detainee and administration, developing activities, not only for detainees involved in respect modules but for the whole prison population, rethinking the evaluation and consequences of breaching rules and of the reward system.

Finally and more generally, the scheme should provide an opportunity to rethink regimes applicable in penal institutions. The open-door regime, which is less restrictive than the respect system, applies in long-term detention centres – i.e. with regard to people serving lengthy sentences – whereas detainees in remand prisons – i.e. mainly individuals serving shorter sentences, either awaiting placement in a long-term detention centre or still presumed innocent – are subjected to a closed-door regime. One might well question the grounds on which the closed-door regime is still the basic system applied in remand prisons.

The experiments observed made it clear that the respect system self-produces order in remand prisons. It should be extended to all remand prisons as their

\textsuperscript{29} Prison Administration Department, Inspectorate of Prison Services (ISP), “Report on assessment of the respect module experiment at the Neuvic detention centre and the Mont-de-Marsan prison complex”, 2 June 2016, p.5.
In response to this Opinion, the Minister of Justice stated that she wanted to formalise organisation of respect modules, with the support of a mission thereupon entrusted to the Inspectorate-General of Judicial Services. She states that, in this context, the CGLPL’s opinion on respect modules serves as an initial basis on which she hopes to see her departments first of all carry out an in-depth assessment and then develop ambitious thought on detention regimes. She specifies that, taking the upcoming construction programme into account, such thought should cover open regimes (respect, open wings, adapted secure wings, etc.) and more restrictive systems (long-stay prisons, violent and radicalised detainees, etc.).

3. Thematic report: fundamental rights challenged by prison overcrowding

One of the main obstacles to effectiveness of detainees’ fundamental rights is prison overcrowding. The problem affects French prisons structurally, remand prisons in particular. The resulting deterioration of detention conditions has been regularly criticised for several years now, in France itself and more generally in Council of Europe Member States, and numerous documents have been published on the problem.

Yet the CGLPL is a privileged witness of the wide divergence between applicable standards and the everyday reality of detainees’ living conditions. For several years now, it has observed the dramatic consequences that prison overcrowding has on their fundamental rights, during its inspections and through the letters it receives.

It therefore wanted to tackle the question in a thematic report, approaching it in concrete fashion on the basis of its experience of places of deprivation of liberty, observations made during its inspections, and testimonies received from people deprived of liberty.

The report first of all presents the most complete and substantiated picture possible of the way in which prison overcrowding infringes all the rights of the people concerned and distorts their sentences’ meaning. All detainees’ fundamental rights are covered, including the right to dignified material detention conditions, the right to access to quality healthcare and operational reintegration schemes, and the right to respect of their private and family lives.

The CGLPL then goes on to make a series of recommendations on how prison overcrowding might be remedied, for the attention of the public authorities. The CGLPL considers that the endemic nature of prison overcrowding in France should not been regarded as inevitable, in a European context characterised by a general decrease in the prison population. Although 33% of European prisons suffer from overcrowding, the most recent available figures show an overall reduction in numbers of people detained in Europe\(^n\). France is therefore one of the European States whose prisons are the most overcrowded and whose prison population continues to increase despite the general trend towards reduction.

The CGLPL recommends implementation of an effective public policy on reduction of the prison population, putting an end to the failures of previous policies constrained by fear of public opinion. It asks the authorities to stop believing that creation of new prison places is a satisfactory answer to the

problem of prison overcrowding and provide itself with effective tools for measurement of the phenomenon. It also requests the public authorities to give overall thought to the prison system with a view to reversing the trend toward an increase in the prison population: prison overcrowding must no longer be seen as an essentially penal policy. Finally, it proposes implementation of a custodial regulation mechanism.

This Report is very much in line with the CGLPL’s earlier initiatives taken in the hope of getting the French authorities to finally tackle the problem and implement a comprehensive, consistent long-term policy for definitive reversal of prison overcrowding.

4. Opinion of 9 May 2018 bearing on confinement of children in detention centres for illegal immigrants

In its Annual Report for 2012, the CGLPL recommended implementation of house arrest measures for families rather than placement in detention centres for illegal immigrants. Taking note that growing numbers of foreign minors have been confined in CRAs with their families since 2013\(^1\), the CGLPL wished to publish an opinion highlighting the negative effects that such treatment clearly has on these children’s fundamental rights.

In its Popov ruling of 19 January 2012, the European Court of Human Rights condemned France for violation of Articles 3 and 8 of the European Convention on Protection of Human Rights and Fundamental Freedoms. It pointed out that France was one of the only three European countries that systematically detained accompanied minors, and considered that “the authorities have to take all necessary measures to limit, as far as possible, the detention of families accompanied by children and effectively preserve the right to family life”. Monitoring of implementation of the Court’s judgement has not yet been completed by the Council of Europe’s Committee of Ministers.

Although the Act of 7 March 2016 bearing on the right of foreigners specified the context in which children could be placed in CRAs with their parents in Article L.551 of the Code for Entry and Residence of Foreigners and Right of Asylum (CESEDA), one of the implementation decrees provided the possibility of confining children in specially adapted LRAs. Finally, the Circular of 2 November 2016 asserted that “although there is no prohibition in principle of placement in detention of foreigners accompanied by minors, such situations should be the exception”, and that “in compliance with these obligations, it is therefore possible to place a foreigner accompanied by a minor in detention in order to ensure enforcement of their deportation.”

Yet the CGLPL notes that, for some prefectures, confinement of children has become a practice intended to facilitate organisation of deportations. The Chief Inspector received numerous reports of cases of families who had been arrested and then placed in detention, spending the night there before being taken to the airport the next morning. Placement in a CRA, even for a single night, is a measure of deprivation of liberty and therefore cannot be decided upon for reasons of organisation or practical convenience. Despite the improvements in material reception conditions, confinement of children violates their psychological integrity, as was noted during visits to and onsite investigations in CRAs authorised to take in families. It is the very principle of confining these children that must be called into question, due to the traumas (agitation, anxiety, sleeping, language

\(^1\) 41 children were placed in detention centres for illegal immigrants in 2013, 45 in 2014, 106 in 2015, 172 in 2016 and 305 in 2017. In the first four months of 2018 alone, 77 children were locked up.
and eating disorders, etc.) that it causes among young children, and the harmful consequences it has on parent/child relations (undermining of the exercise of parental authority).

In its Opinion, the CGLPL recommended that confinement of children be prohibited in CRAs and a fortiori in LRAs, and that house arrest measures be implemented in cases of families accompanied by children.

The Minister of the Interior communicated his observations on this Opinion on 29 June 2018.

He stated that detention of families was still the exception and that it was a closely supervised procedure. He called to mind the provisions of Article L.551 of the CESEDA, according to which detention of foreigners accompanied by minors can only be a measure of last resort in situations where a less coercive measure would not necessarily be effective: when parents have not complied with the requirements of an earlier house-arrest measure; if they absconded or refused to comply when a deportation measure was being implemented or if, taking the minor’s interest into consideration, placement of the foreigner in detention forty-eight hours before the scheduled departure frees the adults and minors concerned from restraint measures applied for the purposes of transfer.

In his reply, basing himself on the European Court of Human Rights’ rulings of 12 July 201632, which reassert that periods of detention of families must be as short as possible in compliance with the right to respect of family life guaranteed by Article 8 of the European Convention on Protection of Human Rights, the Minister asserted that every effort is made to ensure that periods during which families are detained are as brief as possible, an average of thirty-six hours. He pointed out that the procedure is necessary and that it has to remain a possibility if the deportation policy’s credibility is not to be undermined, considering that prohibition of detention of families would be likely to impact the overall effectiveness of the fight against illegal immigration and that it would lead to inequity in treatment of foreigners depending on their family situations. He also undertook to make significant improvements in detention conditions for families, in particular via renovation of CRAs and development of recreational activities for children and families.

Considering that confinement of children in detention centres for illegal immigrants is contrary to their fundamental rights as it constitutes a violation of their psychological integrity, whatever their age and however short their confinement, the CGLPL maintains its recommendation that confinement of children be prohibited in CRAs and a fortiori in LRAs, and that only house-arrest measures be implemented in cases of families accompanied by children.

In the context of the debates on the Bill for controlled immigration, effective right of asylum and successful integration, the Chief Inspector sent a letter to parliamentarians in which she called upon Parliament to reject the increase in detention periods, take the necessary measures to improve living conditions in detention centres for illegal immigrants, and use their examination of the Bill to prohibit confinement of children in detention centres for illegal immigrants. During its hearings before the Senate’s and National Assembly’s Law Committees, the CGLPL took the opportunity to reassert its position.

Finally, the Chief Inspector was heard by the National Assembly’s workgroup giving thought to the question of administrative detention of families including minors and/or vulnerable adults, with a view to drafting a proposal for a law on the subject.

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32 ECHR decisions of 12 July 2016 - Petitions nos.11593/12 - 68264/14 - 24587/12 - 76491/14 - 33201/11.
5. Opinion of 17 September 2018 bearing on consideration of situations of loss of autonomy due to age or physical disability in penal institutions

As it is frequently alerted to conditions in which individuals in situations of dependence due to age or physical disability are detained, in all types of penal institutions and specialised hospital units, the CGLPL once again wanted to condemn the violations of such people’s fundamental rights and raise the question of what purpose is served by keeping them locked up in penal institutions.

As part of the work preparatory to drafting the Opinion, an onsite investigation was conducted at the Bédenac long-term detention centre in order to observe the operation of a support and autonomy unit set up in the institution. As with earlier initiatives on the part of the CGLPL, work made use of all its inspection reports and referrals bearing on the subject.

It led to development of the following recommendations.

Adaptation of detention conditions should concern all aspects of treatment

Disability and age are not in themselves causes of incompatibility with detention; it is therefore the prison administration’s job to provide for such people taking account of all degrees of dependence and the wide diversity of related needs. To this end, situations and needs should be properly identified upon arrival and during imprisonment; staff should be trained in this respect.

In addition to the isolation suffered by such people and the distress that prison life causes them, security measures are a particular source of anxiety. New directives from the prison administration should specify how searches involving dependent or disabled individuals are to be carried out. Failure to adapt security measures to disabled people also often affects visitors33.

Institutions should implement the principle of reasonable accommodation

There are no institutions dedicated to reception of the old or the disabled. Creation of specialised institutions (limited in number by their very nature) would be an approach with major negative consequences, first and foremost among which is the risk of geographical distancing from families and stigmatisation of the individuals concerned, leading to their being yet further alienated.

Penal institutions should nonetheless be laid out in order to ensure respect for the fundamental principles of equality, non-discrimination, accessibility and reasonable accommodation34, which must govern disabled individuals’ integration into society. “Prisoners with physical, mental or other disabilities [must] have full and effective access to prison life on an equitable basis35”.

The CGLPL finds that accommodations made in detention, in old and new institutions alike, are generally inadequate. Prisoners whose state of health requires it should be accommodated in cells meeting PRM standards, and their transport in adapted vehicles should be systematic. Alternative measures to placement in punishment wings should be adapted, such as confinement to PRM cells.

33 On the difficulties disabled people experience in accessing penal institutions, see the report on onsite checks carried out at the Privas remand prison between 23 and 24 May 2016, published on the CGLPL website.
34 The term “reasonable accommodation” refers to necessary and appropriate modifications and adjustments, which are not disproportionately or unduly burdensome, carried out to meet needs arising from a given situation, in order to ensure that disabled people enjoy and exercise all human rights and fundamental freedoms, on the basis of equality with others.
There must be equivalent provision of human assistance in detention and in the outside world

Human assistance may be required in order to carry out various everyday actions. Penal institutions can make use of mechanisms provided for by common law, but in practice the detainees concerned are more often helped by their fellow prisoners (45%) than by external professionals (32%), and many of them receive no assistance at all (23%).

The CGLPL also notes that many institutions have not yet formed partnerships in this respect. In any case, action on the part of partner bodies is often hindered by lack of funding. Local home-care organisations should be called upon to assist prisoners recognised as being dependent, in order to ensure effective provision of healthcare and dignified detention conditions.

| Assistance provided to dependent detainees by volunteer fellow prisoners or general service auxiliaries, who have not been trained in this field and are not supervised by professionals, cannot be regarded as enough to fulfil the obligations of preservation of such prisoners' integrity and safety, and of respect of their dignity. |

Specialised units have been set up in certain prisons to take in and provide for elderly and disabled prisoners. Transferred from other of the region's institutions, their inmates enjoy material conditions that try to meet their special needs. Nonetheless, creation of such units, which are sometimes not unlike medicosocial facilities, raises the question of continuing to confine people who can no longer be kept in prison.

Mechanisms enabling early release should be reinforced

Sentence adjustments may be justified in cases of old age, state of health or the need to follow a course of medical treatment. Suspension of sentence may also be granted to any prisoner with a life-threatening condition or whose state of health is lastingly incompatible with detention. Despite the existence of these special mechanisms, sentence adjustments are harder for dependent individuals to obtain than for other prisoners.

| A good many people are unable to take the necessary steps on their own. Information and training on procedures for sentence suspension and adjustment for medical reasons should be improved and there should be systematic identification of prisoners likely to benefit from them. |

The mechanism's poor performance may also be explained by the conditions under which expert assessments are carried out, as expert physicians do not often travel to prisons to meet the individuals concerned on their own ground. In addition, some experts and judges regard UHSIs and the EPSNF as alternatives to suspension of sentences. Incompatibility with detention should not only be assessed with regard to an individual's state of health, but also take account of their needs and possible responses in terms of assistance, compensation, accessibility and, where applicable, their ability to perceive the purpose of the sentence during their imprisonment.

| Finally, problems finding an appropriate reception facility following release from prison also constitute a major obstacle to the granting of a sentence adjustment. Health units should be asked to define the type of accommodation best adapted to an individual's state of health. Cross-government efforts must be made to facilitate accommodation of elderly or dependent prisoners on their release from detention and to make the ordinary law schemes duly available to them. |

The Minister of Justice communicated her observations on this Opinion on 6 December 2018. In response, she listed a series of actions currently underway:

- a workgroup has been set up with a view to making progress on development of a long-term tool for keeping a watch on offenders' state of health. The DAP and the Correctional Service
of Canada have collaborated on a grid for identification of persons at risk of loss of autonomy, intended for use by prison warders. An experiment has been carried out at the Nantes prison complex;

- as regards access to work, she stated that introduction of adapted activities in penal institutions as from 202036 should lead to significant improvement in the offer provided to disabled prisoners;

- a workgroup dedicated to patients’ rights, set up in November 2018 in the context of the national health strategy, should come back to the question of medical extractions;

- work has started on drafting a standard model agreement with all partners concerned, involving a workgroup bringing together the Prison Administration Department, the Directorate General for Social Cohesion (DGCS) and the National Solidarity Fund for Autonomy (CNSA), with a view to facilitating conclusion of partnerships;

- The DAP has developed and tested out a single window for access to post-release facilities (GUStAv) with a view to facilitating relations between SPIPs and medicosocial facilities for reception of released prisoners in loss of autonomy. In 2019 a Health/Justice workgroup will be responsible for improving access to such post-release facilities.

She has also communicated data on accommodations made in penal institutions in order to meet standards on disability: 472 cells adapted to PRMs’ needs, distributed among 90 penal institutions in Metropolitan and Overseas France. 3% of cells in all new institutions are equipped to receive PRMs and study phases for bringing old penal institutions into compliance began in 35 institutions in 2018. Work will start on bringing these 35 institutions into compliance in 2019, and studies will be launched in 24 new institutions with a budget de 32.2 million euros over five years.

The Minister for Solidarity and Health communicated her observations on 29 November 2018. She stated that an interministerial thematic workgroup had been set up to oversee the target actions to be implemented on behalf of disabled and elderly prisoners in loss of autonomy. She also added that work was underway to improve prisoners’ access to the APA and the PCH, and improve implementation of human assistance and access to technical assistance meeting the needs of disabled individuals and those in loss of autonomy. Finally, she stated that the next version of the methodological guide to provision of healthcare to prisoners, which is set to be published in 2019, will contain a revised chapter on loss of autonomy, including markers for continuity of care and preparation for release with regard to all prisoners in situations of disability and in loss of autonomy due to age.

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36 Article 33 of the Prison Act of 24 November 2009 was complemented by Article 77 of the Act of 5 September 2018 on the freedom to choose one’s professional future.
Chapter 3

Action taken in 2018 in response to the CGLPL’s opinions, recommendations and reports

1. Methodological introduction

For the third year running, the CGLPL is devoting a chapter of its Annual Report to systematic monitoring of its recommendations.

In 2016, it focused on monitoring all the general recommendations made by the first Chief Inspector of Places of Deprivation of Liberty during his term of office, i.e. up to July 2014. In 2017, its focus turned to monitoring general recommendations as well as specific observations (recommendations and best practices relating to institutions visited) made by the present Chief Inspector in 2014, i.e. over a period of only six months.

This year, for the first time, monitoring concerns a full year’s recommendations: those made in 2015. Such work therefore now covers the ground it should continue to cover every year, i.e. follow-up of all the CGLPL’s recommendations and observations at the end of three years:

- recommendations made in the Annual Report;
- recommendations included in the Opinions and Recommendations published in the Official Gazette and in thematic reports;
- observations (recommendations and best practices) included in inspection reports.

Work carried out by the CGLPL this year was based on communication of consolidated lists of recommendations to Ministries in April with a request for responses by the end of October. It should be borne in mind, of course, that these lists did not contain any new information, but simply summarised what had been said in 2015. However, it was no easy matter to obtain responses: those concerning detention centres for illegal immigrants and health in prison reached the CGLPL a month late, those concerning penal institutions and juvenile detention centres arrived at the very end of the deadline, enabling them to be taken into account in this Report, and those concerning mental health institutions only bore on nine of the twenty-three institutions visited and in general did not provide any new information.

Such difficulties suggest all too clearly that the CGLPL’s recommendations have not yet been taken into the required operational account, but have simply generated rhetorical responses from the administrations concerned: no action plans following up on reports were drafted. The CGLPL therefore means to continue following up its recommendations just as it has in the context of this Report, and hopes that, once Ministers receive its recommendations, they will state which ones they agree to draw up action plans on enabling monitoring of their application. For the others, the CGLPL will do as the law allows it to do and turn to Parliament, international bodies and public opinion. In consequence, annual monitoring of recommendations should no longer be the tiresome rhetorical exercise it is at present, but a simple reading of operational dashboards at the end of three years. The CGLPL is of course ready to provide administrations with all the assistance they might require to help
them ensure better application of its recommendations, which would naturally make it easier to monitor them.

It is also well worth highlighting the notion of “best practice”, which has been an individualised category of observation in the CGLPL’s reports since July 2014. The notion does not apply to a simple positive point or right behaviour, and still less to compliance with standards. All such points in the CGLPL’s reports are referred to in positive fashion, and often included in report summaries without being individualised.

The notion of “best practice” refers to an original initiative that goes beyond the usual professional texts and practices and is identifiable, reproducible and likely to improve respect of fundamental rights. In the report model currently in use, best practices are defined as “Those original practices that are likely to foster respect of the rights of people deprived of liberty and 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”.

Consequently, responses given on the subject of best practices in the context of the monitoring of recommendations cannot be regarded as satisfactory. Most of the time; Ministers simply state that “this best practice continues to be applied”, while the question asked is actually what has been done in order to see it applied in other comparable institutions. For example, the CGLPL found that prisoners in the open wing at the Villeneuve-lès-Maguelone prison complex (see below) keep their mobile phones when they go back to prison in the evenings and on weekends. The Minister of Justice took care to state that “This best practice continues to be applied at the institution”; nothing has been done, however, to lift the general prohibition on this way of doing things, although logic would seem to dictate not only that the prohibition be lifted but also that a circular be published stating that this is how matters should be organised henceforth.

Lastly, it should be borne in mind that the follow-up as presented in this Report has not been checked by the CGLPL, and is therefore purely declarative, summarising the responses received, which, as from this year, will be published in extenso on the CGLPL’s website following each of the documents containing the initial recommendations.

2. Recommendations on penal institutions made in 2015

2.1 Recommendations made in the Annual Report

Recommendations first of all bore on maintenance of family ties, i.e. on creation and use of family living units (UVFs), confidentiality of visiting-rooms and ways of facilitating inmates’ correspondence and ensuring its confidentiality.

The Minister of Justice states that 161 UVFs were in operation in 49 penal institutions at 1 October 2018 and points out that they are complemented by 109 family visiting rooms distributed among 30 institutions. These facilities are now systematic in new institutions. Between 2015 and 2017, 49 institutions were provided with funding for such amenities. Information actions on their use are carried out targeting the prison population. Yet they are being used less often due to the need for a gradual build-up of new facilities and factors connected with the prison population (family isolation, distance, lack of resources, and growing numbers of very short sentences).

The Prison Administration asserts that it takes proactive steps to develop use of UVFs and family visiting rooms. It also emphasises its determination to ensure satisfactory conditions of confidentiality for meetings between prisoners and their lawyers, through implementation of
organisational measures and layout of facilities: the possibility of making reservations by email as well as by phone, and an increase in numbers of cubicles.

The Minister also emphasises that measures have been taken to enable new arrivals and inmates with inadequate resources to correspond with their families. However, she states that installation of letterboxes in prisons is at the discretion of heads of institutions, and points out that prison staff are bound by professional secrecy by their general status as civil servants as well as by their own code of ethics.

Despite these guarantees, the CGLPL reasserts that letterboxes adapted to all types of mail should be installed in prisons and emptied directly by the department to which the mail is addressed (the health unit in particular), and that only a sworn postal officer may be authorised to handle, record or check inmates’ mail.

The Annual Report for 2015 also recommended measures designed to guarantee confidentiality of telephone conversations. The Minister of Justice states that phone booths have been installed since 2015, guaranteeing confidentiality of conversations, but that overall, prisoners’ rights still depend on existing technical infrastructures: a prior authorisation system, phone booths installed in collective areas, use of which is only possible when prisoners are allowed to leave their cells, and which cannot be called from outside. She also states that, following a successful experiment at the Montmédy long-term detention centre, installation of telephones in cells is set to be universalised, and points to the scheme’s advantages, which include permanent access to phones, greater confidentiality (as far as sharing cells allows), lower costs billed to prisoners, more calls made, and less movement.

The CGLPL also recommended that rules on access to IT regarding acquisition of equipment, storage capacities, access to the Internet and electronic messaging be made more flexible and harmonised. The Minister of Justice states that updating of the IT Circular of 2009 is underway, but that access to messaging is not currently authorised in prisons. She says that, as from the second quarter of 2019 and in the context of the “Digital in Detention” (NED) project, the Prison Administration will be testing out gradual implementation of a secure digital services portal for prisoners on three pilot sites.

The CGLPL recommended that the law provide a clear statement on the role of work in detention, in terms of integration or reintegration, set out clear rules on work relations, in particular in terms of rupture and remuneration. It also recommended development of the educational offer. The Minister of Justice states that, following the President of the Republic’s pronouncements at the National School of Prison Administration (ENAP) on 6 March 2018, the Prison Administration Department is currently giving thought to making changes in the legal framework applicable to work in detention. The aim is to ensure that “the right to work, obviously adapted to the realities and constraints of prison life, applies to prisoners and, at the very least, that the connection binding the prison administration and prisoners working in prisons is a contractual connection with all related guarantees, and no longer a unilateral affair in which all rights are negated”. The future Community Service Agency (AGIP) will also have competence with regard to development and promotion of prison work.

The 2015 Report recommended development of alternatives to imprisonment and introduction of a prison regulation system. The Minister of Justice responded to these recommendations by referring to the 2018-2022 Justice Programming and Reform Bill, examination of which by Parliament was underway at the time of her response (see Chapter 1 of this Report).

It also recommended that account be taken of the real prison population when recruiting and allocating warders. The Minister of Justice considers that she is unable to give a favourable response to this recommendation as reference organisational charts have been set and “allocating more staff than provided for in reference organisational charts in order to respond to prison overcrowding would reduce levels of staffing, and consequently quality of treatment, in many institutions.”
emphasised that the plan for filling up to 1,100 job vacancies, budgeted as from 2019, along with the upcoming competitive examinations for local assignments37 should lead to an improvement in the situation.

The 2015 Report included a good many recommendations on the carrying out of searches in prisons, bearing in particular on improving their traceability, accounting for them to the judicial authority, not carrying them out systematically in cases of medical extraction, only carrying them out in a closed room, taking account of the fragility of certain categories of inmates, and prohibiting reading of documents handled during searches. The Minister of Justice states that traceability of searches is now ensured by GENESIS, and that consequently judges can be made fully aware of them. She points out that the Code of Criminal Procedure stipulates that searches must be adapted to necessities, including in cases of medical extraction, and specifies the practical methods of conducting searches in compliance with the CGLPL’s recommendation. Although these considerations are certainly founded in law, they ignore the reality of practices. Over the course of its inspections, the CGLPL has repeatedly observed systematic searches, unprofessional behaviour by staff, noncompliant search locations, and measures carried out without any judicial oversight, including during implementation of Paragraph 2 of Article 57 of the Prison Act, which authorises searches “independently of the character of prisoners”, expressly specifying however that they “shall be for well-founded reasons and be the subject of a detailed report communicated to the territorially competent Public Prosecutor and the Prison Administration Department”. In practice, the “well-founded” reason is usually vague and the report, if any, to the Public Prosecutor’s Office is not followed up.

The CGLPL requests that, in compliance with the law, reports on searches carried out pursuant to Article 57 Paragraph 2 of the Prison Act of 24 November 2009 be systematically sent to the Public Prosecutor’s Office and be the subject of effective oversight by the judicial authority.

As regards the fight against poverty, the Report recommended that assistance in kind be granted, with no conditions as to behaviour, to anyone with inadequate financial resources, and that account not be taken of totals of study grants during examination of the financial situations of prisoners by CPUs. The Minister of Justice points out that prisoners’ behaviour may only enter into consideration in the event of an inmate refusing paid work for no other reason than personal convenience. During its inspections, the CGLPL has noted that rigorous application of this rule, which was not systematic in 2015, has gradually become so, due in particular to automation of calculations in GENESIS. However, the Minister of Justice points out that Article D.347-1 of the Code of Criminal Procedure expressly states that account shall be taken of assistance provided to prisoners in question by any physical person or legal entity under public or private law authorised to do so by the administration. The CGLPL, which was aware of this regulatory provision, expressly requests that it be amended.

The CGLPL requests that Article D.347-1 of the Code of Criminal Procedure be amended to exclude prisoners who receive study grants as assistance to individuals with inadequate resources.

Finally, the CGLPL recommended that totals for compensation of lost or damaged goods be based on the value of the new good, with no account being taken of depreciation due to wear and tear. The Minister of Justice states that a memo of 6 February 2008 provided for application of a reduction in value depending on the state of the good, while stressing the discretionary nature of assessment of compensation by the Interregional Directorate, and considers that this way of doing things does not seem detrimental to prisoners’ rights insofar as it a widespread procedure in common law, insurance law in particular. She points out that prisoners may also refer matters to the

37 Measure recommended by the CGLPL in its report on staff in places of deprivation of liberty (June 2017)
administration ex gratia, and then to administrative courts to dispute the amount of compensation received. The CGLPL does not share this view and considers that recourse to an ex-gratia appeal opposing a measure subject to “discretionary assessment” makes no sense. In addition, in view of the modesty of the amounts in question, referrals to administrative courts are unrealistic. It therefore recommends to the Minister of Justice that the provision in question be amended.

The CGLPL recommends that totals of compensation for prisoners’ goods lost during transfers be based on the price of replacement without application of a reduction for wear and tear, as it is unrealistic to make an ex-gratia appeal against a measure that has been assessed in discretionary fashion by the same authority, as it is to make compensation involving small sums a matter for administrative litigation.

2.2 Opinion bearing on preventive detention


The system, which was also criticised by the CGLPL in 2014 due to the total inactivity of prisoners involved owing to their de facto isolation, as well as to the absence of any specific educational professional or sociocultural plan and, yet more seriously, the lack of medico-psychological monitoring, had remained unchanged. Examination of files on inmates placed in preventive detention showed that the measure was used as a punishment for noncompliance with obligations imposed on prisoners under secure surveillance, without any dangerousness on their part being demonstrated.

The legal possibility of keeping a person locked up indefinitely because there is a high probability of his reoffending, combined with a serious personality disorder, removes the objective connection between culpability and responsibility, offence and punishment, giving way to the notion of dangerousness. In addition to its being subjective, the concept of potential dangerousness should be regarded as contrary to the fundamental principles of French criminal law, in particular the principle that offences and penalties must be defined by law and the principle of the proportionality of the penal response.

For all these reasons, the Chief Inspector of Places of Deprivation of Liberty recommended that the preventive detention system be abolished.

In 2015, the Minister of Justice deemed that, contrary to the CGLPL’s assertions, medico-psychological monitoring existed and that medical, psychological and social care designed to end preventive detention was permanently provided. She also asserted that prisoners in question had access to cultural, sports and recreational activities, some of which could be carried out outside, as well as to open-air activities in the context of individualised treatment depending on needs and on inmates’ interest in participating.

As regards the measure’s future, she referred to a report then being drafted38. The report proposed abolition of preventive detention, expressly stating that it took the same position as that recently expressed by the Chief Inspector of Places of Deprivation of Liberty. Neither one was taken notice of, however.

In 2018, the subject seemed to have faded from public debate although the arguments put forward in 2015 are just as valid today and the Government had nothing to say against their validity at the time. At the very least, we should know how many “latent” preventive detention measures – i.e.

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38 For a Revision of Sentencing Law, report by the Commission chaired by Bruno Cotte, December 2015.
the number of sentences to over fifteen years of penal servitude handed down since 2008 – provide for
the possibility of extending execution of the sentence through a preventive detention measure.

The CGLPL asks the Government to publish a report on sentencing decisions that provide for
re-examination of the situations of prisoners reaching the end of their sentences with a view to
possible preventive detention.

2.3 Opinion bearing on treatment of prisoners in health institutions

The Chief Inspector published an Opinion on treatment of prisoners in health institutions in the

Detainee patients have the same rights of access to care as any other patients, subject to
restrictions on freedom of movement to do with their being deprived of liberty. This question is all
the more important in the prison environment as it specifically involves balancing a legitimate
concern for security with an essential respect of fundamental rights, one of which is the right to
access to healthcare.

Despite the many recommendations issued by the Chief Inspector of Places of Deprivation de
Liberty on the question of care provided to prisoners in local health institutions, there are still major
problems with regard to their fundamental rights.

The Opinion focused on medical extractions, of which there are too many and which are
subject to excessive security measures, recommending that they be replaced by recourse to
telemedicine or permissions to leave. It reasserted the need to preserve medical secrecy, emphasising
in particular that escorts should not be present during medical consultations or examinations. It found
that inadequate care was being provided in health institutions and recommended that special
reception procedures and areas be provided for in order not to expose prisoners under escort to
public view and put an end to feelings of insecurity on the part of health professionals justifying
requests for constant surveillance incompatible with respect of medical secrecy. Finally, it
recommended that hospitalisation conditions should not continue to be more restrictive of rights than
detention conditions are, i.e. that prisoners admitted to secure wards should benefit from the rights
guaranteed to prisoners (canteen, maintenance of family ties, telephone, etc.) as well as those granted
to patients (information, full access to care, television, newspapers, etc.).

At the date on which the Opinion was issued, the Ministries of Justice and Health were still
awaiting evaluation of mechanisms for access to care and, more specifically, of specialised
consultations and the ways in which they are carried out, as well as evaluation of telemedicine actions
in health units. The system for suspension of sentence on medical grounds has recently become more
flexible, and any prisoner can now benefit from the measure if their physical or mental state is
incompatible with continued imprisonment or if they are suffering from a life-threatening condition,
following a single medical expert assessment. A reminder of the rules bearing on organisation of
medical extractions, escorts and determination of security measures was announced, a draft
interministerial circular on UHSIs was under development, and updating of the methodological guide
to provision of healthcare to offenders was underway. An examination of hospitalisation conditions
for patients detained in secure rooms was announced and negotiations were to take place on the
material aspects of such treatment. A special training course for nursing staff involved in providing
care to patients in secure rooms was also announced.

39 Act no.2014-896 of 15 August 2014 bearing on individualisation of sentences and reinforcing the effectiveness of penal
sanctions.
The Minister of Health emphasised the difficulties encountered in recruiting medical and paramedical staff in health units, and highlighted the telemedicine experiments carried out between 2012 and 2014.

2018 continued to see problems with recruiting medical staff, and, in the context of the health strategy for offenders published in April 2017, work is planned on improving the attractiveness of medical practice in prison environments. The document set development of diversified consultation responses, including development of telemedicine, as one work focus and improvement of the numbers and conditions of medical extractions as another. The interministerial instruction bearing on the operation of UHSIs, referred to in the initial response, has not been finalised. A workgroup focusing on the training of staff working in prison environments and on “best practices” was set up in 2018 and work on prisoners’ intra-hospital care pathways is underway.

As regards escorts, the Minister of Justice states that “wider reflection on the subject is underway”, but no provision later than 2015 has been implemented as yet, so that previously applicable rules remain in force as well as the practices they govern. Only rules applying to pregnant women have been included again in the methodological guide.

Assessment of hospitalisation conditions for patients detained in secure rooms has not resulted in any significant modification of this way of doing things.

Taking account of the work underway, the CGLPL has not made any new recommendations on prisoners’ access to care, which will be the subject of a general analysis once decisions have been taken.

2.4 Opinion on the handling of Islamist radicalisation in prisons

The Chief Inspector published an Opinion on handling of Islamist radicalisation in prisons in the Official Gazette of 30 June 2015.

After studying the phenomenon of Islamist radicalisation in prisons and analysing the recent experiments carried out in a number of penal institutions, the CGLPL examined the system of grouping together in dedicated wings, as announced by the public authorities in January 2015. It did not find in its favour.

Observing that prison overcrowding nourishes proselytism and fosters radicalised prisoners’ influence over more fragile members of the prison population, the CGLPL considers that grouping radicalised prisoners together in dedicated wings presents risks that do not seem to have been taken into account, including cohabitation of prisoners at very different stages of the radicalisation process. Difficulties in identifying targeted individuals concerned have not been resolved, despite reassessment of the tools recently deployed by the Prison Administration. As regards fundamental rights, exactly how the prisoners concerned were to be treated was still unknown, as was the impact of their status in a wing separated from the rest of the prison population, as no legal provision existed. The decision to group such prisoners together, taken at the discretion of the institution’s management, was not open to any of the usual avenues of appeal even though it could provide grounds for complaint, and it might well be feared that such a system would finally lead to de facto isolation.

Finally, the CGLPL emphasised the risk of a crowding-out effect, in budgetary terms and in daily management of detention alike, in particular by providing priority access to certain activities to the detriment of other inmates.

In 2015, the Government asserted that it wished to maintain the character of “ordinary detention” in the way radicalisation was handled, emphasising that the doctrine for use of dedicated units, development of which was underway, would respect the principle of individualisation of sentences. It acknowledged that the experiment carried out at the Fresnes remand prison had shown that there was room for improvement, in particular on criteria for identification of radicalised
prisoners, criminalisation being an important criterion but not the only one. It announced the improvement of grids for identification of radicalised individuals and the drafting of a clear distinction between an assessment function and “deradicalisation” programmes differentiated according to each individual’s level of radicalisation.

In 2016, after the Opinion had been issued, five new dedicated units were created, and were once again the subject of a critical report by the CGLPL, even though there had been some progress in the Prison Administration’s thought and a doctrine for their use was taking shape. The Prime Minister reasserted the principle of dedicated units, combined with a fully-fledged prison intelligence service. Despite the interest of the deradicalisation programmes, the CGLPL deemed that grouping dangerous prisoners together presented more disadvantages than advantages: the prisoners concerned were deprived of fundamental rights as well as the possibility of working or following a training programme, and judges regarded placement in a dedicated unit as an aggravating factor. The extremely violent attack made on a warder by a radicalised prisoner in the dedicated unit at Osny in September 2016 led to a new plan being drawn up in October 2016.

In February 2017, radicalisation prevention units (UPRs) were replaced in their turn by radicalisation assessment wings (QERs) able to accommodate 120 people for four months, with a hundred or so places for women. In late 2017, six QERs and three violent prisoners’ wings (QDVs) were announced. The principle was to hold four-month sessions each bringing together a dozen prisoners, with three possible outcomes depending on degree of dangerousness: placement in isolation, placement in a radicalisation prevention wing, or ordinary detention. In January 2018, in response to demands by union organisations, the Government announced the creation of 1,500 places in completely closed wings. Exceptional surveillance conditions and highly secure detention systems were introduced at the same time.

This system is now better defined than those implemented in 2015 and 2016, while being more complicated and also presenting risks of their own. This is why the CGLPL has undertaken a third series of inspections, underway at the time of this Report’s publication, which will lead to conclusions to be published in 2019.

2.5 Emergency recommendations bearing on the Strasbourg remand prison (Bas-Rhin) – March 2015

The CGLPL published emergency recommendations on the Strasbourg remand prison in the Official Gazette of 13 May 2015. These recommendations highlighted the fact that prison staff took no effective measures to preserve the physical integrity of an inmate who had been the victim of acts of violence on the part of a fellow prisoner, along with disgraceful material conditions of detention (dirty toilets, some of them out of order, unpartitioned showers, mattresses covered in mould, damp that could lead to respiratory and dermatological problems, cold water in the showers, faulty heating, abusive use of paper pyjamas, etc.). Breaches of medical secrecy were noted: video-surveillance cameras had been installed in areas dedicated to the psychiatric department’s therapeutic activities, against the will of the nursing staff, who, when they obstructed the cameras, had their authorisation to practice in the institution withdrawn. Breaches of confidentiality of correspondence and failures in supervision were also emphasised.

In response to these recommendations, the Ministry of Justice had strongly disputed the truth of the facts presented, stating in particular that the measures taken to protect a fragile inmate were adapted to the information received by the prison administration, that some of the observations on material conditions were exaggerated, and that the decision to install cameras in areas where medical activities are carried out had been taken in consultation with and with the agreement of the SMPR’s head physician and the relevant hospital’s management. It also disputed any failure in supervision. In 2018, the Ministry stated that the camera installed in a treatment room had been removed.
The Ministry of Health did not agree with the Ministry of Justice on this point, asserting in 2018 that “installation of these cameras was a unilateral decision on the part of the prison authority and the SMPR could not oppose it. In addition, neither the ARS nor the SMPR’s support hospital was informed of it by the penal institution. [...] In the response communicated to the CGLPL bearing on the report on the third visit to the institution (12 to 16 June 2017), the Director of the Alsace-Nord Public Health Institution (EPSAN) specified that the video surveillance should be removed immediately. It provides no added value in terms of security and breaches the confidentiality of therapeutic activities”.

The CGLPL visited the institution in 2017 in order to assess action taken on its emergency recommendations. The management and staff were determined to show that things were different from what they had been in 2015 and demonstrate that progress had been made, which was confirmed overall although findings were still qualified. The video-surveillance cameras in the SMPR’s workshop were still in place and their removal was requested once again. As regards material conditions of detention, progress had been made (renovation of cells in a third of the accommodation wings, repair of the exercise yard, installation of letterboxes, etc.) but a lot still remained to be done, both with regard to infrastructure and procedures, in particular as regards cleaning of common areas and elimination of vermin and the quality of attention paid to inmates.

Strasbourg remand centre is now much the same as other comparable institutions.

2.6 Recommendations made following inspections of penal institutions for adult males

2.6.1 Évreux remand prison (Eure) – January 2015

This visit highlighted six best practices and resulted in twenty-three recommendations being made.

The best practices were to do with the attention paid to prisoners (use of polite forms of address, treatment of new arrivals and protection of elderly inmates and those suffering from mental disorders) as well as on the power given to lawyers acting on behalf of prisoners appearing before the Disciplinary Commission to view video-surveillance images. They continue to be implemented. However, one of these best practices, the Minister of Justice’s announcement of the renovation of twenty cells a year following the CGLPL’s first visit, has not been followed up due to the high occupation rate.

A good many recommendations bore on the premises themselves. Some of the recommended work has been completed or is scheduled (hot water in cells; renovation of utility rooms and the exercise yard, improvement of the electrical system in order to enable use of heating plates, etc.) but not all recommendations have been followed up (including renovation of visiting rooms, creation of a laundry room and, confidentiality in the “lawyers” visiting room).

A series of recommendations bore on access to healthcare, and in particular on the use of telemedicine, for which it was recommended that patients’ agreement be obtained and recorded, which was complied with, on reinforcement of dental care, which saw an initial improvement with one extra session provided every week, but which is still awaiting a part-time recruitment. The CGLPL’s usual recommendations on respect of confidentiality of treatment and medical secrecy came up against a no less usual lack of understanding.

Finally, the CGLPL recommended that various companies be contacted with a view to improving the prison’s work offer. This recommendation was followed up, but only with difficulty as the local economy is in a fragile state and a second concessionaire, which had commenced activity in 2017, was put into liquidation in May 2018.
2.6.2  Roanne long-term detention centre (Loire) – January 2015

This inspection highlighted five best practices and resulted in twenty-eight recommendations being made.

The best practices are to do with the PEP psychologist’s active presence from arrival onwards, the high number of specialised consultations at the institution, which reduces the need for medical extractions, the hierarchising of workstations in workshops, which enables individual development, and the dynamism of sociocultural activities.

The CGLPL’s initial recommendations were to fill vacant positions, review organisation of brigades and teams with a view to avoiding degradation of operational modes, and find an effective way of compensating for chronic absenteeism on the part of warders. This measure is very much dependent on the DAP’s recruitment capacities.

It was also recommended that individuals convicted of sexual offences benefit from an appropriate protection system; the institution, which has no wish to stigmatise sexual offenders, provides individual management and stresses that such inmates have not been identified as the main victims of acts of violence in the prison. It stated that acts of violence are systematically reported to the Public Prosecutor’s Office.

The requested modifications to the nursery wing’s exercise yard are underway.

As regards material conditions of detention, the CGLPL had recommended better hygiene around the premises and installation of suitable refrigerators. Improvements have been made with regard to both points: a change in the ways meals are distributed has reduced the volume of waste and all refrigerators have been replaced by larger models with freezer compartments.

The CGLPL also recommended a review of reasons for authorising body searches, which should always be the exception, and that such searches be carried out in rooms in compliance with the regulations in force. Although no positive changes appear to have been made with regard to reasons authorising searches, rooms in which they are carried out are now equipped with stools, carpets, coat hooks and washbasins.

The institution was asked to revitalise its Citizens’ Advice Centre (PAD), which was done, and to develop the right of collective expression, which was attempted several times but never achieved as the institution deemed two programmes, one for collective treatment of perpetrators of acts of violence and the other for combating violent radicalisation, should take priority.

2.6.3  Laval remand prison (Mayenne) – January 2015

This inspection highlighted five best practices and resulted in nineteen recommendations being made.

The best practices were to do with distribution of mail on Saturdays, management of money orders received consistent with the canteen timetable, a substantial offer of sports activities and the active role played by the SPIP in all areas of its competences.

Recommendations made included the following:

It was recommended that the institution’s standards of cleanliness and hygiene be improved. A renovation programme enabling refurbishment of ten cells a year and work on combating damp were in progress; however, the ventilation system’s capacity remained unchanged. Various other measures of lesser scale had been taken, but it had not been possible to replace all the furniture.

Various recommendations bearing on the open wing had become irrelevant as it had been closed.
The CGLPL had also recommended putting an end to undifferentiated means of restraint during medical extractions as well as systematic surveillance of prisoners concerned during consultations and treatment. The institution states that it has taken action to raise awareness among staff with a view to reducing such measures of restraint, but emphasises that the presence of warders during consultations is also due to high demand for healthcare services.

Several recommendations concerned prisoners’ access to healthcare, in particular to ensure consistency of somatic and psychiatric care projects, improve access to specialists without involving the UHSI, guarantee confidentiality of information contained in medical records, and assess the reality of the prison population’s cover in terms of preventive action, screening and treatment. According to the Minister of Health, action was taken on all these recommendations between 2015 and 2018. However, the recommendation aiming to ensure greater effectiveness of the opening of social rights and reduce the time it takes to implement them has come up against external difficulties.

Finally, the CGLPL had highlighted the fact that a pernicious atmosphere reigned among prison staff and that many staff members suffered as a result. This situation seemed to be due to the behaviour of one clearly identified staff member; he has been the subject of a disciplinary transfer.

2.6.4 Mulhouse remand prison (Haut-Rhin) – January 2015

This inspection highlighted two best practices and resulted in sixteen recommendations being made.

The best practices were to do with reception of new arrivals and the co-education provided to detained minors. The second best practice is no longer operational as the institution no longer takes in underage girls.

The CGLPL started off by recommending purposeful reorganisation of the management of custodial staff, which seems to have been carried out, with “comprehensive renewal of teams and services”.

It went on to recommend that action be taken to refurbish and clean the premises, a recommendation that was partly taken into account in measures announced immediately after our inspectors’ visit. The Minister of Justice states that a total of 7000 m² of surfaces were repainted between September 2016 and June 2018, that the showers in the poorest condition have been refitted and that the fight against vermin has been stepped up, without however achieving the hoped-for effect. Recent more radical measures seem to have borne fruit.

A series of recommendations concerning the women’s wing also appear to have been taken into account: confidentiality of correspondence has been improved, activities developed and telephones added, and appropriate products are now available in the canteen. Most importantly, the wing now comes under the authority of the Officer and his deputy, the Chief Warder, both of whom are present on a daily basis, with the result that the problems of violence noted in 2015 seem to have disappeared.

The report also recommended better analysis of incidents, which appears to have been achieved, accompanied by a violence prevention programme. There are fewer acts of violence against members of staff, but for the moment the same cannot be said of acts of violence between prisoners, on whom trafficking and overcrowding continue to take a heavy toll.

Finally, the CGLPL recommended various measures regarding better access to healthcare, in particular for people with reduced mobility, along with measures designed to ensure that prisoners attend consultations and development of partnerships with bodies likely to improve health education, disease prevention and treatment of prisoners. Continuing thought is being given to prisoners’ access to care, with no concrete results as yet; it should come to fruition with the construction of a new prison complex. Analysis was made of the measures required to ensure that prisoners attend scheduled consultations, but it was unclear whether this had led to any improvements in the situation.
Lastly, partnerships are currently being developed with the referring CSAPA, including for creation of four places for therapeutic external placement.

The CGLPL also recommended that prisoners who so wished be allowed to register for more than one religious denomination without the consistency of their requests being assessed by the administration. It was stated in reply that registrations are only limited by the reception capacities of the institution’s places of worship.

Finally, the CGLPL’s usual remarks on confidentiality of treatment during medical extractions received the no less usual responses.

2.6.5 Poitiers-Vivonne prison complex (Vienne) – February 2015

This inspection highlighted eight best practices and resulted in sixty-six recommendations being made.

The best practices were to do with reception of families, organisation of an on-call medical service during the night, the particularly satisfactory operation of the PAD, expansion of the work offer between the CGLPL’s two visits to the institution, access to work for fragile inmates, the dynamism of the education provided and gender diversity in scholastic activities – a practice that was expanded following the inspection.

The report recommended a number of measures relating to the institution’s layout and amenities. Some were taken, including creation of a shelter at the entrance, provision of equipment for sports and recreational activities in the open wing, renovation of video surveillance of exercise yards, and installation of letterboxes specific to the health unit. Others are still under study; including layout of the exercise yard for new arrivals, moving the new arrivals’ wing to the ground floor, which would enable access by people with reduced mobility, layout of yards, in particular those in use in the context of the autonomy system, in which the addition of tables and benches is being considered. Others were refused, including installation of doors on storage cupboards in the cells, curtaining over the gratings, rehabilitation of the collective rooms in the women’s wing, and remodelling of the exercise yards in the punishment wing and solitary confinement wing. Repair of the heating system, in compliance with the specifications, seems difficult.

As regards detention regimes, the report recommended that thought be given to the way in which inmates serving long sentences are treated, a procedure for formalising requests for a change of regime and periodical examination of the situations of each inmate under the common regime and the monitored regime, all of which have been implemented. It recommended adopting criteria for allocation to the monitored regime that are exclusively based on adaptation to the rules of community life, which the institution states it has done, and development of the “trust” regime towards greater openness, on which no action appears to have been taken.

As regards the women’s wing, the CGLPL’s recommendation that information provided to new arrivals be clarified appears to have been followed, as has its recommendation that the management’s presence in the wing be stepped up, as a new officer was assigned to it in 2017. The report also recommended enabling women prisoners to join the PEP and benefit from the same activity and work offer as men. The PEP is now being implemented and the work offer was expanded in 2017.

With regard to access to health care, the CGLPL repeated its usual observations on confidentiality of treatment and medical secrecy, but received no specific responses to them. Due to difficulties connected with medical demography, recommendations on increasing the health unit’s medical and paramedical staff were not followed up, except for the arrival of a third psychiatrist: it takes almost four months to receive dental care and there is no pharmacist in the institution, although prescriptions for medicines have been computerised. Difficulties in arranging appointments and
extractions, which are often not carried out, have been made the subject of management measures, although we have no objective knowledge of their results. However, it is now possible to put an inmate claiming to be ill in direct contact with the emergency department physician.

As regards prevention of suicide, an emergency protection cell is set to be created in the women’s wing. The report also recommended that such cells not be used longer than is strictly necessary to provision of healthcare, and pointed out that the fact of placing and keeping a person in a suicidal state in the punishment wing can only be considered as inhuman and degrading treatment. The Minister of Health states that the relevant hospital’s on-call schedules enable systematic monitoring during weekends of prisoners placed in emergency protection cells.

Action was taken on various other recommendations, including the offer of activities to new arrivals, provision of a radio for inmates confined to the punishment wing, use of video surveillance during disciplinary committee hearings, updating of the internal rules of procedure, better use of sports equipment, and contractualisation of individual sentence plans. However, the recommendation that upkeep of external surroundings (lawns and gardens) be entrusted to prisoners placed in external accommodation was not adopted.

2.6.6 Strasbourg remand prison (Bas-Rhin) – March 2015

As this institution was the subject of emergency recommendations published in the Official Gazette, it has been referred to above in the section on general recommendations.

2.6.7 Nantes remand wing (Loire-Atlantique) – March 2015

This inspection highlighted nine best practices and resulted in thirty recommendations being made.

Among other things, the best practices were to do with the quality of professional documentation, effective presence of two staff members per detention wing, personalisation of escort levels, quality of prisoners’ participation in changes made to the canteen, flexible, dynamic organisation of visiting rooms by a specialised team; the administration’s relations with inmates’ families, and formalisation of the processing of appeals.

Several material improvements were recommended but seem to be still under study three years after the visit, including equipment of the exercise yard, installation of plexiglass on the nursery yard’s gratings so as to avoid babies’ injuring themselves, and extension of the family car park. However, the administration discarded a recommendation for minimal improvement of the punishment and solitary confinement wings’ exercise yards.

The CGLPL had also pointed out that fact that, when a new institution was opened, individual cells were equipped with a second bed and that the situation was aggravated by addition of mattresses on the floor in cells with only one bed. The administration justifies this practice as being necessary due to major overcrowding of the institution.

It had been recommended that warders in the new arrivals’ wing be provided with training on the SMPR’s conditions for reception of people afflicted with mental disorders. This recommendation “is under study for inclusion in the training plan”.

The institution contains a short-sentence wing; the CGLPL recommended that the wing’s goals be redefined and that any transfer to the closed-door regime or return to the QMA be governed by collegial procedures in compliance with the adversarial principle. These measures seem to have been taken in 2016 when the short-sentence wing was turned into a wing for adjusted sentences.

In order to take some of the load off the Disciplinary Committee, a well-defined, well supervised infra-disciplinary procedure enables rapid reaction to low-intensity incidents; it is partly
based on the prisoner’s agreement but has no regulatory basis. Thought is underway at national level on what basis should be provided for the experiment.

The CGLPL had recommended better control of the prices of products sold in the canteen; it seems that a change in the pricing system has had ambiguous effects, including an increase in the prices of various products that were previously sold at lower rates than in local shops.

As recommended, mixed ceremonies are organised for Muslims, while separate Catholic services are held in each wing. As recommended, the services of a public letter-writer are now available to inmates.

Finally, a good many recommendations bore on the SPIP, given that the service was still feeling the effects of an event that had occurred some while before the date of the inspection but whose impact had left lasting scars. It seems that the service is gradually getting back into its stride again, with improvements including better monitoring (not yet formalised) of health situations likely to result in suspension or adjustment of sentences for medical reasons and extension of the Individual Sentence Plan to the women’s remand prison. However, CPIPs continue to have problems ensuring quality monitoring of all prisoners. The head of the service was asked to redefine the ways in which the SPIP monitors prisoners and its interactions with internal partners, refocus the SPIP on its missions and rework sentence enforcement committees’ (CAPs) schedules and discussions with judges and the registry. On the basis of this mandate, relations with the SMPR have been protocolled, relations with social workers restructured, exchanges with the CSAPA formalised, and the scheduling of CAPs meetings and adversarial debates partially alleviated. Return to normal operation, however, seems yet to be achieved.

2.6.8 **Béziers prison complex (Hérault) – March 2015**

This inspection highlighted fourteen best practices and resulted in twenty-six recommendations being made.

The best practices were to do with transparent, personalised management of the responsibility regime, the internal channel’s vitality, fluidity of movements (thanks to a specialised team), reception of families, work on parenting, optimal use of family living units, management of telephone communications with inmates in other institutions, operation of the PAD and preparation for release.

Recommendations included the following:

No record of use of extra mattresses existed, and the recommendation that a tally be kept was followed. Similarly, a system for monitoring use of the emergency protection cell was also introduced.

It was recommended that days of twelve continuous hours on duty be split up in order to avoid warders spending their whole shift in permanent contact with the prison population. The measure is possible in the long-term detention wing, but not always in the remand wing.

The CGLPL recommended that the institution ensure “greater differentiation (…) in order to provide the long-term detention centre with a regime more in compliance with its legal classification”. The detention regime was improved in 2016, with better protection of vulnerable inmates, observed by the CGLPL and the Defender of Rights during a joint visit made in 2017\(^40\), but unrestricted access to exercise yards, as recommended in 2015, remains impossible.

As regards access to healthcare, the report highlighted breaches of medical secrecy along with a large number of cancellations of medical extractions. It recommended introductions of regular

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\(^{40}\) See the investigation report on treatment of vulnerable prisoners at the Béziers prison complex, published on the CGLPL’s website.
formal discussion sessions between the long-term detention centre’s management and the physician in
charge of the health unit, provision of information to prisoners on methods of referring to hospital
authorities competent to deal with their complaints, and information to professionals practicing in the
health unit on ways of declaring incidents. Although the first point resulted in the usual responses
received from the Ministers of Justice and Health, who consider that any efforts to follow such
recommendations are futile, the second seems to have led to procedural changes being made,
although their results have not yet been communicated to the CGLPL. According to the Minister of
Health, fluidity of exchanges between the prison administration and the health service seem to be
“much improved”.

Finally, the CGLPL recommended improvement in the time taken to deliver letters; measures
seem to have been taken in this respect, although their effectiveness is yet to be assessed.

2.6.9 Château-Thierry prison complex (Aisne) – April 2015

Following its inspection of this prison complex, the CGLPL highlighted seven best practices and
made thirty-three recommendations.

The best practices mostly had to do with the individualised nature of treatment, the constant
concern to see all inmates participating in an activity of some kind, adaptation of the CPIPs’ role to
the pathologies and vulnerabilities most prevalent among the prison population, a determination to
foster prisoners’ collective expression, and provision of work adapted to inmates’ profiles.

The main recommendations bore on questions of principle:
- presence of a large number of sick inmates subject to psychiatric care, which is not in line with
  a prison complex’s purpose and should highlight the inadequacies of national systems for
  provision of psychiatric care to prisoners;
- The shameful state of cells occupied by prisoners who are unable to ensure their maintenance
due to their pathology;
- psychiatric practice with no real service project, leading to confusion between surveillance and
treatment missions;
- the illegal practice of involuntary treatment in prisons.

The two Ministries deem that the institution’s treatment system is no substitute for
complementary systems, considering that the presence of prison staff during treatment, including
within the institution itself, may be necessary, and that forced injections may be necessary at the
institution prior to transfers to a CHS. They state that a new medical treatment project was developed
in 2017 and that a protocol is currently being drafted for treatment of patients suffering from self-
neglect. These measures do not seem to provide an adequate response to the institution’s
shortcomings.

Numerous recommendations were also made on improvements to be made to some very
dilapidated parts of the premises as well as on the evident neglect of the “long-term detention centre”
section. Finally, other recommendations bore on more “classical” subjects, including relations with
the outside world, access to medical specialisations, the search regime and actions in preparation for
release. Little action has been taken on these recommendations and what has been done is unlikely to
mitigate the institution’s state of dilapidation.
2.6.10 Reims remand prison (Marne) – April 2015

This inspection highlighted eight best practices and resulted in eighteen recommendations being made.

The best practices were to do with the quality of information provided to new arrivals, the attention paid to cell allocations and the reduction in numbers of people imprisoned following better distribution of new arrivals between Reims and Châlons-en-Champagne remand prisons, as suggested by the CGLPL during an earlier visit. They also concern recording of mail and an increase in the work offer. The arrival of a second psychologist and the presence of several prevention associations were also noted. Generally speaking, this third visit showed that a good number of improvements had been made compared with the previous two inspections.

The report recommended alleviation of methods of restraint during medical extractions; this resulted in a workgroup being created, which, among other things, decided to “no longer employ means of restraint on prisoners who have already been granted one or two permissions to leave.”

The CGLPL recommended that work be carried out in a variety of fields, including equipment of exercise yards (benches, tables, urinals, etc.) and reinforcement of inmates’ safety in them (efficient video surveillance), reconfiguration of waiting rooms, installation of a shower in the health unit and refurbishing of workout equipment. Renovation of exercise yards appears to have been limited to security apparatus; while renovation of visiting rooms was not planned for budgetary reasons, and that of waiting rooms and the health unit’s shower was apparently physically impossible, but new bodybuilding equipment was purchased.

Two recommendations concerned the open centre: improvement of access to telephones, which was not adopted, and an increase in activities on offer, which was mainly achieved by provision of sports equipment.

The last recommendation was to broaden the range of training courses on offer, which is not envisaged at this point in time.

2.6.11 Nancy-Maxéville prison complex (Meurthe-et-Moselle) – April 2015

This inspection highlighted seventeen best practices and resulted in forty-eight recommendations being made.

The best practices, which are still in force, include measures relating to information provided to prisoners and their being consulted on management of everyday activities, rigorous individualised monitoring of the differentiated regime, a highly appropriate disciplinary procedure, flexible access to healthcare and development of telemedicine, a dynamic policy on work and vocational training, and a flexible guidance procedure. A dynamic partnerial context (associations, Départemental Councils for Legal Access (CDADs)) fosters actions benefiting inmates. An earlier recommendation by the CGLPL was also applied: the Interregional Director’s delegation to the head of the institution of competence to assign prisoners in the remand wing to the long-term detention centre wing, which speeds up the procedure.

Several recommendations relating to management of the differentiated regime (connection between the “trust” regime and placement in work or vocational training, transfer to the closed regime without guarantee of the disciplinary procedure, access to sport for new arrivals at the long-term detention centre, greater latitude in their daily lives granted to inmates placed in the “trust” regime, removal of gratings for such inmates, and freer access to exercise yards) were mostly rejected by the administration.

Several recommendations on the women’s remand prison were followed up, however: an increase in staff, although still inadequate, was agreed to, new visiting-room time slots were opened
and women prisoners now have access to work. Even so, no action was taken on various recommendations regarding improvements to the nursery.

Several recommendations bore on reception of families and organisation of visiting rooms (extension of the building used for reception of families and an increase in the number of lockers available to them, creation of a shelter, removal of video surveillance in the family area, and easing procedures for making reservations and management of latecomers). The number of lockers has increased, but they are smaller in size, and computerised management of visiting-room requests has been introduced. The other measures were not adopted by the administration, however. Finally, the marked reduction in the number of UVFs granted (which, in the CGLPL’s opinion, the institution should look into and, if required, review the conditions under which they are granted) is no more explicable today than it was at the time of the inspection.

As regards access to healthcare, the CGLPL recommended a new layout for the health unit’s premises, which has not been carried out, revision of the appointment procedure, which has been done, although without the CGLPL having knowledge of its results, and greater confidentiality in distribution of medicines as well as of consultations and external treatment, which does not seem to have been implemented. However, the CGLPL noted that there were not enough escorts for medical extractions, a situation that appears to have worsened since the inspection.

The CGLPL had noted an inadequate work offer, which the institution has been unable to improve on, and problems with carrying out movements, a question under study by a workgroup set up in 2018.

It had also recommended increased presence of prison rehabilitation and probation counsellors among the prison population; a recruitment campaign and a review of procedures currently underway should enable this to come about.

Finally, the CGLPL had noted difficulties relating to staff behaviour towards prisoners, including overfamiliarity when addressing them, unprofessional actions during searches and, above all, brutal behaviour on the part of a clearly identified team of warders. On the first two points, the staff concerned were given reminders; on the third, the team in question was broken up, several transfers were carried out, and one criminal penalty was handed down.

2.6.12 Épinal remand prison (Vosges) April 2015

This inspection highlighted five best practices and resulted in nineteen recommendations being made.

The best practices were to do with an animal mediation experiment, the local education unit’s ability to provide activities, including outside its strict field of competence, and an effective policy on protection of vulnerable and fragile inmates, along with the resources made available to the health unit and development of telemedicine.

The CGLPL recommended that adversarial debates be held in the presence of a representative of the prison administration and not be systematically held by videoconference. Although the Minister of Justice rightly considers that it is not its job to comment on sitting judges’ work methods, the CGLPL reaffirms its opinion on the use of videoconference and finds it regrettable that the choice of videoconference in the scenarios provided for in the Code of Criminal Procedure has no significant conditions attached to it, with the exception of guaranteeing the confidentiality of interviews between the prisoner concerned and his lawyer, if there is one and s/he is not physically present.

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41 Opinion delivered by the CGLPL on 14 October 2011 bearing on use of videoconference with regard to people deprived of liberty. Official Gazette of 9 November 2011.
As regards material conditions of detention, recommendations included remedying the general insalubrity of a number of attic cells, which has been done, enlarging the health units and soundproofing visiting rooms, both of which projects are currently under study. It was also requested that fresh meat be distributed in the canteen, which remains impossible as it is not possible to install refrigerators in cells.

A good many recommendations bore on increasing the number of activities on offer: the SPIP and the educational team have diversified their sociocultural activities during the school year and school holidays alike, the open wing has been provided with board games and a table-tennis table, and sports activities have been developed in the women’s wing; however, communication actions organised to increase the work offer have come to nothing.

Collective expression on the part of the prison population, although still embryonic, has seen regular development since 2015, with three meetings a year.

2.6.13 Bois d’Arcy remand prison (Yvelines) – June 2015

This inspection highlighted four best practices and resulted in twelve recommendations being made.

The best practices were to do with the institution’s ability to modulate security levels during escorts, a health monitoring system of major benefit to the prison population, use of telemedicine enabling an appropriate response to be made right from the beginning of treatment, and creation of a wing dedicated to preparation for release.

As regards material conditions of detention, the CGLPL recommended that the absence of refrigerators in cells be compensated for, which has been done by putting electric iceboxes compatible with the electricity network on sale at the canteen; that separating walls in visiting rooms be removed, which was done during an overall renovations of the rooms, and that access to lawyers’ visiting rooms be reorganised, which is currently under a study.

Several recommendations concerned inmates placed in solitary confinement or “protected” units. They bore in particular on clarifying the status of a “protected living unit” and enabling inmates in solitary confinement to take part in common activities. Neither measure has been adopted.

2.6.14 Basse-Terre remand prison (Guadeloupe) – June 2015

This inspection highlighted five best practices and resulted in eighteen recommendations being made.

The best practices were to do with the measured, educational nature of disciplinary responses, the flexible handing of appeals, reasoned granting of permissions to leave for treatment not available in the prison (a dentist was recruited subsequently to the inspection), the dynamism of sociocultural activities, as well as an active sentence adjustment policy despite major local difficulties.

As regards material conditions of detention, the CGLPL had noted dilapidated over-occupied cells unfit for human habitation, the presence of rats and cockroaches, cramped exercise yards and visiting rooms in deplorable condition. A three-year plan for renovation of cells and dormitories was implemented in early 2017 and visiting rooms have been renovated. A project for onsite reconstruction of the institution is underway. The CGLPL also noted that the way that meals were prepared was not in compliance with current standards, which led to organisation of training sessions, but as ancillary staff continue to be alone in the kitchen on weekends, it is impossible to check whether the rules are being applied.

It was also requested that something be done about the high absenteeism rate among warders; a dedicated monitoring system has been set up, but the high average age of staff makes them more susceptible to health problems.
It was requested that an end be put to the use of abdominal straps with handcuffs during medical extractions, which is almost systematic and unnecessary as there is always more than one escort. The CGLPL issued reminders on this point, but to the best of its knowledge, their impact is yet to be assessed.

Finally, a number of points raised by the CGLPL led to improvements being made: the canteens’ list was modified in 2017 following installation of refrigerators in all cells; confidentiality of mail addressed to the health unit was improved; confidentiality of medical records is now ensured as they have been computerised; conditions for sports activities have improved considerably following the arrival of two coaches, and a new teaching team is making up for its predecessor’s lack of involvement.

It is to be regretted that, contrary to the CGLPL’s recommendation, the institution does not yet possess a new arrivals’ wing.

2.6.15 Baie-Mahault prison complex (Guadeloupe) – June 2015

This inspection highlighted five best practices and resulted in forty-three recommendations being made.

The best practices were to do with a change in the pace of work that has helped reduce absenteeism, signature of a protocol by the Public Prosecutor’s Office and prison administration, and development of collaboration with the prefecture, the gendarmerie, sentence enforcement judges and the institution’s evaluation board with a view to curbing violence, flexible management of money sent in the mail, and the signature of an agreement with an optician enabling acquisition of spectacles at affordable prices.

The CGLPL recommended that something be done to remedy overcrowding; nothing has been done, however, as at 1 September 2018, 155 inmates slept on mattresses on the floor in the remand wing. In August 2018, the institution accommodated the highest number of inmates in its history. The Minister of Justice states that this situation “is not the prison administration’s fault”; nonetheless, it is to be regretted that she does not consider that the Ministry of Justice is concerned.

As regards material conditions of detention, the CGLPL recommended that a room for religious worship be constructed or laid out, that the frequency at which mattresses are changed be adapted to the climate, that letterboxes be installed in the punishment wing, and that a seat be provided for each person occupying a cell. Seats and letterboxes have been installed, but the request for more frequent changes of mattresses was not followed up for budgetary reasons, while construction of a room for religious worship will only be possible” during the second phase of work following the extension to be made in the context of redevelopment of the existing facility.”

Several problems resulting in operational failures need to be redressed, in particular the fact that it is simply not possible for the warders on morning duty in each wing of the remand prison to carry out all the tasks allotted to them, the size of teams of warders, which are too small to deal effectively with violence, the clearly inadequate organisation of the registry, and a need to increase the SPIP’s active presence in the prison. Several measures designed to reduce staff’s morning workloads have been implemented and the registry reinforced; teams of warders have not been, however, and CPIPs’ work conditions have only marginally improved and their offices are still unusable.

The new arrivals wing’s certification provided an opportunity to take account of the CGLPL’s recommendations on the wing.

In compliance with the CGLPL’s requests, women prisoners have seen an increase in training programmes and numbers of activities available to them. Further increases are expected. Minors also benefited from reorganisation of their education, bringing numbers of hours close to regulatory
standards, but, as it was based on temporary recruitments, this particular improvement did not last long.

The disciplinary procedure has been improved in compliance with the CGLPL’s request: waiting periods have been shortened, and records kept more rigorously in preparation for the sector’s certification. Updating of the institution’s internal rules of procedure in 2018 also enabled regulation of the solitary confinement wing’s situation, which has now been formalised.

As regards maintenance of family ties, the CGLPL’s recommendations were largely set aside. No procedure has been formalised to let families know in the event of visit being cancelled, and, above all, prisoners in the open wing still have their mobile telephones removed once they return to the wing, even though it is outside the institution itself. However, the waiting period for obtainment of visit permits has been reduced and is now about a month.

As regards access to healthcare, the number of medical extractions cancelled is highly regrettable; it could well be reduced if a new vehicle were acquired and x-ray examinations carried out in the health unit. However, unlike the CGLPL, the Regional Health Agency considers that “the health unit has enough medical and paramedical staff, but the that lack of prison staff allocated to the unit, and the small size of its premises is inherent to prison overcrowding, which is a matter for the prison administration”. It acknowledges that it is having problems in procuring medicines, which also affect the health unit, and consequently relies on an independent pharmacy, which supplements shortages.

As regards the SMPR’s lack of activity, the Agency points out that psychiatric disorders are still a taboo subject among Guadeloupe’s population, but states that the SMPR’s workforce is now up to par. Finally, the CGLPL noted systematic handcuffing of prisoners during medical extractions and consultations and the systematic presence of warders during medical consultations. On these points, the Ministers referred to application of the rule and to the escort leader’s power of assessment, which is not likely to improve practices. “Reflections” are also mentioned.

Finally, the report highlighted the absence of vocational training programmes and the fact that the work offer only applied to one in every eight prisoners. Vocational training programmes were resumed in 2017 but there are still too few of them, the only advance noted being the increase in general service staff from 104 to 113 since the inspection.

2.6.16 *Châteaudun long-term detention centre (Eure-et-Loir) – June 2015*

This inspection resulted in thirty-four recommendations being made, including the following:

The differentiated regime in place in this detention centre was not at all evident and seemed largely arbitrary. The Minister of Justice states that the regime, which is organised into three levels, is explained to new arrivals and its improvement is underway, without going into any details, however.

The CGLPL recommended implementation of continuous working hours so as to free up longer time slots in the afternoons for other activities; this was done in 2016.

It also recommended that more lawyers attend meetings of the disciplinary committee, however many cases were being examined.

It also recommended that sentence enforcement committee meetings not be held by videoconference; however, given how far away the Court of First Instance is, the practice continues.

Finally, it was recommended that the health unit’s resources be increased (an ophthalmologist and a physiotherapist); steps in this respect as well as for development of telemedicine have been undertaken but the CGLPL is yet to be informed of any results.

2.6.17 *Bourg-en-Bresse prison complex (Ain) – July 2015*
This inspection highlighted ten best practices and resulted in twenty-four recommendations being made.

Best practices included greater flexibility of scheduling in the open wing, enabling exercise of a wide range of jobs providing useful preparation for reintegration, an agreement with the Cimade enabling provision of assistance to foreign prisoners, a partnership with a television channel providing an active internal channel and the prospect of employment in prison, and effective continuity of care following release. These best practices are still being implemented, although no measures have been taken to spread them to other institutions.

Several of the CGLPL’s recommendations bore on placement of inmates in a closed-door regime; among other things, it was recommended that nobody be placed in this regime due to their vulnerability and that adversarial procedures take place before placements due to prisoners’ behaviour. Although the administration has followed up on the first of these recommendations by creating a protected area in the open-door regime, it is to be regretted that it has taken no action on the second, hiding behind the legal fiction that placement in a closed-door regime is not a disciplinary measure, even though it is most certainly a restriction of rights connected with prisoners’ behaviour.

It is also to be regretted that it was not deemed useful to take action on the recommendation to lay out cells differently in order to ensure inmates’ privacy in the toilets.

However, a number of recommendations resulted in action being taken, including better training of visiting-room staff in search techniques, reactivating the PAD, and not taking account of the behaviour of inmates with inadequate resources in granting them the help provided for by the regulations.

As regards access to healthcare, the measures recommended (not making filling of medical prescriptions (spectacles) subject to the head of the institution’s agreement, restructuring the psychiatric department and ensuring confidentiality of distributions of medicines) are still under study three years after the inspection, while the CGLPL’s “traditional” recommendation bearing on excessive use of means of restraint seems to be the subject of conflicting assessments on the part of the prison administration and the health services.

2.6.18 Villeneuve-lès-Maguelone prison complex (Hérault) – September 2015

This inspection highlighted twelve best practices and resulted in sixty recommendations being made.

The best practices were to do with many aspects of prison life. They include an out-of-hours medical service, transparency of prices charged in the canteen, refurbishment of mattresses with each change of user, and provision of psychological monitoring to inmates in the event of a fellow prisoner killing himself.

We shall only emphasise one point here: inmates placed in the open wing can keep their mobile phones with them at all times. In her response to our monitoring of recommendations, the Minister of Justice expressly returns to the classification of this measure as a “best practice”, stating that “this best practice continues to be applied in the institution”. It therefore seems paradoxical to refuse its extension to all open prisons and wings.

The CGLPL recommended that the new arrivals wings be dedicated solely to reception of new arrivals and not become a substitute solitary confinement wing or place for enforcement of infra-disciplinary sanctions. This recommendation has been followed up.

It also recommended that inmates imprisoned for sex offence not go to the exercise yard when minors are present in order to shield them from recurrent verbal abuse. The Minister of Justice states that detention conditions for such people have been improved with saying exactly how.
As regards minors, it was recommended that differentiated treatment be provided and that more adults (warders) be present, in particular in the exercise yard. The first of these recommendations has not been implemented, minors being simply divided into two groups in order to ensure that prohibitions are complied with; however, the number of warders in the minors’ wing has been increased.

Several recommendations bore on the open wing: it was requested that its incorporation into the prison complex be finalised, that it be renovated, that it be provided with a cell equipped for people with reduced mobility, and that prisoners placed there be able to benefit from subsidies connected with the fight against poverty. The Minister of Justice states that the first of these measures has been taken and that improvements have been made to the wing, although they do not cover all the requirements noted by the CGLPL. In her opinion, the final point is not applicable.

A number of recommendations were intended to improve safety by combating violence and trafficking through reinforcement of video surveillance, better supervision of movement and reorganisation of detention. Video surveillance has been reinforced and awareness-raising operations carried out to combat violence. Internal human surveillance has not been reinforced, but a system designed to stop prohibited items coming in from the outside world has been set up in cooperation with the gendarmerie.

Noting that a great many convocations to the health unit and to professional and sports activities were not acknowledged, the CGLPL recommended that all departments give thought to organisation of movements within the prison. It is paradoxical that the Minister of Justice considers that such thought is the Ministry of Health’s province although it concerns a problem of organisation of movements. In any case, the Ministry of Health considers that, as far as this point is concerned, the health unit is dependent on the prison administration.

With regard to healthcare, the report made the usual recommendations on medical secrecy and confidentiality of treatment, and stressed that there were not enough physicians or external consultations. As regards medical secrecy, which is eroded by the presence of warders during consultations and treatment, it is once again paradoxical that the Minister of Justice considers that the problem is the Minister of Health’s province. However, there have been an increase in the number of medical staff and developments in use of telemedicine.

Turning to the punishment and solitary confinement wings, the CGLPL recommended that cells and exercise yards be improved and that prisoners in solitary confinement who so requested be allowed to use the exercise yard and activity and sports rooms in pairs. Although the first two recommendations were not accepted for reasons of compliance with regulatory standards, the third was followed up by a reminder to the institution regarding the applicable regulations, which allow this type of arrangement to be made.

Observing that working hours prevented prisoners from going to exercise yards, visiting rooms and the health unit, as well as making it impossible for them to participate in sports activities on Mondays, Thursdays and Fridays, the CGLPL recommended that they be revised. According to the Minister of Justice, this has been done and the problem resolved.

Finally, the CGLPL recommended that the SPIP be reinforced and located in the prison’s administrative building, rather than in the temporary huts it was accommodated in at the time of the inspection. The Minister of Justice states that the SPIP has a full workforce but makes no mention of any increase. She also states that its use of the temporary accommodation provided has not been finalised and that arrangements for its permanent accommodation are still under study.

2.6.19 Valenciennes remand prison (Nord) – September 2015

This inspection resulted in thirty recommendations being made.
It should be noted that this institution’s responses show that the great majority of recommendations made have been implemented, leading in particular to creation of a respect module. Only recommendations that involved major investments are still under study, including renovation of piping, creation of an exercise yard for prisoners in the open wing, and provision of hot water in cells. Hence:

- special sports time slots have been opened for vulnerable prisoners and the possibility of organising dedicated exercise-yard times for them is under study;
- a project to combat prohibited items coming into the prison has been developed locally;
- an action plan has been drafted to combat acts of violence, which decreased in 2018;
- paces of work now have to be approved by supervisory staff;
- commitment forms and supports have been drawn up for each of the institution’s workstations;
- the management makes sure that there is a wide diversity of profiles among prisoners permitted to work;
- collective expression has been developed in the form of suggestions registers and questionnaires;
- A Pôle Emploi advisor has been active onsite since 2017.

As regards access to healthcare, the Regional Health Agency and Interregional Directorate of Prison Services issued a reminder on the confidentiality of medical consultations and treatment, the warders’ service was reorganised to facilitate prisoners’ access to the health unit, and the system for conveying prisoners there has been improved, leading to a 20% increase in the number of consultations, and alerts may now be sent to the head of the institution in support of requests for rapid organisation of consultations in cases where an inmate’s state of health requires it.

Reminders were issued on standards regarding the practice of searches and use of means of restraint, but it is too early to assess what effects they have had.

2.6.20 Arras remand prison (Pas-de-Calais) – October 2015

This inspection highlighted one best practice, the existence of an “integration and communication centre”, and resulted in forty-five recommendations being made.

With regard to staff, workforce difficulties are yet to be resolved, although the management asserts that it is exercising vigilance in the face of the problems of alcoholism raised in the report.

As regards material conditions of accommodation, there is still very little individual occupation of cells, organisation of night-time call systems is still under study, renovation work on one sector has been completed, the punishment wing’s exercise yards have been provided with shelters, and attics and ceilings have been secured. Letterboxes ensuring confidentiality of mail were installed in 2018.

Several recommendations concerned inmates’ safety; a video surveillance has been installed in exercise yards and vulnerable prisoners are now grouped together as there is no solitary confinement wing.

As regards discipline, it was recommended that individuals punished be informed of the avenues for appeal open to them; and that the punishment wing’s interphone be connected to an office occupied round the clock. Both measures have been followed up.

Regarding prisoner’s rights, the PAD, which had been dormant, has been in operation again since 2017; the Defender of Rights’ delegate now pays regular visits, and in 2017 the SPIP collaborated with the prefecture in drafting a protocol for renewal of identity papers.
As regards access to healthcare, at the time of the inspection, contrary to the ministerial response to the report on the previous visit, the health unit’s premises had not been expanded; the Minister of Justice states that the work required was carried out in 2016. However, in 2015, the nursing staff felt isolated, ignored, even unsafe, and confidentiality of consultations was not ensured. According to the Minister of Health, the situation improved following replacement of some of the staff. The presence of the same surveillance staff in the health unit also improved its and its staff’s security. Confidentiality of consultations has been restored and is respected, as there is seldom any need to have a warder present.

The CGLPL also highlighted the fact that there was so much consumption of cannabis in the cells that a number of non-smoker inmates complained they were being “contaminated”. The Minister of Justice’s reply that “there are cells specifically dedicated to non-smoker prisoners” hardly seems to provide a satisfactory response to the problem.

Unfortunately, there has been no improvement in the blatant inadequacy of the work offer (one position for every eight inmates).

Finally, as the CGLPL had requested, all prisoners are now overseen by a referent CPIP.

2.6.21 Nice remand prison (Alpes-Maritimes) – October 2015

This inspection highlighted four best practices and resulted in thirty-two recommendations being made.

The best practices were to do with relations with families, existence of a unit for outgoing prisoners enabling better preparation for release, and the dynamism of the PAD. Although these practices could well be imitated in other institutions, it is regrettable that the administration has not taken any measures to make them known elsewhere.

Recommendations first of all bore on the state of the institution’s premises. The Minister of Justice states that the real-estate programme includes a project for construction of a new prison complex in the Nice-Côte d’Azur Metropolis, and that initial work on repainting cells has been completed, but that the more demanding renovations required (health unit, visiting rooms and the women’s wing) cannot be carried out due to prison overcrowding, cramped conditions and lack of budget.

The specific case of the women’s wing, where conditions of imprisonment are unacceptable, was raised. The Minister of Justice states that numbers of prisoners accommodated in the wing continue to increase and acknowledges that allocation, overcrowding reduction and transfer procedures still take too long. Inequality of access to healthcare to the detriment of women prisoners was also raised but there has been no improvement in the situation since the report was issued.

However, the recommendation that thought be rapidly given to identification and special protection of vulnerable inmates was followed up, with creation of a detention unit largely dedicated to vulnerable prisoners, making up for the lack of a real solitary confinement wing.

Finally, action on the recommendation that new concessionaires be sought in order to increase the highly inadequate work offer (under 10% of the prison population) has been entrusted to a staff member specifically recruited on 1 September 2017 to assist in finding concessionaires, but is hampered by the unsuitable character of the premises.

Finally, a good many other rather more “classical” recommendations were made, and followed up when they did not require new resources or extension of existing surface areas.
2.6.22 Argentan long-term detention centre (Orne) – November 2015

This inspection highlighted two best practices and resulted in thirty-five recommendations being made.

Best practices first of all included implementation of the recommendations made by the CGLPL following its previous inspection, with regard to management of the differentiated regime: the situation of each inmate subject to the closed regime is now examined on a monthly basis, and placement in such regime is no longer the automatic result of a disciplinary incident. The top-quality management of work and vocational training, in all-round consultation with the private grouping concerned and which has even led to various attempts to find work for inmates who are clearly of no help in achieving profitability targets, was also emphasised.

As regards the premises, it was recommended that a watch be kept on cell temperatures, problems with electricity be resolved, and that vacant rooms be used for activities. Although the first point is now the subject of closer monitoring, there has been no progress with other two since the visit. The CGLPL had also recommended reorganisation of the punishment wing, but nothing has yet been done in this respect.

A large number of recommendations bore on safety management in the institution, in which serious acts of violence had been taking place, and kingpins exercised a strong hold over the population as a whole. Following these recommendations, the head of the institution has been issuing regular reminders on the need for prison staff to be present in communal living units and finalisation of the first stage in deployment of video surveillance is underway. A violence prevention plan has been inaugurated, the ways in which the public prosecutor's office / police / detention centre protocol operates have been revised, a programme for treatment of inmates liable to impulsive or aggressive behaviour was inaugurated in 2018, riding therapy activities have been introduced, and a new psychologist devotes part of her time to treating violent prisoners and those likely to become so. Acts of violence continue to be systematically reported to the Public Prosecutor’s Office. However, the climate of violence has made it impossible to implement a number of recommendations on increasing prisoners’ freedom of movement.

The CGLPL had emphasised the existence of an illegal procedure restricting the sending of money orders, imposed on inmates who did not make voluntary payments. It is no longer applied.

As regards access to healthcare, the CGLPL had recommended that inmates claiming to be ill be put in direct contact with Centre 15 for night calls, a measure that has led to reminders being issued by the management; it had also recommended updating of the protocol between the detention centre and the relevant hospital; although the Ministry of Health considers that this has been carried out, such is not the Ministry of Justice's opinion. The insufficient medical time allocated to the health unit has been increased by creation of a new position, but problems with recruitment continue, and also concern paramedical specialisations, including physiotherapy. Finally, as in most institutions, the question of confidentiality of consultations and treatment only received evasive responses.

2.6.23 Lyon open prison (Rhône) – December 2015

This inspection highlighted one best practice and resulted in six recommendations being made.

The best practice was to do with a project for provision of computer courses and the prospect of new training programmes, along with the involvement of prevention associations. Unfortunately, these projects were finally not implemented as the great majority of prisoners spend the whole day offsite.
Only one of the CGLPL’s recommendations was carried out, bearing on revision of the institution’s reference documents, which contained a good many redundancies, discrepancies and inaccuracies.

The CGLPL’s recommendations to install signposting, create an activity room on a new accommodation floor and renovate the showers were not followed up. Nor was its recommendation to revise the reference organisational chart.

The report found it regrettable that prisoners were not allowed to keep their mobile phones when they returned to the CSL. Paradoxically, although the Minister of Justice, like the CGLPL (Villeneuve-lès-Maguelone prison complex) recognises this as a “best practice”, there has been no change in the situation.

Finally, untenable textual arguments are put forward for refusing to organise medical checkups for new arrivals not coming from another penal institution: comparing such checkups to provisions of treatment is highly debatable.

2.7 Recommendations made following inspections of penal institutions for women

2.7.1 Fleury-Mérogis women’s remand prison (Essonne) – April 2015

This inspection highlighted three best practices and resulted in twenty-five recommendations being made.

The best practices were to do with the possibility of buying sweets to give children during visits, a project of bringing in a family mediator on a voluntary basis, and determination of payment for general services in compliance with the Code of Criminal Procedure rather than the DAP annual circular setting rates of pay for prisoners.

As regards material conditions of detention, the CGLPL recommended that cells be renovated in the immediate future, that the electrical system be renovated to enable use of refrigerators in cells, that showers be repaired as soon as possible, and that visiting rooms be brought up to standards in force in order to enable access by people with reduced mobility. Urgent work has been carried out while awaiting comprehensive renovation of the institution, but it does not meet all needs, and renovation of the whole building is still necessary. An alternative solution has been found to enable people with reduced mobility to come on visits.

The CGLPL had also highlighted the behaviour of a number of warders who disregarded basic professional and ethical rules, and specifically that of warders allocated to the nursery, whose close contact with the mothers, although it led to greater serenity of prison life, sometimes led to their making inappropriate value judgements. Several complementary actions have been implemented with a view to preventing unsuitable professional behaviour: training sessions for newly arrived trainees, reminders of ethical rules, and mentorship. The nursery should be complemented by a micro-crèche.

As requested by the CGLPL in order to take femininity into account in everyday prison life, a project to reopen the hairdressing salon is under study and the canteen catalogue will be reviewed as part of a prison population consultation procedure.

As the CGLPL recommended, a new unit exclusively dedicated to minors has been opened.

The CGLPL also recommended that internal directives on searches be put in compliance with the Prison Act and that a stop be put to deliberately humiliating practices. Although the recommendation’s legal aspect has been acted on, the Minister of Justice has nothing to say on the methods employed in the carrying out of searches.
Various recommendations on prisoners’ rights have been taken into account: the internal rules of procedure have been rewritten and are currently being validated by the DISP, an agreement with the Bar has led to lawyers systematically attending disciplinary committee meetings, the procedure for reserving visiting-rooms has been simplified, as has the procedure enabling recourse to an interpreter, and out-of-hours staffing of the PAD has resumed. An emergency procedure to notify judicial rulings has been introduced as registry staff, whose offices are centralised in the main wing, cannot do it themselves.

As regards access to healthcare, reminders of the rules on confidentiality of treatment and medical secrecy were issued and their application monitored, but their implementation is still subject to oral agreements reached in emergency situations and the secrecy of medical practices.

The CGLPL had also emphasised the arbitrariness evident in prison workshops with regard to setting prisoners’ pay and classifications, and requested increased supervision of the practices in question. The institution states that it applies the regulations rigorously, going through a Single Multidisciplinary Classification Committee and regularly checking up on what prisoners are paid.

Finally, the CGLPL recommended that PJJ activities be stepped up in the minors’ wing. Various measures have contributed to this being done, and are all the more easily applied as the minorities’ wing has been clearly individualised. In addition, as recommended, relations between the SPIP and the PJJ have been reinforced, and minors reaching adulthood are ensured continuity of care for up to six months.

2.7.2  Rennes prison complex for women (Ille-et-Vilaine) – July 2015

This inspection highlighted four best practices and resulted in thirty-nine recommendations being made.

The best practices were to do with the absence of bars and gratings, which had been replaced by simple expanded metal, the measured character of restraints employed during medical extractions, the existence of a SPIP out-of-hours office, and the evident vitality of health education.

Recommendations made included:

As regards renovation work, it was recommended that insulation be improved, adjustment of water temperature in the showers be facilitated, exercise yards be equipped with toilets, and the nursery wing be improved. Work on insulation has been carried out but the other recommendations have either been set aside or are “under study”.

The CGLPL considered it desirable to establish a reference staffing board for administrative staff, so they would not be replaced in unsupervised fashion by surveillance staff. This measure was not adopted.

It was recommended that internal rules of procedure provide for inmates without adequate resources imprisoned at the detention centre as they do for inmates in the remand prison. The proposal was adopted but is yet to be implemented.

It was also recommended that abuse of medicines leading to medical extractions not systematically be considered as a reason for disciplinary proceedings. The Minister of Justice states that this measure does not apply to people with suicidal tendencies, only to drug addicts, and deems that the sanction, which is often only symbolic, includes an educational aspect.

The CGLPL recommended that there be more frequent visits between imprisoned spouses and greater use of family living units, as was the case up until 2010, in partnership with the Rennes-Vezin prison complex. The Minister of Justice considers that visits between imprisoned spouses can only be organised within one and the same institution or if permissions to leave are granted.
It was recommended that the institution ensure that inmates about to be released have valid identity documents and that foreigners could obtain or renew their residence permits. After a few problems encountered in 2017, these services appear to have resumed normal operation over the course of 2018.

Finally, the CGLPL requested that the institution’s x-ray equipment be renewed in order to enable specialist opinions to be taken account of remotely during emergencies when interpretation of x-rays requires it. This measure has not yet been taken.

2.8 Recommendations made following inspections of prisons for minors

2.8.1 Marseille prison for minors (Bouches-du-Rhône) – March 2015

This inspection highlighted four best practices and resulted in twenty-three recommendations being made.

Three best practices were to do with secondary or purely local points; however, one of them stresses that punishments handed down by the disciplinary committee are graduated and mostly educational; an example should be cited.

The CGLPL first of all recommended introduction of a selection procedure ensuring that staff allocated to the EPM possess the qualities required for working at the institution. The Minister of Justice states that training sessions are organised for newly recruited staff, but that there is no possibility of a staff selection procedure being implemented. The CGLPL finds it regrettable that such unselective procedures are applied in EPMs as they are in all institutions with major specificities that need catering for.

It also recommended increasing the time minors spent outside their cells; no new measures appear to have been taken to this end, with the exception of a special unit whose operation draws inspiration from respect modules and which provides three extra hours of activities a week. In addition, as the CGLPL recommended, the stadium has been secured, so fostering participation in sports activities while preventing risks of violence between minors.

A series of recommendations bore on inmates’ access to healthcare: doing away with systematic handcuffing (all movement being classified at the lowest escort level), assigning a physiotherapist to the EPM and setting up a dedicated route at the hospital so that minors are not obliged to wait under guard in areas used by the public at large. Although health professionals are opposed to the systematic handcuffing of minors brought to them, the Minister of Justice’s response to this recommendation simply reasserts general principles and provides no clue as to the instructions given to prison staff, which suggests that excessive caution is all too likely. Recruitment of a physiotherapist appears impossible, but identification of special routes in the hospital is underway, although the facility’s layout does not allow for creation of a dedicated reception area, so that minors brought in for consultation will only be partially shielded from public view.

2.8.2 Lavaur prison for minors (Tarn) – July 2015

This inspection highlighted three best practices and resulted in seventeen recommendations being made.

The best practices were to do with minors’ collective expression, gender mixity in sports activities and supervised use of a “cyberbase”.

The CGLPL made several recommendations on material conditions of detention:
removal of the fencing put up in front of ground-floor cell windows was refused, because, according to the administration, there was no better way of protecting minors and professionals walking past the windows in question;

installation of partitions between the health unit and the cells area and of cupboard doors was refused on the grounds that the boys would systematically destroy all such additions; they were replaced in the girls’ cells, however;

water is now provided in periods of very hot weather;

the list of products sold at the canteen was drawn up following consultation with inmates;

The disciplinary committee’s waiting-room has still not been provided with benches, although an estimate has been requested;

the punishment wing has been renovated and cupboards installed.

It should be emphasised that the recommendation to adapt the emergency protection cell to reception of inmates in distress, especially during very hot weather, was not adopted on the grounds that the cell “complies with the regulations in force”. As it is specifically designed for suicidal juveniles in periods of crisis, the argument seems somewhat incongruous, to say the least.

With a view to encouraging maintenance of family ties, the CGLPL recommended that only minors from the region be placed in the EPM. This criterion is complied with in the great majority of cases, although not for around 20% of them.

The CGLPL finds it regrettable that, despite its recommendation, the Defender of Rights’ delegate still has no office at the institution. It also regrets that the medical unit does not consider it necessary to install its own letterboxes in order to preserve medical secrecy, on the pretext that minors have no need to specify reasons in their requests for consultations in order to be received by the medical service.

However, the CGLPL notes that other of its recommendations have been adopted, including that two warring inmates appearing before the same disciplinary commission be assisted by two separate lawyers, that periodical meetings be held bringing together all stakeholders in medical treatment of minors, and that extra activities be organised during school holidays to prevent minors becoming victims of inertia.
3. Action taken in response to recommendations concerning mental health institutions issued in 2015

3.1 Recommendations set out in the 2015 annual report

The CGLPL had recommended planning the establishment of protocols as regards the arrangements for informing patients and notifying involuntary committal measures with a standard document explaining, in plain language, the different types of sectioning and avenues of appeal. It also recommended informing patients of the hospital’s internal rules either via a welcome booklet or a poster put up in each room.

The Minister of Health said that the CGLPL’s recommendation had been included in the national agenda in terms of implementing Article 69 of the Act on modernising the French health service, with patient information remaining the responsibility of each institution. She specified that the psychiatry steering committee had identified the question of informing patients and their families during its work programme. Recommendations on these points are being looked into. In addition, the National Conference of Presidents of Psychiatric Hospital Medical Committees is currently working on an information document to be displayed in each room giving a reminder of internal rules and patients’ rights.

Broad-scale roll-out of offices for access to rights was also recommended. The Minister of Health pointed out that healthcare access centres for disadvantaged people (PASS) had been set up in psychiatry with a threefold aim: speeding up the provision of care by swiftly securing patients' entitlement to social rights, improving the competence of institutions' social services and enhancing links between psychiatric institutions and medicine, surgery and obstetrics institutions in a bid to foster holistic treatment. There are forty such offices, two-thirds of which are located in institutions authorised to provide psychiatric care alone. Lastly, the territorial mental health project 42 particularly aims to develop information for people with psychological disorders and their families on their rights, in order to encourage their access to them.

In response to the CGLPL’s recommendation that the supervisory authorities check the extent to which patients genuinely have access to legal information and advice in practice, the Minister of Health maintained that this comes under the remit of the regional health agencies, but did not specify the methods, frequency or findings of such checks.

The CGLPL also recommended a range of measures aimed at helping patients committed involuntarily to access a lawyer. Although the Minister of Health does not consider it her place to comment on the working methods of lawyers, her view is not shared by the CGLPL, which counters that it is the Minister of Health’s responsibility, in conjunction with the Minister of Justice, to take all appropriate measures for ensuring compliance with the provisions of the French Public Health Code (information, training provision, practical incentives, etc.), without having to comment on lawyers' working methods for all that.

On the subject of laying out courtrooms within institutions, the CGLPL is well aware that the standards required for rooms dedicated to out-of-court hearings are enacted by law, and that compliance therewith comes under the scrutiny of judges. However, it considers that it is the Minister of Health's responsibility to take all appropriate measures to urge hospitals and courts to comply with

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42 Decree of 27 July 2017 bearing on the territorial mental health project.
the law. It finds that the number of out-of-court hearings has risen since 2015, but regrets that this information is not monitored by the authorities.

Strict instructions were also recommended to ensure controlled use of restraint methods during hearings with the Liberty and Custody Judge. The Minister of Health explained that the offenders' health strategy published in April 2017 makes a priority of guaranteeing that the rights of offenders as health service users are respected and, as such, cross-government talks are being held within this context.

Regarding solitary confinement and restraint, the CGLPL recommended notifying the Public Prosecutor when a voluntary patient is unable to give informed consent or is placed in a seclusion room. The Minister of Health states that 2017 instructions\(^43\) now clarify that a voluntary patient may only be placed in solitary confinement in a critical situation concerning his or her safety, for a few hours, until the crisis passes or the hospital regime is changed. The CGLPL would nevertheless like to see checks conducted during regional health agencies' inspections ensuring that this measure is strictly applied.

The CGLPL also recommended ensuring that there are enough nursing staff for the institution to operate smoothly, which requires the definition of criteria for assessing this point. The Minister of Health considers it difficult to draw up general staff standards for an activity sector that does not have any specific regulations. Although strict standards are evidently unrealistic, the CGLPL finds that critical situations arise because of real or assumed staff shortages, and defining them therefore appears wholly worthwhile. Moreover, the lack of specific regulations bearing on psychiatry leaves room for all manner of practices which, as the CGLPL has already highlighted several times, do not respect patients' fundamental rights. It is therefore recommended that efforts be made to establish rules which - if not statutory - should at the very least amount to minimum standards concerning the treatment of sectioned patients. In this regard, the CGLPL gives a reminder that it has had cause, at least once, in an inspection report\(^44\), to ask that a hospital's authorisation to commit patients under this status be withdrawn on the grounds that staffing levels were insufficient for ensuring their care.

3.2 Recommendations issued following inspections

The Ministry of Health has not been able to follow up on all of the mental health institutions inspected in 2015. Only nine out of the 23 institutions inspected have been followed up on.

3.2.1 Camille-Miret Institute in Leyme (Lot) – January 2015

During the inspection of this institute, seven best practices were identified and 13 recommendations issued. The Ministries of Justice and Health responded to these observations in 2016; the follow-up carried out in 2018 did not turn up anything new.

The best practices bore on the quality of vigilance in terms of adverse events and tackling physical violence, follow-up of satisfaction questionnaires, respect for patient privacy, their access to telephones and the flexible organisation of visits.

During the visit, the absence of lawyers during hearings with the Liberty and Custody Judge was observed; in 2015 and 2016, this situation was down to a lawyers' strike initiated by two successive Chairs of the Bar; the Ministry of Justice pledged to try and improve the situation, but we do not know what steps have been taken.

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\(^{44}\) See inspection report for Vire Hospital (December 2017), published on the CGLPL’s website.
Recommendations were issued concerning information for patients: these particularly called for several points to be added to the welcome booklet, the measures stemming from the 2011 and 2013 legislation to be added to the institution's strategic plan and a welcome booklet to be produced for a distant hospitalisation unit.

It was also asked that the institution's ethics committee be reinstated and opportunities be provided for informal encounters with judges and physicians.

Regarding solitary confinement and restraint, the CGLPL recommended upholding the principle whereby only psychiatrists are able to prescribe such measures (and not nursing staff or medical interns) and involuntarily place patients in solitary confinement for longer than 12 hours. Finally, the CGLPL called for transfers of patients in restraints to cease, which should result from a change in full-time hospitalisation status; in principle this happened in 2017.

3.2.2 La Sarthe psychiatric hospital in Allonnes (Sarthe) – February 2015

During the inspection of this hospital, three best practices were identified and 24 recommendations issued. The CGLPL has not received any responses to these observations. No ministerial monitoring of these observations was carried out in 2018.

The best practices bore on respect for patients' anonymity, provision of locked cupboards and the availability of a Wi-Fi connection in the treatment wards.

The report recommended developing blueprints for centres and internal rules of wards aimed at aligning practices, and updating information documents for patients – not least with a view to adding the principle of free choice of physician. It also recommended involving nursing staff in the notification of measures and rights and formally documenting patients' observations.

Concerning routine practices, the report recommended ending the requirement to wear pyjamas, and particularly prohibiting such a requirement before the Liberty and Custody Judge, guaranteeing that patients are accommodated in ordinary rooms and not seclusion rooms (including upon returning from permitted leaves of absence), and increasing patients' safety in light of the risks of sexual abuse or theft. Giving out clothes to patients who lacked them and extending access to workshops put on by the therapy and mediation centre also formed part of the recommendations.

On the subject of traceability, it was recommended that the statutory admission register be kept in more detail and that the practice of copying medical certificates out on previous certificates from different physicians be prohibited.

With regard to solitary confinement and restraint, it was recommended that a record be set up and an assessment be carried out of measures taken (provision was made for this in an internal protocol incidentally). An amendment to the conditions for receiving detained patients was also requested to ensure that their right to treatment is guaranteed.

Finally, a reminder was given of the compulsory nature of an inspection by the authorities.

3.2.3 La Chartreuse psychiatric hospital in Dijon (Côte d'Or) - April 2015

During the inspection of this hospital, two best practices were identified and 31 recommendations issued. The CGLPL has not received any responses to these observations. No ministerial monitoring of these observations was carried out in 2018.

The best practices bore on the daily display of the names of the healthcare professionals in attendance and the notification of rights by the unit's healthcare manager so as to avoid this having to be done by nursing staff wherever possible, since their therapeutic alliance with the patient may be undermined.
A number of recommendations bore on the physical aspects of care delivery:

- creation of new beds to meet the growing demand;
- replacement of part of the furniture and upkeep of premises with regard to certain wards;
- bringing up to standard of seclusion rooms;
- installation of "security bolts";
- renovations to improve respect for patients' privacy, not least blinds on some doors;
- layout of individual rooms for long-stay patients.

Work on the subject of managing smoking was also recommended.

Regarding hearings with the Liberty and Custody Judge, it was recommended that lawyers representing the institution no longer attend, as their arguments give an unnecessarily contentious connotation to the debates, and that patients for whom legal counsel is compulsory - including where they have not requested such aid - systematically receive legal aid.

Furthermore, when the State representative refuses to order release following receipt of the medical certificate from the psychiatrist taking part in care delivery, systematic examination of the patient by a second psychiatrist has been requested.

The report drew attention to security measures taken by the institution, including systematic use of a police escort for any transfer of a detained patient between his or her treatment ward and the Liberty and Custody Judge courtroom, and the requirement that two members of nursing staff accompany any permissions to leave the ward, staying within the site, granted to patients committed for psychiatric treatment at the request of a representative of the State; this security practice is seriously detrimental to the therapeutic care delivery.

Measures were also recommended with a view to improving respect for the freedom to come and go: cease detaining voluntary patients and review the way nursing staff’s work is organised so that patients who are not allowed to leave their wards alone may benefit from accompaniment so that they can step outside on a daily basis. Finally, it was recommended that the institution look into the duration of hospital committals, which can vary by up to double the rate depending on the locked sectoral hospitalisation wards.

Finally, with respect to solitary confinement and restraint, a review of practices across the board was recommended, namely:

- establishing a procedure;
- requiring physicians to be present for any decision to place in solitary confinement or restraints;
- setting up traceability of measures;
- conducting a review in a bid to reduce the number;
- avoiding keeping unused mechanical restraint equipment visible, as patients can perceive it as threatening;
- keeping a bed free in a conventional room for any patient placed in solitary confinement.

Finally, it was specified that decisions to place detained patients in solitary confinement or restraint be justified solely on clinical grounds and should in no way be applied systematically on account of their administrative situation.

3.2.4 Nemours Hospital (Seine-et-Marne) – April 2015
During the inspection of this hospital, five best practices were identified and 11 recommendations issued. The CGLPL has not received any responses to these observations. No ministerial monitoring of these observations was carried out in 2018.

The best practices bore on standardisation of practices across the centre's three units and good coordination between the medical and allied health staff, opening up hospitalisation units during the day, systematic notification of the rights of sectioned patients by a healthcare manager from the psychiatric ward, systematic assistance by lawyers officially appointed by legal aid and setup of a psychiatry activity and support centre and occupational workshops.

The report recommended that renovation work be carried out in ageing premises and facilities looking worse for wear.

It also recommended improving the information given to patients by preparing a new welcome booklet and through immediate notification of their rights – even where the competent healthcare manager is absent. It also drew attention to the existence of irregular care programmes where patients have no options for challenging their committal, which effectively thus becomes almost permanent.

Regarding day-to-day freedoms, it was asked that the requirement to wear pyjamas be restricted, that all patients have the possibility of accessing occupational therapy, that only the clinical condition of patients may justify banning telephone use and that CCTV surveillance systems be announced. For children, it was recommended that juveniles who are detained on the grounds of protection be allowed to leave their room at their will.

Finally, on the subject of care, it was recommended that somatic monitoring be made possible in the absence of the physician assigned for this duty to the unit, and that placement in seclusion rooms be restricted, and prohibited under all circumstances for rooms that are not equipped with a call system.

3.2.5 Marcel Rivière Institute in La Verrière (Yvelines) – April 2015

During the inspection of this institute, three best practices were identified and ten recommendations issued. Although the CGLPL has not received any responses to these observations since the inspection, ministerial monitoring on the margins was carried out in 2018.

Best practices bore on the institution's commitment to assessing nursing staff training on patients' rights so that it can be rounded off, the quality of documentation handed to patients and accompanying explanations, and the time-bound approach to restricting patients' freedoms, based around their individual needs.

The CGLPL had recommended that freely accessible sanitary facilities be installed in all bedrooms (this was part of a plan in 2017), and that surveillance systems respect patients' privacy; the institute is committed to the latter point with close monitoring by the Regional Health Agency.

It also recommended that certain points be added to the information forms drawn up by the hospital as well as the welcome booklets, and that patients' observations be formally documented. Nursing staff training was also expected to be rounded off as far as these aspects are concerned. Finally, it was recommended that the principle and conditions for lawyers attending the hearing with the Liberty and Custody Judge be clarified.

Regarding solitary confinement and restraint, the report advised exclusive use of rooms laid out for this purpose, which, moreover, were to be brought up to standard. It also recommended starting a monitoring logbook and discussions on practices so as to clarify their conditions and limit their number.
3.2.6 Montérán-Saint-Claude psychiatric hospital (Guadeloupe) – June 2015

During the inspection of this hospital, one best practice was identified and 26 recommendations issued. The CGLPL has not received any responses to these observations. No ministerial monitoring of these observations was carried out in 2018.

The best practice bore on the systematic implementation, together with the Health Insurance System, of a procedure aimed at guaranteeing patients' eligibility to their social rights upon admission.

The CGLPL first and foremost recommended a clear strategy for improving access to health care to reduce the delivery of involuntary care.

Concerning the premises and facilities, which were in a poor state of disrepair, a recommendation was issued to ensure regular upkeep and setup of a maintenance and renovation or repair plan.

With respect to patients' rights, it was recommended that staff in charge of notification be given specific training, that the notification procedure be formally documented and recorded and the hospital's rules of procedure updated with the internal rules specific to each of the health blocks or centres. Improving the monitoring of individuals under legal protection and holding regular updates with the judge supervising guardianship and the bodies managing such measures were also recommended.

Regarding day-to-day freedoms, the CGLPL recommended guaranteeing access to telephones and confidentiality of communications and ensuring that offenders in the hospital not be subjected to more restrictive conditions than those laid down in prisons. It also recommended systematically informing patients about the changes in their account balances at the personal accounts administration.

The CGLPL also recommended developing therapeutic and occupational activities and allowing access to them on the basis of patients' clinical condition rather than their hospital admission status.

On the subject of treatment, a systematic somatic medical examination was recommended not only for each patient arriving at the hospital, especially sectioned patients, but also for all patients placed in solitary confinement or restraints. Careful management of medicinal distribution was also requested, and situations of smoking cessation where consent has not been given should discontinue.

Where children have been committed, the CGLPL stressed that the absence of any schooling in practice ran counter to their fundamental right to an education.

With regard to uptake of solitary confinement and restraint, it was recommended that such practices be reduced, their traceability ensured, and that seclusion rooms be brought up to standard. Finally, the CGLPL asked that the practice of placing offenders in solitary confinement no longer be systematic.

3.2.7 Plouguernevel unit for difficult psychiatric patients (Côtes-d'Armor) – June 2015

During the inspection of this unit, two best practices were identified and 20 recommendations issued. The CGLPL has not received any responses to these observations. No ministerial monitoring of these observations was carried out in 2018.

The best practices showed that discharge times from the unit for difficult psychiatric patients (UMD), following an opinion from the medical treatment committee, were prompt and that patients benefited from a wide range of therapeutic activities.

Several recommendations bore on information for patients, not least a review of the welcome booklet so that it informs patients of their rights, clarifying and completing the unit's rules of
procedure, drafting a protocol for harmonising the procedure for notifying administrative decisions, providing patients with complete information about their rights and, lastly, meaningfully noting down the substance of patients' observations which, to date, appeared purely nominal.

On the subject of hearings with the Liberty and Custody Judge, it was asked that patients be given information about the latter's role and a copy of the notification to attend, that the benefit of legal counsel be granted systematically and that a protocol be established ensuring that the Liberty and Custody Judge's decision is notified by trained staff, capable of delivering correct legal information.

Organisational measures were also recommended, including:

- revising the membership of the healthcare professionals' panel to ensure that the second physician is genuinely external to the care delivery;
- educating the Committee for relations with users of health institutions and quality of health care (CRUQPEC) in the existence and running of the UMD;
- enabling the ethics committee to take up own-initiative referrals of cases concerning involuntary patients;
- replacing the term "dangerous patient", mentioned in the UMD's medical plan, with "difficult patient";
- scheduling meetings between the two teams of the two units at the UMD to pave the way for collective deliberations on practices;
- reducing the length of time patients have to go without food at night, by serving either supper later or breakfast earlier;

It was also asked that the Département-level committee for psychiatric treatment (CDSP) be reinstated.

Finally, a range of measures aimed at introducing more flexibility into the strict internal order and more clearly differentiating disciplinary matters from treatment matters was recommended, such as allowing patients to watch a film or programme all the way through, easing rules governing mealtimes or authorising weekend and bank holiday visits.

3.2.8  Laval Hospital (Mayenne) – July 2015

During the inspection of this hospital, seven best practices were identified and 15 recommendations issued. The CGLPL received a response to these observations in 2016. The ministerial monitoring carried out in 2018 did not yield any new information.

The best practices bore on accommodation conditions, the effective coordination between allied health staff and the various professionals as well as the opening of hospitalisation units. They also shed light on the setup of a working group of legal experts and nursing staff on restrictions of individual freedoms as well as the existence of regular meetings between Liberty and Custody Judges and clinical psychiatrists.

The recommendations first of all concerned the hospital's resources: vacant positions should be filled and the number of hospital beds increased to prevent waiting.

Regarding hearings with the Liberty and Custody Judge, it was recommended that out-of-court hearings be organised, complete confidentiality of the patient's interview with his or her lawyer be guaranteed and that patients be informed about the financial terms of a lawyer's services.

The CGLPL also recommended renovating the intensive and specialist care unit for children and adolescents and fitting out a calming room to avoid practising solitary confinement in the patients' room.
Ending the systematic requirement to wear pyjamas and enabling sectioned patients to benefit from 48-hour unaccompanied releases - which are simply not possible in practice - also formed part of the recommendations.

Recommendations with respect to detained patients concerned ending the systematic use of means of restraint during transportation, respecting the right to maintain family ties, pursuant to the Prison Act, and defining a protocol with the prison authorities and internal procedure for their management.

Finally, the CGLPL asked that the Prefect, Mayor and Public Prosecutor pay regular visits to the hospital, as provided for by the law.

3.2.9 Sarreguemines unit for difficult psychiatric patients (Moselle) – July 2015

During the inspection of this unit, four best practices were identified and ten recommendations issued. The CGLPL received a response to these observations in 2016, to which the ministerial monitoring carried out in 2018 made minor additions.

The best practices bore on the instructive way in which Liberty and Custody judge decisions are notified, open access to cigarettes, meetings between nursing staff and patients and the collective deliberation and patient-centred organisation of therapeutic measures - solitary confinement measures in particular.

It was recommended that, for hearings with the Liberty and Custody judge, lawyers should ensure that their interviews with patients remain confidential and that medical certificates be written up in accordance with legal requirements.

Renovations to one of the buildings were recommended, and these were completed in 2016.

The CGLPL also recommended that care delivery for children entail specific measures, not least schooling opportunities. In 2016, plans were being drawn up to bring in one or two supply teachers, with the support of the National Centre for Distance Education (CNED); it is a shame that the 2018 monitoring does not reveal how these plans fared.

Similarly, the CGLPL recommended that consideration be given to Internet access for patients. No follow-up was given to this recommendation in 2016, and it was finally postponed in 2018 on the grounds that "security issues" had to be addressed first.

Finally, given the number of units for difficult psychiatric patients (UMDs) now open, the CGLPL recommended that the opportunity for a national regulation be considered to facilitate allocation in units nearer patients' geographic centre of interest – as this would help them to maintain family ties. By way of response to this recommendation, it was simply announced that the capacity of the Sarreguemines UMD was to be increased - which does not address the problem raised.

3.2.10 Saintes Hospital (Charente-Maritime) – August 2015

During the inspection of this hospital, three best practices were identified and 20 recommendations issued. The CGLPL received a response to two of these observations in 2017. No ministerial monitoring of these observations was carried out in 2018.

The best practices shed light on the issuance of a factsheet to each member of nursing staff on involuntary treatment, on the scope for organising short-term outings and on the practice of basing restrictions to freedom very much around individual needs.

The recommendations bore on the need to simplify the patient admission circuit and respect their privacy during emergencies as well as on the production of standard information documents on patients' rights and the harmonisation of units' rules of procedure.
It was also recommended that a Liberty and Custody Judge courtroom be set up in a hospital building which, in 2017, had still not been done.

Several recommendations concerned the inspections carried out in the hospital – State representative in the Département or his/her representative, President of the Court of first instance in civil and criminal matters, or his/her delegate, Mayor of the town or his/her representative – which, on the date of the CGLPL's visit, only the Public Prosecutor's Office performed. Strengthening the scrutiny of the Département-level Committee for Psychiatric Treatment (CDSP) also formed part of the recommendations. In 2017, the Minister of Health had stated her intention to bring this to the attention of the authorities; the outcome of this measure is not known.

Regarding patients' rights, it was recommended that the standard grounds for medical certificates be replaced with detailed grounds tailored to each situation (as the Liberty and Custody Judge had already requested more than once incidentally), and that care be taken over the compliance of care programmes to the principle of outpatient care delivery. Greater consideration of families was also called for, and the practice requiring patients to wear pyjamas, which was too common in some units, was flagged.

Finally, it was asked that uptake of solitary confinement and restraint be reduced and that the traceability of such measures as well as medical and nursing monitoring of the patients in question be ensured.

3.2.11 Saint-Flour Hospital (Cantal) – August 2015

During the inspection of this hospital, two best practices were identified and eight recommendations issued. The CGLPL has not received any responses to these observations. No ministerial monitoring of these observations was carried out in 2018.

The best practices bore on the quality of the therapeutic activities overseen by an occupational therapist and nursing staff and the quality of the information given to patients on their rights.

The recommendations bore on the necessary measures for compensating the hospital's remote location: organisation of a hearing with the Liberty and Custody Judge on-site to avoid patients having to undertake long journeys on mountain roads and visits by the prefectural and judicial authorities in all units – however remote. They also called for better record-keeping.

On the matter of solitary confinement and restraint, it was asked that seclusion rooms be brought up to standard, a protocol be drawn up on the use and monitoring of such measures, their traceability be ensured, and that a somatic physician monitor patients placed in solitary confinement or restraints.

Finally, the report found it regrettable that, despite the indications of the National Health Authority (HAS) in 2012, the hospital had not brought its medicinal product circuit into line with the safety requirements.

3.2.12 Sainte-Anne Psychiatric Hospital, Paris – September 2015

During the inspection of this hospital, 13 best practices were identified and 17 recommendations issued. The CGLPL received a response to these recommendations in 2017. The ministerial monitoring carried out in 2018 did not yield any new information.

The best practices bore on the well-defined procedures to be followed for involuntary committals, the key role played by the legal office and the willingness of Liberty and Custody Judges to explain their role and the significance of their decision in an instructive way. In terms of day-to-day, the running of the dining room, locking of cupboards with padlocks, installation of individual safes, patients' access to a wireless telephone loaned by the nursing staff, installation (albeit still
partial) of a Wi-Fi network and easy access to the library were all highlighted. On the subject of treatments, the confidential dispensing of medicinal products, attention paid to severely hard-of-hearing patients and the existence of a counselling and crisis centre (CAC) for an initial provision of care and encouraging adherence to treatment were highlighted. Finally, it was observed that no CCTV surveillance cameras were installed in the treatment units for "ethical protection", so as to protect patients' anonymity.

The report recommended reviewing the layout of some premises, not least in a bid to guarantee confidential conversations and enable patients in some units to go outside, as well as installing call devices in patients' rooms.

It also recommended updating information documents for patients, reducing the time it takes for new patient admission decisions at the end of the week to be signed and setting up a system for following up on Liberty and Custody Judge order notifications. It also asked that the designation of the trusted person always be sought. Lastly, it urged the ethics committee to initiate a discussion on patients' sexual freedom.

Regarding solitary confinement and restraint, the CGLPL advised against implementing such measures in an ordinary room but recommended that their traceability be improved and thought be given to the highly disparate nature of practices within the hospital. In her first response to the report, the Minister of Health pointed out that such discussions would naturally form part of the recent standards at the time. What progress, if any, has been made in this regard is not known.

### 3.2.13 Ariège-Couserans Hospital, Saint-Girons (Ariège) – September 2015

During the inspection of this hospital, four best practices were identified and 15 recommendations issued. The CGLPL has not received any responses to these observations. No ministerial monitoring of these observations was carried out in 2018.

The best practices bore on the hospital's ability to protect patients' anonymity, on the effectiveness of the Département-level Committee for Psychiatric Treatment (CDSP), on patients' permission to close their bedroom door and on the recent roll-out of protocols on solitary confinement and restraint.

The recommendations bore on the excessive number of involuntary committals in light of Article L 3212-1 of the Public Health Code (imminent danger), on the inadequate information given to patients about their rights and on the excessive length of full-time hospitalisation periods stipulated in care programmes.

In terms of day-to-day life within the hospital, the report recommended measures for making some common areas accessible to people with reduced mobility, better upkeep of premises since the conditions in some were substandard, repair of the child psychiatry areas and the upgrading of seclusion rooms that were still equipped with slop pails.

Finally it recommended that the hospital discontinue prescribing solitary confinement "when necessary", set up traceability of solitary confinement and restraint measures and stop systematically placing detainees in solitary confinement solely on account of their status, instead dealing with them in light of their mental health and the treatment they require.

### 3.2.14 Psychiatric centre of Le Havre hospital group (Seine-Maritime) – November 2015

24 recommendations were issued following the inspection of this centre. The CGLPL received a response to these observations in 2017. The ministerial monitoring carried out in 2018 did not yield any new information.
The recommendations bore first and foremost on staff: namely, to recruit physicians, which was done with the creation of seven positions, and to stabilise and train the nursing staff, which seems to have been acted on in a positive manner.

It was also asked that the premises be improved by undertaking full-scale renovations to ensure that each patient can be provided with stable accommodation. Plans along these lines were carried out in 2017 and rounded off with a plan for transitional flats. It is regrettable that the Minister of Health does not have any information about the outcome of these plans.

With respect to patients' rights, it was recommended that admission decisions be notified according to a protocol guaranteeing that patients are aware of and understand the reasons, that a specific welcome booklet for psychiatry be drawn up and that patients be clearly informed about their rights regarding involuntary care and about the intervention of the Liberty and Custody Judge.

Concerning treatment, it was recommended that a care programme tailored to patients accommodated in a counselling and crisis unit be drawn up so as to guarantee a coherent care pathway based around individual needs and a principle of freedom. An improvement in the way treatments are administered was also called for, so as to enable meaningful and confidential interaction.

On day-to-day matters, the report recommended improving the quality and serving portions of meals and a firmer stance on cracking down on drug trafficking, which gave rise to a meeting in 2016 with the local police force. There was still work to be done in this regard in 2017. The Minister of Health has not been apprised of the outcome. Finally, it was asked that discussions be held on patients' sexual freedom.

On the subject of solitary confinement and restraint, it was recommended that the length of time such practices are maintained for be limited strictly to clinical requirements, that traceability of measures be set up and that the seclusion rooms be brought up to standard, not least to ensure that the security measures and surveillance devices respect patients' privacy and dignity. Moreover, it was asked that detained patients benefit from a care programme guided solely by their individual health needs, respectful of their dignity and delivered by a trained and stable nursing team.

Finally, the report recommended broadening relations with medical-social partners, families and outpatient treatment structures in a bid to limit the length of patients' stays and foster their discharge under satisfactory conditions.

### 3.2.15 Saumur Hospital (Maine-et-Loire) – November 2015

During the inspection of this hospital, three best practices were identified and 13 recommendations issued. The CGLPL has not received any responses to these observations. No ministerial monitoring of these observations was carried out in 2018.

The best practices bore on the existence of so-called "mental health" beds on the medicine ward for patients suffering from psychiatric disorders and requiring a short stay in hospital; this avoids "psychiatrisation" in a specialist unit and facilitates access to treatment. Analysis of professional practices at regular intervals, external supervision and attention to training needs were also highlighted. Finally, a hotline manned at night by nursing staff from the rehabilitation unit, for the attention of more or less stabilised patients outside the hospital, seemed to represent a key source of relief for the latter.

In terms of patients' rights, it was recommended that the Prefect's requirements be relaxed, since these went beyond the scope of the law when it came to requests to lift a committal measure upon decision of a representative of the State; and that, since a lawyer was required to attend hearings with the Liberty and Custody Judge, their fees not have to come out of patients' pockets.
Various types of work were requested to improve the premises (comfort locks and soundproofing of nurses' offices in particular).

Regarding treatment, it was recommended that therapeutic activities be developed and the organisation of the psychiatric medical response to hospital emergencies, as well as that of the somatic provision of care for psychiatric patients, be reviewed.

3.2.16 Ferdinand-Grall Hospital, Landerneau (Finistère) – November 2015

During the inspection of this hospital, 13 best practices were identified and 21 recommendations issued. The CGLPL has not received any responses to these observations. No ministerial monitoring of these observations was carried out in 2018.

The best practices bore mainly on the very open care model practised by this hospital, which clearly associates its care provision with the principles of institutional psychotherapy. Hence:

- the mental health centre's opening hours are very extensive, including Sundays and bank holidays;
- a hotline operated outside of opening hours, which helps to reduce the number of hospital committals;
- religious practice is allowed in the same way as what might be found on the outside, thanks to special releases;
- accompanied releases are authorised systematically to allow patients to vote;
- patients are systematically allowed to keep hold of their mobile phone subject to a few rules governing use associated with communal living;
- a computer with Internet access is freely accessible during the daytime, with assistance from a member of nursing staff where necessary;
- WI-FI access was in the process of being extended;
- regular meetings between patients and nursing staff aimed at finding solutions to most adverse events;
- a guided tour of the building for a new patient, led by another patient known as the "poisson pilote" i.e. the guide;
- an active effort on the part of the hospital to allow patients not to dress in pyjamas and a solidarity fund for buying basic essentials;
- a therapeutic care model fully oriented towards socialisation, empowering patients and maintaining their ties with the outside;
- no solitary confinement or detaining patients in their rooms at all, and restraint measures applied only on an exceptional basis.

It was also found that the emergency and psychiatry wards met at least once a quarter to coordinate their methods and policies for psychiatry committals.

Finally, the hospital notified the third party of the date and place of the hearing, where a patient sectioned at a third party's request is summoned to appear before the Liberty and Custody Judge.

The recommendations bore mainly on the physical aspects of care delivery: layout of safe passageways inside the hospital, clearing of waiting times upon leaving the hearing in the hospital where it is held before being able to go back to Landerneau Hospital, layout of specific rooms for receiving visitors and renewal of fittings in bedrooms.
A range of measures were also recommended for improving information for patients, such as updating documents, better record-keeping and formal documentation of procedures.

Finally, it was asked that consideration be given to the issue of sexuality for sectioned patients.

### 3.2.17 Alliance Clinic, Villepinte (Seine-Saint-Denis) – November 2015

During the inspection of this clinic, six best practices were identified and nine recommendations issued. The CGLPL received a formal response to these observations in 2017; the ministerial monitoring carried out in 2018 did not yield any new information.

The best practices bore on:
- the excellent material conditions of accommodation;
- a free movement system relying on the handing out of swipe cards (which could also be used to close bedroom doors) to patients whose health condition permitted this;
- the excellent involvement of sectioned patients in the life of the clinic;
- a flexible approach based around individual needs as regards smoking, mobile phone use and computer use;
- a willingness to constantly improve practices and contribute to discussions on individual freedoms by setting up an ethics committee;
- no solitary confinement and use of calming rooms only under exceptional circumstances – and never for longer than three hours at a time.

During the CGLPL’s inspection, the medical care department immediately put in place a register for the use of this room.

The CGLPL recommended informing involuntary patients about the Département-level committee for psychiatric treatment and updating information documents for the attention of these patients. It also recommended, in the same way as for all the psychiatric services of this Département, that hearings with the Liberty and Custody Judge, to date held at the Court of first instance in civil and criminal matters, instead be held in a hospital and that, in the meantime, provisions be adopted at the Court to enable patients to take special routes where they do not have to come across the general public.

Attention was drawn to the unlawful nature of the blanket ban on sexual relations within the clinic, as mentioned in Article 11 of the Rules of Procedure.

Finally, implementation of the external inspections pursuant to the law was also called for.

### 3.2.18 Alès Hospital (Gard) – December 2015

During the inspection of this hospital, nine best practices were identified and 26 recommendations issued. The CGLPL has not received any responses to these observations. No ministerial monitoring of these observations was carried out in 2018.

The best practices bore on staff training and their involvement in the design of the premises which enable open and active care provision in suitable settings as well as activities supported by non-nursing staff (linen maid) and a dynamic association. Religious practice was also facilitated, and this point was highlighted.

A series of recommendations bore on patients’ rights and information for their attention:
- clearer grounds with regard to prefectural orders;
- updating statutory admission registers and keeping them on a regular basis;
- drawing up specific rules of procedure for the psychiatry centre and versions of these for each unit;
- inclusion of psychiatry in the hospital's welcome booklet;
- handing out the booklet of the users' association authorised to do advocacy work in psychiatry;
- providing more information about external support and activity structures.

Various recommendations aimed at improving the consideration given to psychiatry within the hospital; accordingly: consideration of psychiatry-related issues by the ethics committee or attendance by user representatives from the psychiatry centre or families' associations in meetings of the Committee for relations with users of health institutions and quality of health care (CRUQPEC).

Regarding medical provision, it was recommended that the team of clinical psychiatrists be scaled up as necessary and that a GP be present within psychiatry units.

It was also asked that the requirement to wear hospital pyjamas be discontinued as it offends patients' dignity, and that the distribution of medicinal products be organised in a way that preserves medical confidentiality and enables one-to-one conversation for a time.

3.2.19 Cambrai Hospital (Nord) – December 2015

31 recommendations were issued following the inspection of this hospital. The CGLPL has not received any responses to these observations. No ministerial monitoring of these observations was carried out in 2018.

The recommendations first and foremost bore on the visibly run-down premises, with accommodation rooms that have neither showers nor toilets, whose renovation should form part of multi-year hospital estate policy. It was also asked that the plans to introduce pricing of individual rooms for sectioned patients be scrapped.

The report also recommended reviewing the principle of prevalence of locked wards, including when they only accommodate voluntary patients.

Regarding hearings with the Liberty and Custody Judge, it was recommended that out-of-court hearings be organised, and that details be added to patient information, not least on their avenues of appeal.

Since solitary confinement was practised too systematically, more for convenience's sake than for any real treatment purpose, it was recommended that the statutory register be created and measures taken to reduce use of this practice and improve the material reception conditions in the seclusion room. With respect to treatments, it was recommended that consultants travel to the mental health centre and, failing that, that provision be made for procedures giving patients priority passes to medicine-surgery-obstetrics services. Similarly, it was requested that the method whereby medicines are distributed to collective tables at mealtimes be amended so as to respect the confidentiality of treatments.

Finally, the need to organise authorities' visits in accordance with the law was underscored.

3.2.20 Fains-Véel psychiatric hospital (Meuse) – December 2015

During the inspection of this hospital, seven best practices were identified and 18 recommendations issued. The CGLPL has not received any responses to these observations. No ministerial monitoring of these observations was carried out in 2018.
The best practices bore on the measures taken in terms of receiving non-French-speaking patients and the systematic granting of full legal aid to patients appearing before the Liberty and Custody Judge. The quality of the medical certificates drawn up by psychiatrists for requests to renew the section upon decision of the State representative, which show their prudence as regards certain administrative decisions, and care taken to respect the freedom of voluntary patients by grouping together all involuntary patients on the same locked ward were also highlighted. Lastly, the allocation to the Saint-Mihiel prison health unit of staff who also worked at the psychiatric hospital was commended, as this helped to prevent involuntary committals and to refer prisoners to a specially-equipped hospitalisation unit.

The recommendations bore on the need to harmonise the procedures for notifying measures, improve the conditions by which a trusted person is designated, organise the right to vote, guarantee the presence of lawyers during hearings with the Liberty and Custody Judge and raise the profile of action taken by the Département-level committee for psychiatric treatment.

The poor quality of the laundry was brought to the fore.

In terms of solitary confinement and restraint, it was recommended that such practices not serve as a form of sanction or punishment, but solely for the purposes of immediately protecting a patient or third party; not to systematically place new patients in solitary confinement and not to systematically place detained patients in seclusion rooms. The prohibition to write up solitary confinement or restraint prescriptions on a "when necessary" basis was also reiterated. Finally, it was recommended that the procedures for transporting detainees from their prison be revised.

3.2.21 Saint Malo Hospital (Ille-et-Vilaine) – December 2015

During the inspection of this hospital, nine best practices were identified and 14 recommendations issued. In 2017 a response was received in light of one of the recommendations made and, in 2018, the Minister of Health said that the others were "being examined".

The best practices highlighted an ongoing harmonisation of the internal rules between the wards, setup of a protocol on patient information and admission, drafting of a specific welcome booklet for psychiatry, definition of therapeutic projects and development of a protocol on solitary confinement and restraint. They threw light on a certain number of freedoms in patients' day-to-day routines (choosing menus, having a mobile phone). Finally, regarding admission, the confidentiality of the procedure was commended and plans to extend the emergency facilities and design a dedicated treatment area for the psychiatry sector were mentioned.

The recommendations first and foremost bore on the admission conditions. Voluntary patients should not be admitted into locked sectors, the necessary measures for addressing the difficulties of overcrowding in rooms should be taken and patients should no longer be admitted into seclusion rooms – only ordinary rooms.

With respect to information for patients and rights, it was asked that care be taken over the quality of information provided. The Liberty and Custody Judge was also advised to deliver its decisions within very short timeframes so that the notification responsibility is not passed on to the nursing staff, and to hold hearings all year round at the hospital, since periods of so-called "judicial vacation" are not of an exceptional nature enabling exemption from the legal provisions.

As regards the material conditions, renovation work on the premises was requested, which the Regional Health Agency then confirmed, as part of plans for complete reconstruction of the adult psychiatry hospitalisation units, scheduled to be delivered by the end of 2020. The other refurbishment work requested should form part of these overarching plans.

In terms of external inspections, it was recommended that visits by the judicial authorities and administrative authorities resume, and that the Public Prosecutor of the Court of Appeal and the
Prefect swiftly appoint a psychiatrist and GP as members of the Département-level committee for psychiatric treatment (CDSP) so that this committee can fully resume its missions.

Finally, it was asked that detained patients not be systematically placed in solitary confinement solely on these grounds.

3.2.22 Toulouse Teaching Hospital (Haute-Garonne) – December 2015

During the inspection of this hospital, seven best practices were identified and 16 recommendations issued. The CGLPL has not received any responses to these observations. No ministerial monitoring of these observations was carried out in 2018.

The best practices particularly shed light on patients' permanent access to their mobile phones, access to computers and the Internet, the possibilities of going out in the grounds, the possibility for patients to enjoy some privacy, and the drafting of a specific protocol for admission of a patient when the hospital's capacity has already been reached – this is considered to be an event that should only happen under exceptional circumstances.

Regarding information for patients about their rights, it was recommended that care be taken to ensure decisions are systematically notified, patients' comments are properly gathered and recorded in a document accessible to the Liberty and Custody Judge, information documents are updated, the job of informing patients is entrusted to staff who are able to explain the decision and present patients' rights in an objective manner (not least the right to appeal), and that designation of a trusted person be possible during hospitalisation – especially for patients who are unable to do so upon being admitted.

It was also recommended that inspections be improved, particularly by making them systematic in line with the legal requirements and by furnishing the inspection authorities with an up-to-date statutory register as well as a record of solitary confinement and restraint measures.

Lastly, as far as solitary confinement and restraint are concerned, it was recommended that the privacy of patients placed in solitary confinement be respected, seclusion rooms not be used for reasons of space or capacity and that detained prisoners be cared for under conditions determined by their clinical condition rather than their legal situation.

3.2.23 Cadillac unit for difficult patients – December 2015

Nine recommendations were issued following the inspection of this unit. The CGLPL has not received any responses to these observations. No ministerial monitoring of these observations was carried out in 2018.

Regarding patient information and rights, the CGLPL recommended making sure that staff were duly familiar with the rules governing involuntary treatment. It also asked that hearings with the Liberty and Custody Judge were systematically held at the hospital rather than at the court.

Further, attention was drawn to the fact that limiting the number and frequency of phone calls a patient is permitted to make may only be justified by the latter's clinical condition – the same applies for access to his or her mobile phone; the CGLPL contended that the general limitation of two phone calls a month was unacceptable.

The report also recommended that major refurbishment work be carried out, not least in terms of heating, renovation and soundproofing of telephone booths.

Finally, with respect to solitary confinement and restraint, the CGLPL asked that patients not be placed systematically in a seclusion room and pyjamas at admission, that solitary confinement only
be practised for therapeutic reasons rather than on disciplinary grounds, that confinement in an ordinary room be clearly stated in the solitary confinement record and that prescriptions for solitary confinement "when necessary" be prohibited.

4. The recommendations issued following inspections of interregional secure hospital units (UHSI)

4.1 Marseille interregional secure hospital unit (Bouches-du-Rhône) – October 2015

During the inspection of this unit, seven best practices were identified and 18 recommendations issued.

The best practices bear on tools enabling smooth management of the unit (nursing coordinator, good coordination between the prison planner and health manager, flexible management of room access, travel of hospital consultants to the UHSI) and the greater compliance with patients' rights (confidentiality of treatments, canteen system, maintaining family ties, adapting internal rules to patients' states of health).

An initial series of recommendations concerned the level of security that was too strict at times (installation of window gratings, systematically high level of escorting during external movements); the Minister of Justice does not wish to follow up on these, notwithstanding the fact that these measures stipulated for prisons apply to patients here. That said, in line with the CGLPL's recommendations, the use of restraint means is now regulated and recorded.

It was also recommended that the necessary measures be taken to offset the interruptions in exercise of patients' rights associated with the double change in prisoner register number that comes with committal to a UHSI. Although some measures have been taken, these remain very partial.

Recommendations were also made regarding the activities available to patients during their stay and their access to fresh air; action has been taken following the recommendations about activities, but patients are still unable to access any fresh air.

The CGLPL recommended that an interpreting service be made available to nursing staff, and this is now the case with a telephone service up and running since the autumn of 2016.

Finally, it was asked that the UHSI not be deemed a living or end-of-life environment in the context of applications to suspend sentences on medical grounds. The Minister of Justice considers that this recommendation has been taken on board and shared by the judicial authorities.

4.2 Bordeaux interregional secure hospital unit (Gironde) – June 2015

During the inspection of this unit, 12 best practices were identified and 11 recommendations issued.

The best practices bear on the information tools given to patients, sometimes even before their committal, and the efforts to keep hospital committals, treatments and consultations confidential. They also concern the measures taken to reduce patients' anxiety, facilitate their family relations or access to books and magazines. Lastly, particular care is shown to patients near the end of life, whether this is internally as regards the attention paid to visits by close relatives or through the application of suspended sentences on medical grounds; this is all facilitated by the trust established between the social staff, medical staff and magistrates.
The recommendations bore first and foremost on the need to improve the admission programming procedure. This measure has been undertaken by resuming running of the UHSI at full capacity (16 beds) and information measures with respect to the region's health units.

It was also recommended that where a patient has already undergone a full-body search in his or her institution of origin, s/he is not subjected to another one upon arriving at the UHSI. Another search is carried out, however, if the transfer is done by the institution of origin and there is no written document stating that such a search has been carried out. "Deliberations" on this point have been announced.

Furthermore, the CGLPL pointed out that the presence of warders in examination rooms external to the UHSI was an invasion of the patient's privacy and breach of medical confidentiality; such requirements must be taken on board without awaiting the request for withdrawal from a doctor. The Minister of Health maintained that the UHSI is continuing to raise awareness among the healthcare professionals working in the departments which most often accommodate detained patients.

On a final note, it would seem that the requested layout of an exercise yard cannot go ahead for infrastructure reasons.

### 4.3 Lille interregional secure hospital unit (Nord) – December 2015

Ten recommendations were issued following this inspection.

Regarding the rights associated with inpatients' status as prisoners, there are still separation walls in visiting rooms; access times to canteens have been reduced thanks to a new contract; kitting out of the exercise yard has begun, but is not yet complete; and the Prison rehabilitation and probation service (SPIP) now plays a greater role within the UHSI. Contrary to the CGLPL's recommendation however, there is still no social assistant.

On the subject of access to treatments, efforts to raise awareness about the confidentiality of medical consultations and treatments have been made, but only evasive answers have yet been forthcoming about the situation of patients remaining in handcuffs throughout external movements for medical reasons.

### 4.4 Lyon interregional secure hospital unit (Rhône) – December 2015

During the inspection of this unit, two best practices were identified and 15 recommendations issued.

The best practices bear on the links between the UHSI and its associated health units, as well as the information provided to the physicians who see patients at the UHSI to remind them of the ethical duties specific to this situation and clarify the specific terms for ensuring continuity of care.

The report's main recommendations concerned the relations between the medical and prison staff as well as the continuity of rights associated with inpatients' status as prisoners. In this regard, the healthcare staff hold briefings with warders and induction training is being looked into for prison staff. As requested by the CGLPL on two occasions, the logo "prison medicine" which used to feature on staff shirts is no longer in use. That said, changes in prisoner register number are still dogging the issue of the continuity of prison treatment, such that assignment to a UHSI – in spite of the commendable efforts made by the services – is continuing to lead to interruptions of various kinds (right to make phone calls, visits, correspondence, financial resources, canteen and so on). The same applies when patients return to hospitals where there is a continuity of care requirement. UHSI transfer and reception procedures – the complexity and shortcomings of which the report laid bare – are currently being reviewed. Digitisation of the canteen procedure has helped to secure transactions and shorten timeframes. The welcome booklet for patients was updated in 2018.
The report also recommended laying out an exercise yard, but because the UHSI was not designed at the outset to accommodate such an area, this recommendation has not been followed up on. The Minister of Justice does, however, indicate that a future cross-government instruction on the running of UHSIs should include provisions on conditions for exercise.

The CGLPL also issued recommendations on the traceability of restraint measures deployed and respect for doctor-patient privilege and confidentiality of treatment. Reminders have been given about these measures, which should shortly see an analysis of practices being carried out, even though they do not seem to have led to any tangible improvements.

Finally, in line with the CGLPL’s recommendation, an association now visits patients at the UHSI on a very regular basis, in the same way as it does patients in the hospital's other departments.

5. Recommendations concerning immigration detention made in 2015

5.1 Recommendations set out in the 2015 annual report

These recommendations bore on the material detention conditions, access to information and scrutiny by the Liberty and Custody Judge.

Regarding the material conditions, it was requested that detainees’ access to fresh air be extended and guaranteed and that the confidentiality of phone conversations be guaranteed. Although both of these points are clearly stated in the standard rules of procedure of detention centres for illegal immigrants, they have not given rise to the necessary refurbishment work and, as such, guarantees of their effectiveness in practice have not improved in three years.

Access to information has been facilitated by the systematic posting of the rules of procedure translated into the six languages of the United Nations. However, production of a welcome booklet in the languages most commonly spoken by detainees has not come about.

The Act of 7 March 2016 on foreign nationals' rights has brought the time-limit for scrutiny by the Liberty and Custody Judge down to two days. However, it is regrettable that said provision has not been applied in Mayotte where the previous five-day time-limit is still in force.

5.2 Emergency recommendations concerning the collective transfers of foreign nationals detained in Calais

In the Journal officiel (Official Gazette) of 2 December 2015, on emergency grounds, the CGLPL published recommendations concerning the collective transfers of foreign nationals detained in Calais.

After hearing about the roll-out of a series of transfers from Calais to seven detention centres for illegal immigrants (CRAs) across the country (Metz, Marseille, Rouen-Oissel, Paris-Vincennes, Toulouse-Cornebarrieu, Nîmes and Le Mesnil-Amelot), the CGLPL had performed on-site checks which led to these recommendations.

It found that a blanket approach had been taken to the transfers, resulting in a collective and summary procedure which deprived the detainees of access to their rights and led to violations in the right to maintain family ties, inadequate access to legal information and advice, stereotypical acts and procedures not based around individual needs as well as de facto nullification of appeal time-limits and judicial scrutiny. The material conditions of this operation were undignified for the individuals detained and staff alike: overcrowding in cells, gendarme and police officers who were dedicated but worn-out by the sheer burden of work. The CGLPL had concluded that the immigration detention
procedure had been misused in a bid to relieve Calais, where deportation was not on the cards, and there was a very high proportion of lightning-quick releases.

It therefore recommended bringing this procedure to an end and only placing foreign nationals in detention where removal was a genuine likelihood, strictly for the time required to make the necessary preparations, since the fundamental rights of persons deprived of liberty must be respected in all circumstances – including in times of crisis.

In his answer, published in the appendix to the recommendation, the Minister of the Interior did not call the CGLPL's findings into question but stressed the scale of the crisis France was facing at the time this operation was conducted, challenged the CGLPL's legal analysis of the notion "misuse of the procedure" and emphasised the support measures taken to offer migrants alternative options – including reception in a temporary accommodation and support centre for immigrants (CAO) or an asylum application in France.

Although the situation is not the same in 2018 as back in 2015, the CGLPL has nonetheless been notified of incidents similar to the operation it had criticised back then. For example, immigrants detained on the Grande-Synthe site near Dunkirk have been placed in the Coquelles CRA or transferred to CRAs much further away, including in Le Mesnil-Amelot, Toulouse, Rouen and Lille. In Coquelles, all of the detainees appealed against the measure before the Liberty and Custody Judge. They were deprived of legal counsel, despite their legal rights, and were not heard individually before the Liberty and Custody Judge. This once again lays bare the fact that mass immigration detention violates fundamental rights and underscores the necessity to carry out this measure on the basis of individual needs.

At a time when the number of cases and durations of immigration detention are both rising – whereas the removal rate is stable – the CGLPL can only recommend that the individual grounds for such a measure prevail systematically, that remedies are effective and in line with the principles of a fair trial, set out under Article 6 of the European Convention on Human Rights, and that the material conditions of detention are governed by a fully-fledged public policy which, for the time being, it will not be possible to finance with the €2m budget outlined for 2019.

5.3 Recommendations issued following inspections

5.3.1 Geispolsheim detention centre for illegal immigrants (Bas-Rhin) – February 2015

The CGLPL's report stressed the need to soundproof the centre which is located by a motorway hub, renovate the accommodation areas, provide materials for occupational activities, improve visitor reception and improve the soundproofing of interview booths. It also recommended improving the information provided to detainees in writing or orally, strengthening the role of the French Office for Immigration and Integration (OFII), recently reduced by half, and ceasing to involve police in the distribution of medicines and violate doctor-patient privilege during external consultations. Setup of a psychiatric consultation was also recommended. Lastly, the report drew attention to the fact that exercise of the rights to defence was undermined by the failure to state the country of return in the Obligation to Leave French Territory (OQTF).

In his immediate response, the Minister of the Interior reported the renovation work that had been carried out, although this did not include soundproofing of the centre, and the provision of recreational materials. He said that the OFII's current sessions at the centre "were in line with the applicable recommendations and the budgets available" and that the range of services available has been increased (clothing, library). He stressed that the police distribute medicines at the request of the medical department in keeping with doctor-patient privilege (sealed envelopes) and that police officers only remain in consultation rooms "when requested by the medical staff or as a security measure.
where the layout of the premises poses a risk of escape”. Finally, he indicated that a psychiatric consultation had been organised for a few months but could not be continued.

In 2018, the Minister explained that renovation work had continued and that signposting had been revised. He refused to have "comfort locks [placed] in rooms" however and sees little point in installing a shelter for visitors. In terms of access to healthcare, medicines are now distributed by nurses and the possibility of psychiatric consultations is again being looked into.

No response was forthcoming in 2015 or 2018 about the failure to state the country of return in OQTFs, probably owing to the fact that the prefectures were not consulted by the Minister prior to his response, which was evidently drafted by the border police.

### 5.3.2 Nîmes detention centre for illegal immigrants (Gard) - May 2015

Following this inspection, the CGLPL had particularly recommended improving the material conditions of accommodation (access to fresh air, better kitting-out of rooms and better food options), updating information documents, making use of interpreters, open access to the medical department and legal aid association and vigilance on the part of supervisors on police officers’ behaviour and their relations with the legal aid association.

The authorities' immediate response reiterated the existing provisions of the rules of procedure on free movement; they stated that there had been a change in catering contractor and highlighted the self-service snack and drinks machines; they held that the efforts made in terms of information and translation – particularly the use of an interpreters' telephone service – were adequate in light of the constraints encountered by the authorities.

Three years later, a supervised free movement area is currently being laid out, but the purchase of a weight bench, in the pipeline since 2015, has still not been made. Further, the authorities state that the medical department is against the idea of detainees being able to freely access their premises.

### 5.3.3 Palaiseau detention centre for illegal immigrants (Essonne) - May 2015

The report recommended that improvements be made to accommodation, particularly by repairing the electric roller shutters that had been out of order for more than three years on the date of the inspection, repairing the drinks machine, providing TV remote controls, systematically selling calling cards and replacing bedding. It also called for detainees to be given clearer information, especially individuals who are detained upon release from prison and are only informed of the measure on their release, and for the systematic provision of documents (rules of procedure, newcomers' booklet, contact details of consulates and list of lawyers), clear display of the movements scheduled (consulate, court, deportation) and systematic information about deportation plans. Regarding health care, the report advocated strict separation of the role of the GP from the expert physician, better provision of dental care and improved continuity of care upon detainees' release from the CRA.

According to the authorities' immediate response, a small proportion of the improvements requested in terms of accommodation has been done: pillows had been ordered and the drinks machine repaired; the roller shutters were still out of order though and remote controls were not made available to detainees who could have swallowed the batteries. On the other hand, the recommendations in terms of information had been more effectively put into practice: information displays have been improved, as have the documents handed out, and a procedure for informing foreign nationals released from prison has been set up with Fleury-Mérogis remand prison. Shortcomings persist however, not least owing to the authorities' refusal to translate the movement plans displayed in the centre into languages that the detainees can understand, and to provide systematic information of deportation plans.
The response submitted in 2018 did not reveal any major progress - most notably the roller shutters are still out of order for want of funds to pay for their repair: this means that they have not worked for six years at the very least, and TV remote controls are still not handed out to detainees. Regarding the withholding of information on the departure of detainees, this is now termed exceptional.

5.3.4 **Toulouse-Cornebarrieu detention centre for illegal immigrants (Haute-Garonne) – May 2015**

Following the inspection in 2015, three best practices were highlighted on the systematic performance of disinfection operations where contagious diseases were detected, on respect for privacy by CCTV and on the organisation of periodic meetings between all stakeholders working at the CRA.

These best practices still seem to prevail, but it is a shame that the authorities did not take the necessary steps to share them with other centres after they had been highlighted by the CGLPL.

Moreover, the CGLPL recommended improvements as regards the centre's accessibility, information for detainees, linen provided to them, activities available, equipment in confinement rooms and the confidentiality of telephone communications. It also recommended softening the stance on restrictions, particularly by reducing confinement rates and the handcuffing of escorted individuals.

The authorities' immediate response reported that various points had been taken on board and that negotiations were in progress with local partners to implement the CGLPL's recommendations. However, they considered that confinement and handcuffing practices were in line with the regulatory guidelines and that "the CRA manager ensures that confinement periods last for as short a time as possible"; they stressed that "two detainees who had not been handcuffed escaped in 2015".

The Minister of Health contended that "the abnormally high frequency of solitary confinement practices on medical grounds does not seem proven" and was concerned that "confusion [could] arise owing to the fact that placements on security grounds can take place in confinement rooms on health or medical grounds". She claimed to have called for vigilance on the part of the local health authorities.

In 2018, the Minister of the Interior maintained that discussions on the centre's accessibility are continuing with the Prefecture, that activities are now available in liaison with the OFII and that various material improvements (linen, confinement rooms, confidentiality of telephone conversations) have been made. Although there does not seem to have been any change as regards handcuffing, confinement practices have progressed: confinement on "security" grounds has decreased in favour of a judicialisation of offences, and confinements on medical grounds, solely under the responsibility of the physician of the CRA medical unit, are clearly distinguished.

5.3.5 **Abymes detention centre for illegal immigrants (Guadeloupe) – June 2015**

Following the inspection, the CGLPL had recommended improving the material conditions of detention (ladders on bunkbeds, mosquito nets, washrooms, intercom, open access to the exercise yard, protection of female detainees' privacy, open access to the telephone, confidentiality of exchanges during visits, etc.). It also highlighted the efforts made to provide detainees with occupational activities. In terms of rights, the CGLPL noted that the interview of each detainee with the OFII mediator was not always carried out and drew attention to an unethical practice on the part of lawyers who often asked for remuneration on top of the fees for assignment of court-appointed defence counsel, and practised a form of canvassing. On the subject of access to health care, the CGLPL emphasised that there was no doctor in the centre and that police officers attended external consultations and were involved in distributing medicines. Lastly, it drew attention to the situation of
individuals transferred from immigration detention facilities in Martinique or Saint-Martin who, upon release, were unable to return to the island they lived on as, with no legal residence permit, they could not board a plane.

In his immediate response, the Minister of the Interior highlighted the impact of the rundown facilities and the choice of alternative measures, such as supplying insecticide instead of repairing mosquito nets. Quotes had been requested for renovation of the accommodation areas, women's wings had benefited from improvements conducive to giving them more privacy and minor improvements had been made to telephone facilities. On the subject of rights, the Minister said that interviews with the OFII are systematic, although nothing seems to have changed as regards lawyers' practices. Lastly, the return to their place of residence of foreign nationals not settled in Guadeloupe is expedited by "laissez-passer" travel documents.

The updated response in 2018 did not yield any new information; it particularly mentioned that requests for quotes and plans for renovation work were still "in progress" and that there has been no change as regards access to health care.

5.3.6 **Coquelles detention centre for illegal immigrants (Pas-de-Calais) – June 2015**

The Coquelles detention centre for illegal immigrants (CRA) was inspected in 2015 amid an emerging migrant crisis, a few months before the mass transfers of migrants mentioned earlier in this chapter. The CGLPL’s recommendations were largely shaped by the consequences of the intense pressure this centre was finding itself under: they concerned addressing the signs of early wear on the buildings, bringing in officials trained in the activity of the centre, compensating the recent removal of any recreational material, increasing the presence of interpreters and improving information that was provided in an overly hasty or collective manner. Recommendations concerning improvements to premises were also outlined to make hearings with the Liberty and Custody Judge public and enable the legal aid association to work under normal conditions. Finally, it was recommended that the behaviour of certain police officers be firmly taken in hand.

In his response, in 2016, the Minister of the Interior stressed that the Coquelles CRA had not been designed to accommodate an exceptional demand in immigration detention and was naturally suffering on account of the circumstances at the time of the inspection; transfers towards other CRAs were necessary, but only towards centres located in the north of Paris, and this practice progressed over the months that followed. Staffing at the centre had been bolstered, plans to extend the CRA were being considered and renovation work was in progress. The Minister of the Interior said that sports amenities had been put back in place. He refused to heed the CGLPL's recommendations on moving the Liberty and Custody Judge courtroom which, in his view, "is not in breach of the provisions under Article L. 552-1 of the Code for Entry and Residence of Foreigners and Right of Asylum (CESEDA)" and to change the premises of the legal aid association as "the surface area is unquestionably acceptable for three officials who do not occupy these H24 premises." Lastly, regarding the behaviour of police officers, he contended that "the truthfulness of the alleged facts has not been proven", but noted a reinforcement in management staff.

In 2018, the Minister of the Interior said that the plans to extend the centre had been shelved on cost grounds, but that renovation work had been carried out in 2016 and 2017. He confirmed that equipment had been installed for detainees to engage in recreational activities. The Minister stressed that managing transfers is fraught with difficulties, however, not least towards the Lesquin CRA for removals, because most CRAs are stretched to capacity.

5.3.7 **Bordeaux detention centre for illegal immigrants (Gironde) – September 2015**

The 2015 inspection had concluded that an extension of the CRA was out of the question in view of its current premises in the basement of a police station, which was intrinsically unsuited to the centre's
duties. The detention conditions there are substandard and the working conditions arduous. However, the CGLPL did find that the centre's managers showed concern for the quality of reception of detainees and managed to have all officials share their high standards in terms of respecting the rights and dignity of detainees; such behaviour contributed to a relatively calm atmosphere within the centre: care was taken in the use of handcuffs and periodic meetings between all stakeholders chaired by the director of the centre helped to nurture mutual trust. It recommended improvements in terms of information, notification of rights and traceability of restraint measures.

No response was immediately forthcoming from the authorities following this inspection. In 2018, the centre's relocation was not on the cards for the Minister of the Interior, but the latter did report measures taken in response to the other recommendations.

6. Recommendations concerning juvenile detention centres published in 2015

6.1 Recommendations set out in the 2015 annual report

The CGLPL had recommended raising the professional standards of and stabilising juvenile detention centre teams to improve the supervision of young offenders; to that end it suggested setting skill requirements for professionals and continuing to scale up staff numbers, both by recruiting staff with the required skills and the right profile and by designing specific training programmes.

In 2016, a dedicated "HR" action plan for juvenile detention centres (CEFs) was set up in a bid to improve the recruitment and training of CEF staff in particular.

In terms of hiring, two trials aimed at more clearly defining motivations and the matching of profiles were being conducted across four interregional directorates: the first concerned the profiling of youth worker positions and technical teachers in CEFs and the second involved recruitment via an agency specialising in the educational sphere. Specific procedures have also been set up to recruit Educational Unit Heads (RUEs) and Department Directors (DSs) in juvenile detention centres. Following an 18-month trial, a second Educational Unit Head position has been assigned to all public juvenile detention centres from the autumn of 2017 thanks to the conversion of a youth worker position.

Regarding training, the National Academy for Youth Protection and Juvenile Justice (ENPJJ) has designed a specific programme for staff working on accommodation premises, not least in CEFs, which was rolled out in territorial training centres in 2016, on-site sessions have been organised and training extended to the associations' sector. Specific support has been set up for contract workers in CEFs, particularly as regards validation of knowledge acquired through experience (VAE) procedures.

Measures aimed at optimising educational action during detention were also recommended. The Minister of Justice maintains that these recommendations align with the instructions of the Judicial Youth Protection Service Directorate (DPJJ) and the recommendations outlined in the report submitted by the IGAS/IGSJ cross-government evaluation mission dated July 2015. She points out that most of the recommendations had already been taken on board by the DPJJ across five themes: dignity and physical integrity, right to private and family life, right to health, freedom of conscience and expression, staff and organisation of service. She insists that the specifications for public CEFs and "guidelines on drafting the operating regulations concerning collective court-ordered placement

45 Order of 31 March 2015.
institutions in the public sector and authorised associations sector\(^6\) have rigorously incorporated the CGLPL’s recommendations as far as the fundamental rights of children are concerned.

The CGLPL also recommended measures aimed at enhancing support for children when they are released. The Minister of Justice says that the provisions set out in the justice programming act (which was under parliamentary review on the date this report was being drafted) will enable consolidation of CEF operations, not least as regards preparation for release from these centres and their open stance towards the outside: there is provision for the possibility of organising temporary reception on other sites in the context of detention in a CEF and the gradual transition towards another type of detention or towards return to the family will become possible.

The CGLPL recommended better prevention of crises and functional problems. The Judicial Youth Protection Service Directorate has set up a risk control programme as part of the cross-government provisions on internal auditing\(^7\): on the one hand it has developed its own approach to controlling risks at the different levels of its organisation, and on the other it has revised its internal control process. In 2017, the DPJJ set up a cross-disciplinary management support unit with two policy officers tasked with specifically monitoring incidents reported, inspections and checks. The Minister of Justice explains that the performance of analyses (risk mapping), identification of practices to be capitalised on and documentation of action plans are preventive measures likely to contribute to the continuous improvement of practices. Each interregional directorate now has a customised risk management action plan tailored to their specific situation and informed by the main priorities of the national action plan. This has made it possible to promptly set up measures bearing on management of violence, secure the complaints mechanism for reporting incidents by recalling the purpose thereof and creating institutional fora for handling incidents.

Lastly, the CGLPL recommended stepping up coordination and clarifying oversight of the system.

The Minister of Justice maintains that, since 2014, coordination of the CEF system has been subject to specific instructions, the primary aim of which is to guarantee the roles and positions of each link in the chain: the central administration coordinates the system at national level and the interregional directorates oversee the centres. The DPJJ’s internal oversight system was reorganised in 2017 and is now based on an operating or thematic inspection rounded off by an incident- or functional problem-based inspection. Each interregional directorate produces a summary of these inspections which is presented to the interregional risk control monitoring committee. At national level, a summary informs and adjusts the directorate’s policy. The role of following up on recommendations issued by the supervisory authorities external to the Judicial Youth Protection Service (IGJ, CGLPL, etc.) has been identified. On a final note, the Minister of Justice orders inspections at regular intervals at the request of the Judicial Youth Protection Service Director, sometimes following a request from the CGLPL.

### 6.2 Recommendations issued following centre inspections

For all juvenile detention centres visited in 2015, this was a second inspection.

**6.2.1 Laon juvenile detention centre (Aisne) – May 2015**

During the inspection of this centre, eight best practices were identified and 11 recommendations issued.

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\(^6\)DPJJ memo dated 4 May 2015.

\(^7\) Decree No. 2011-775 dated 28 June 2011 on internal auditing.
The best practices concerned the support given to young offenders before the courts by their youth workers, quality of daily monitoring of educational action, earnest consideration being given to educational practices, reception and disciplinary practices, youth workers' efforts to look for juveniles who have run away, participation in a national sports event, dynamic educational measures and consideration of preparations for release throughout the young people's time in the centre.

Several recommendations bore on disciplinary issues: accordingly, no list of punishments has as yet been drawn up, but the centre claimed to be working on this; the inventory of offences and associated punishments, which the CGLPL requested to encourage an objective determination of this association, had not been done, nor had the formalisation of relations with the judges in charge of relevant cases. The juvenile detention centre (CEF) did not wish to apply the recommendation that telephone communications, except in cases which are duly justified, take place in private once the correspondent has been identified. Various other recommendations made by the CGLPL have been applied, however: the centre's steering committee has resumed meeting at regular intervals, young people are involved in managing their pocket money, the individual record model has been harmonised and the words "CEF de Laon" (Laon juvenile detention centre) have been removed from the road safety certificate handed out to the juveniles. But although community living meetings were proposed as requested by the CGLPL, it is a shame that this is only in an informal manner.

The Directorate for Judicial Youth Protection (DPJJ) explains that the delay in following up on the CGLPL's recommendations is down to a major reshuffle of the centre's workforce, not least the management team. An ongoing update of the strategic plan and protocol for managing incidents should enable the CGLPL's recommendations to be taken on board "by the end of the 1st quarter 2019."

### 6.2.2 Marseille juvenile detention centre (Bouches-du-Rhône) – June 2015

14 recommendations were issued following this inspection.

A number of recommendations concerned the recruitment and training of qualified staff. A "human resources" action plan was drawn up at the end of 2015 following the national plan for juvenile detention centres (CEFs), for the benefit of youth worker transfers, and a more experienced management team has been recruited; internal training measures have been rolled out.

Regarding provision for the young offenders, the centre does not wish to revive a schooling agreement with the sectoral secondary school, as requested by the CGLPL, citing the inadequate level of the children received, but it has acted upon the request to strengthen the "integration" unit, which now enables each child to have an agenda based around individual needs in line with his or her progress.

In terms of involving families in young people's care provision, information documents are now handed out to holders of parental responsibility, but the setup of an institutional forum for holding talks with parents is still at the planning stages: regular interviews with families and their involvement in the key stages of provision are already practised. It was also recommended that a stricter disciplinary framework be set up and that youth workers become more familiar with it. A "scale of sanctions", which safeguards family relations, was implemented in 2016.

Finally, with respect to access to health care, greater respect for confidentiality and prevention of addictions were recommended and have been put in place. The CEF exercises supervision of tobacco consumption which it considers likely to help reduce trafficking risks.

### 6.2.3 Angoulême juvenile detention centre (Charente) – June 2015

During the inspection of this centre, three best practices were identified and two recommendations issued.
The best practices bore on the fact that disciplinary sanctions do not impact family relations, judges are given clear, relevant information and the CEF's links with open-custody youth workers have been strengthened. The Minister of Justice states that these three measures correspond to guidelines given by the Judicial youth protection service (PJJ).

The recommendations concerned the need to stabilise the teaching duty, which has been done, and the need to recruit a nurse, which has also been done.

6.2.4 **Dreux juvenile detention centre (Eure-et-Loir) – January 2015**

During the inspection of this centre, three best practices were identified and ten recommendations issued.

The best practices bore on the quality of individual educational plans and the fact that teaching was based around individual needs. But these have not been sustained because of the centre's struggles with formalising and applying the tools of the 2002 legislation as well as the educational team's difficulty getting to grips with the latter and taking it on board.

The recommendations concerned the need to train the team in a professional delivery of care for the young people and an analysis of its practices, to change educational practices where discipline is the sole focus, increase the number of hours devoted to teaching, formally document skills learned during work experience and bring back psychiatric monitoring.

An inspection conducted at the end of 2017 by the Ministry of Justice's departments laid bare substantial governing difficulties that have had an impact on staff training in several respects associated with educational provision, which is nevertheless necessary, in light of the failings observed in this respect. It also brought to light a lack of support plaguing the practices of various staff members, as well as their professional conduct and practices, compounded by a lack of reference framework and strategic plan. Major operational difficulties, particularly in terms of governance and management, could not be resolved despite support from the interregional directorate and territorial directorate of the Judicial youth protection service. The centre was therefore closed down on 5 August 2018.

6.2.5 **Mulhouse juvenile detention centre (Haut-Rhin) – July 2015**

Ten recommendations were issued following this inspection.

The CGLPL first and foremost recommended strengthening support for the team at a time of major transition. Support has been put in place, but the centre's situation remains unstable over the foreseeable future: half of the team changes every year and recruitment is problematic.

It then recommended encouraging familiarity with educational documents, a point on which the CEF seems to have progressed with a complete update of these documents and the arrival of a second educational department head. These measures were also an opportunity to clarify the contents of young people's records as the CGLPL had requested. However, although work on adding more details to individual care provision documents has begun, more could still be done. The CGLPL recommended increasing the number of hours of schooling, but this has not been done, on the grounds that the inadequate level of the young people calls for provision on an almost one-to-one basis.

Discussions on professional confidentiality – doctor-patient privilege in particular – were initiated in 2017, as the CGLPL had recommended. Similarly, the psychologist's role and information given to young people on this point have been clarified.

Regarding punishment, the centre has completely rewritten the scale of sanctions with a significant educational focus for the benefit of young offenders, the aim being to carry out educational
work on prohibition and more generally on deeds. At the CGLPL's request, the centre has stopped conducting full-body searches, but uses a metal detector. Finally, in line with the CGLPL's request and the judicial youth protection service's national instructions, following collective discussions on the subject the centre is no longer enforcing sanctions which would adversely affect the young people's ties with their families.

6.2.6 Port-Louis juvenile detention centre (Guadeloupe) – June 2015

During the inspection of this centre, two best practices were identified and 22 recommendations issued.

The best practices bore, on the one hand, on the removal of CCTV surveillance, which increases human vigilance; this is in line with the national instructions according to the Minister of Justice. CCTV surveillance should only be used in outdoor areas. On the other hand, they bore on the information given to each young person prior to the forwarding of documents concerning them to the judge.

Several recommendations concerned the continuing professional development of employees, on which a number of measures have been carried out. Others concerned the material conditions of care provision: fitting-out in rooms has been improved, showers can now be closed and various minor repairs have been carried out; the young offenders now have access to drinking water and it has been possible to review the menu planning procedure thanks to the recruitment of new professionals.

Regarding procedures within the centre, it was recommended that all room inspections take place in the presence of the young people in question, which is now the case, in line with the instructions of the DPJJ. "Debriefings" are now scheduled for managing incidents and a protocol has been signed with the local police authorities. Use of "restraint", which is prohibited by the instructions of the DPJJ, is limited solely to situations of grave and imminent danger for the young offenders in detention.

The CGLPL also recommended stepping up support for young people so that they are not left alone and enclosed anywhere and that they are accompanied outside of organised activity periods. In response to these recommendations, planned educational mediation activities and sports activities are now included in timetables, activities in "sub-groups" are being trialled and an educational programme aimed at helping young offenders to regulate their day-to-day behaviour is set to be carried out daily in 2019. At the same time, body building, which is inappropriate for growing adolescents, will be replaced by relaxation sessions.

It has not been possible to solve the problem of the unstable nursing position. Although the regularity of consultations, information provided to young people about medical data shared or distribution of medicines have improved, the recommendations for ensuring continuity of social cover for young people who are not members of the Guadeloupe health insurance fund (i.e. who come from Martinique or French Guiana) have not been carried out. Similarly, it is still not possible to receive speech therapy. The CGLPL had also recommended setting up smoking prevention measures, and this led to an agreement with the Specialised addiction treatment support and prevention centre (CSAPA) signed in 2017.

On a final note, steps have also been taken to improve the quality of documents (welcome booklet, young people's records).

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48 DPJJ memo dated 24 December 2015 on preventing and managing situations of violence.
Chapter 4

Action taken in 2018 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.

Over and above the inspections and recommendations that may follow, the cases referred to the CGLPL are also an invaluable source of information that can lead to an initial or follow-up inspection being scheduled, or follow-up on recommendations that had been sent after an inspection to the authority responsible for the place of deprivation of liberty.

Some letters are thus an opportunity to assess how the situation inside facilities that had been inspected has progressed and to reiterate recommendations that do not seem to have been heeded.

Accordingly, in 2018, the CGLPL received a report about strip searches allegedly performed in a remand prison on several detainees outside of the designated areas, in a library with glass doors and a CCTV surveillance system. During their visit to the prison in 2013, the inspectors had found that the provisions of Article 57 of the Prison Act on the prohibition of systematic searches were deliberately disregarded within the prison, regarding searches on new arrivals, on leaving visiting rooms and on being placed in the punishment wing or solitary confinement wing. In the epistolary inquiry opened by the CGLPL following the report, the remand prison management staff were therefore asked to provide a complete overview of the performance of full-body searches within the prison: memos, individual decisions over a specific time interval, and determination of the places in which searches are practised within the facility.

The CGLPL sent to the management staff of another remand prison a follow-up request on the series of recommendations issued during the facility's inspection, in September 2015. This is because a number of letters received reported that some of the unethical practices identified were persisting: the rules of procedure were neither handed to the prisoners nor posted up within the prison, breakfast was not brought round, there was no intercom system in cells, canteen prices were not displayed, products nearing or past their use-by date continued to be delivered, ordering products that are not usually available via the canteen was not possible, cleaning products were not distributed, there was no soundproofing system in the telephone booths to keep conversations private, the library was not accessible, computers were prohibited in cells and there were no suitable means for indigent detainees, who never receive visitors, to wash their laundry.

At the time this report was written, a response had not yet been received for either of these inquiries, dating from the first half of 2018.

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

How constructive this dialogue is depends on the willingness of the authorities contacted to participate in these discussions. Ever since it was first founded, the CGLPL has written to the prison directors, the Prison Administration Department and the ministers concerned at regular intervals to ask for their comments about the violations of rights alleged in the case referrals it receives. But for several months now, the CGLPL has been disappointed to see more and more inquiries going unheeded and the time it takes to receive replies from prisons in particular growing considerably longer.

Regarding the prison authorities, their setup in July 2017 of a centralised system for responding to CGLPL inquiries saw responses to the inspections initially addressed to the prison directors almost completely dry up – and the rare responses that were received took so long to arrive that they were often no longer relevant.

Since July 2017, the responses to the inquiries sent to the prison directors have been written by a department within this administration.

For its part, the CGLPL is continuing to contact all facility directors directly since, where prisons are concerned, they are the most able to respond, both during missions and the processing of referrals and, pursuant to the Act of 30 October 2007, "the individuals responsible for the place of deprivation of liberty".

The situation unfolding since the prison administration department's setup of the centralised system for responding to inquiries is hindering the CGLPL's mission. Moreover, contrary to this department's stated aim, the quality of responses has not improved. The explanations issued are often no longer relevant because of the time that has lapsed, and it is not uncommon for responses to be incomplete and for the requested documents to be missing.

After a year of this new system being up and running, the CGLPL finds that the response timeframes have grown considerably longer and that a very high number of inquiries go unanswered. Up to July 2017, around 13% of inquiries went without response. On 1 January 2018, there had been no responses for 67% of inquiries between August 2017 and the end of December 2018.

In 2018, the proportion of inquiries addressed to prison directors was around 60%. 82% of these were still pending a response on 1 January 2019.

When the CGLPL does receive responses from the prison administration department (DAP), these take 7 months to arrive on average (in 2017 and 2018) versus 3 months for responses received directly from prison directors.

The CGLPL receives a lot of letters from prison directors, following a reminder, saying that they had sent their comments to the DAP several months earlier.

In addition, the time it takes for the CGLPL to receive answers to inquiries on nationwide concerns it has directly questioned the DAP or Ministries of Justice, the Interior and Health about are also getting longer.

To give an example, in spite of multiple reminders, the CGLPL has not received a response regarding an inquiry into the consequences of detainees' committal to a UHSA, USHI or the EPSNF, sent on 21 December 2016, nor regarding an inquiry dated 20 March 2017 on the introduction of a set fee for taking the driving theory test while in detention.
The CGLPL cannot make due progress in its work without these responses. The CGLPL bemoans the fact that the ministerial directorates with which it holds regular talks, not least the Prison Administration Department, have not organised the adequate means for responding to its requests within reasonable timeframes.

What is more, in 2018, the CGLPL has again received too many reports from individuals about the negative impact their sending of letters to the CGLPL has subsequently had on their detention. Before analysing the case referrals in 2018, it appears necessary to address this matter.

7. Violations of the confidentiality of correspondence principle and suspicions of reprisals with regard to detainees

Article 4 of the Prison Act of 24 November 2009 stipulates that correspondence between detainees and the Chief Inspector of Places of Deprivation of Liberty is confidential. Said principle means that the prison authorities must not, upon dispatch or receipt by the detainee, open, read, note down or withhold such correspondence.

And yet, in 2018 the CGLPL’s attention has been drawn to more cases than in previous years of certain penal institutions not complying with this principle and of facts that are likely to infringe upon the provisions of Article 8-2 of the aforementioned Act, which state that "No penalty may be pronounced and no harm may result solely because of links established with the Chief Inspector of places of deprivation of liberty or information or documents given to the latter referring to the performance of his/her duty".

In one remand prison, the letter that a detainee had addressed to the CGLPL was opened by the prison authorities and the detainee was summoned to a hearing by the facility director. The letter, meanwhile, never reached the CGLPL.

One detainee in a penal institution who had contacted the CGLPL was asked, during a hearing with a prison officer, to hand over a letter that the CGLPL had sent to him.

In another prison, a prison warder asked the prisoner to open the envelope containing a letter addressed to the CGLPL. This prisoner was then summoned by a prison officer who asked what she intended to do with the letter; the prisoner decided to throw it away for fear of reprisals.

The registry of one long-term detention centre forwarded to the CGLPL the copy of a letter it had addressed to a detainee, which bore both the signature of the detainee and the stamp of the registry department with the receipt date. With no accompanying letter or explanation, the CGLPL contacted the centre's registry which responded by saying that the detainee had been notified and the fax sent to the CGLPL on instruction of the centre's management. Several individuals within the centre were therefore able to learn of the letter addressed to the detainee, which is evidence of a serious failing in the handling of protected correspondence by the units within this centre, and a violation of detainees’ freedom of correspondence.

In all four of these situations, cited as examples, the CGLPL has issued a reminder of the principle of such correspondence remaining strictly confidential, specifying that any attempt to obtain a copy or find out the contents thereof is liable to violate this principle. Furthermore, the CGLPL has sought to stress that anyone must have the possibility of freely reaching out to its services without fearing subsequent punishment, criticism or any deterioration in their detention conditions. In this instance, the CGLPL has considered that the position of authority of a member of prison staff –
especially management staff – is likely to spark such fears, whether or not they are founded. The CGLPL has therefore recommended to the heads of the facilities concerned that they remind all of their staff of this principle.

Where such actions occur, the CGLPL shall not hesitate to demand application of the provisions concerning the offence of obstructing, pursuant to Article 13-1 of the Act of 30 October 2007 amended: "Obstructing the Chief Inspector of places of deprivation of liberty in the course of his/her duties is punishable by a fine of €15,000: […] 3° Either taking measures to obstruct, by threat or illegal action, relations that any person might have with the Chief Inspector of places of deprivation of liberty in application of this Act; 4° Or ordering a penalty against a person solely because of links established with the Chief Inspector of places of deprivation of liberty or information or documents relating to the performance of his/her duty which this person may have provided".

8. Nationwide concerns identified by referrals, a few examples of case referrals in 2018

The high number of referrals received by the CGLPL through the year bring to light, over and above isolated cases, failings and violations of the rights of people deprived of liberty that go beyond an institution or region and call for nationwide responses. Although most of the investigations undertaken by the CGLPL concern institutions in particular, several inquiries are submitted every year to the Ministers of Justice, the Interior and Health, or some of their directorates, not least the prison administration department (DAP). Several inquiries were also sent to the Prime Minister in 2018.

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 legislative or regulatory amendments, and sometimes to suggest the dissemination of best practices.

The previous annual report addressed these inquiries in more detail. Mention was made of the themes discussed with the Ministers of Justice and the Interior, as well as with the Prison Administration Department, along with a certain number of inquiries to which no responses have been forthcoming. In 2017, the Chief Inspector contacted the Ministers of Justice and the Interior on four occasions. It referred 17 general concerns to the prison administration department. In 2018, it contacted the Ministers of Justice and Interior on five occasions, the Prime Minister twice and the Minister for Solidarity and Health once; the DAP was referred 11 general concerns.

At the time this report was written, some of the referrals already mentioned in 2017 were still pending an answer: referral on night rounds⁴⁹, on the consequences on the exercise of detained persons’ rights of committal to specially-equipped hospitalisation units (UHSA) and interregional secure hospital units (UHSI) or the difficulties associated with the introduction of a set fee for taking the driving theory test.

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⁴⁹ See the CGLPL’s annual reports for 2015, p.69, and 2016, p.94.
New inquiries have been conducted on newly identified or long-standing issues: inquiry into the prison warders’ strike of January 2018, continuing discussions on the right to vote. Where some issues are concerned, the CGLPL has reached out to different authorities: given the failings observed and the discontinuation in any dialogue between the Ministers of Justice and the Interior on the matter of renewing identity documents in detention, the Chief Inspector has finally contacted the Prime Minister about this.

Other inquiries, for which responses were pending for a long time, saw progress in 2018, which will be addressed below: on application of the pension scheme specific to prisoners in the general service category, on difficulties relating to external movements and permissions to take escorted leave.

8.1 Referrals for which responses have been forthcoming

8.1.1 The "Digital in Detention" programme trial

As part of an inquiry on the management of appeals lodged by detainees, the CGLPL questioned the Prison Administration Director about the means to empower detainees in exercising their appeals and, more broadly, on the merits of the current trials being carried out on digital technology in detention in light of the goal to empower detainees.

In response, the Prison Administration Director provided general clarifications about the "Digital in Detention" programme trial in three pilot prisons. There are three target groups for this trial: staff, families and detainees. The aim with respect to the latter is to empower them in certain areas of life in detention, such as when scheduling visiting room sessions.

The Prison Administration Director explains that "the Digital in Detention portal will be accessible from the corridors, activity rooms and cells via the provision of terminals. The portal will contain a range of services including access to information about the prison and personal information; internal e-referrals; digitised canteen orders and a digital work environment (access to a platform displaying the contents of educational partners)".

Through the system it will also be possible to send case referrals to external persons; these will be printed and transferred by the mail officer either by post or email, "according to a process to be defined subsequently".

It does not provide detainees with access to their criminal record, however.

An assessment is planned ahead of the broad-scale roll-out from 2019. Given the importance of empowering and reintegrating prisoners, the CGLPL will keep a close eye on the progress of this trial.

8.1.2 Detainees’ pension contributions

For some years now the CGLPL has been holding talks with the Prison Administration and Social Security Directorate aimed at improving the measures in place enabling detainees to claim back their pension entitlements.

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50 See the CGLPL's annual report for 2016, p. 96.
51 See the CGLPL's annual report for 2016, p. 101.
52 The Nantes and Meaux prisons (with sections incorporating different kinds of prison regime) and Dijon remand prison.
53 See the CGLPL’s annual report for 2016, p. 96.
By letter dated 14 August 2018, the Prison Administration Director forwarded the "guide on the processing of requests to reconstruct personal career paths involving a period in detention" to the CGLPL. Designed by the DAP, this guide has been distributed to penal institutions and Interregional Directorates for Prison Services (DISPs). It stipulates the legal and regulatory framework, supporting documents to be furnished and their delivery procedure so that detainees can exercise their rights to a pension and reconstruct their career paths.

The DAP informed the CGLPL that it amended its procedures in 2017 with a view to more effectively consolidating processing of social data upstream. It also maintained that it has exercised close scrutiny over the general service old-age insurance contribution amounts and the application of the special scheme regarding the general service old-age insurance amount.

In its reply to the Prison Administration Director, the CGLPL indicated that these measures looked as if they would effectively enable detainees to access their pension entitlements. In particular, this guide's publication is likely to provide clear, pertinent information for the individuals in question. That said, the CGLPL considers that, in addition to distributing this guide to penal institutions and DISPs, providing copies of it in prison libraries would guarantee its distribution to detainees themselves and so guarantee their right to information.

8.1.3 Discussions with the CEO of the public employment service Pôle Emploi about an indication in the records of former detainees.

Following a report, the CGLPL contacted the CEO of Pôle Emploi about an indication in the records of released jobseekers, clearly stating that they had spent time in prison. Accessible to all officials who may find themselves working on individual situations, such an indication was likely to prompt discriminatory behaviour on their part towards the jobseekers in question. In its letter to the CEO of Pôle Emploi, the CGLPL suggested that this would have been a useful indication for considering applications for the temporary waiting allowance (ATA) for which certain categories of individuals "pending reintegration", including released prisoners, could be eligible for a 12-month period. But this allowance was abolished by Decree dated 5 May 2017, as from 1 September 2017.

In his answer, the CEO of Pôle Emploi confirmed that the purpose of this indication was indeed to facilitate payment of this allowance. He explained that this scheme would cease in 2021 and that, in this information framework, should remain accessible.

He did, however, undertake to introduce a technical amendment from the first half of 2019 to remove this indication from the summary grid to which all Pôle Emploi adviser have access; this information will remain accessible on compensation screens which can only be accessed by advisers who manage the rights of jobseekers.

8.1.4 Permissions to take escorted leave cancelled for want of a prison escort

Following an initial inquiry with the Ministers of the Interior and Justice about cancelled judicial transfers and permissions to take escorted leave since such missions were taken over by the Prison Administration, the Chief Inspector contacted the Minister of Justice again in April 2018 about the situation of a remand prisoner who had been granted three permissions to take escorted leave: to go to the bedside of her dying mother, then to her mother's funeral, and finally to pay her respects at her grave immediately after the funeral. None of these decisions were actually enacted; the remand prisoner was finally granted permission to leave one and a half months after her mother's death, to pay her respects at her grave.

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54 The indication was as follows: "NS DETENUS"
In her reply, the Minister of Justice said that the DISP had not been able to organise these visits since there were not enough staff to escort the prisoner, her leave having been scheduled at the same time as other "high-stakes" external movements in procedural terms which took priority, pursuant to the Circular dated 28 September 2017.

It is unacceptable that a prisoner cannot attend her mother's funeral when a judge has given her permission to do so. The Chief Inspector despairs of the persistence of such situations, which run counter to the fundamental right of detainees to maintain their family ties and generate considerable sadness and frustration for these detainees because of how important such events are in a person's life.

The Circular of 28 September 2017 does group permissions to take escorted leave under the term "external prisoner movements", but the arguments applied are grounded in the needs of courts concerning the external movements and judicial transfers rather than in respect for the fundamental rights of the individuals in question, particularly where permissions to take escorted leave for major family events are concerned. Without casting doubt over the importance of judges' work and the requirement for reliable implementation of requisitions when it comes to external prisoner movements, such a shortcoming is regrettable.

The Chief Inspector reiterates the recommendation issued in its 2016 Annual Report, according to which the prison administration must devote sufficient staff numbers to these fundamental missions for respecting prisoners' rights. It also appears judicious for the gendarmerie and police forces to be able to reinforce prison administration staff numbers where there are shortages, by extending the scope for reinforcement stipulated in Article D.57 of the Code of Criminal Procedure.

Moreover, despite the CGLPL's request, the Minister of Justice has not forwarded any information allowing an assessment of tangible progress made by her departments since the adoption of the Circular of 28 September 2017 and the new plans, schedules, tools and checks planned for ending the major failings that have arisen since the Prison Administration took over responsibility for external prisoner movements and transfers as well as permissions to take escorted leave.

The CGLPL is maintaining a vigilant stance in this respect, and will certainly contact the Ministries of Justice and the Interior again about the failings identified if necessary.

8.1.5 The widespread installation of gratings across penal institutions

An inquiry into the widespread installation of gratings across penal institutions was mentioned in the 2017 Annual Report. At the time, the DAP had not responded to the CGLPL's referral, which cited the negative impact of the widespread roll-out of this system observed during inspections and in case referrals: less light, a greater sense of isolation for detainees, reading and working by natural light is no longer possible and the onset or worsening of eyesight problems.

The CGLPL had stressed that such a system violated prisoners' fundamental rights and appeared at odds with the provisions of Article D.351 of the Code of Criminal Procedure, which provides that "In all places where prisoners are required to live or work, the windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they

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55 See the CGLPL's annual report for 2016, p. 75.
can allow the entrance of fresh air. Artificial light shall be sufficient for the prisoners to read or work without injury to eyesight”.

The Chief Inspector had indicated to the Prison Administration Department (DAP) that, in light of these findings, it appeared advisable to suspend the installation of grating in penal institutions and to consider other measures for meeting both the requirements bearing on security and cleanliness of communal areas and the right to sufficient lighting and aeration in cells.

In response, the DAP contended that the installation of grating had struck as necessary so as to avoid copious amounts of food and waste from being discarded at the foot and around accommodation buildings, which generates acute risks in terms of public health. It pointed out that the installation of grating had unquestionably curbed this phenomenon and that, as such, it was not considering questioning its use in institutions where it had been installed.

It nevertheless said that it would monitor the positive effects that certain developments could have on behaviour: introduction of the gastronorm food pan, development of an honour system, collective initiatives in favour of sustainable development and enhancing educational actions. Furthermore, the DAP explained that the new prison estate programme was striving to find technical solutions combining both the hygiene requirements and layout of an environment conducive to well-being and keeping good lighting in spaces. Accordingly, the programming framework specifies that proposals must be included on expanding window cover, with consideration of which way façades face and the possibility of combining fixed sashes with no grating or bars with chassis that do have it. Finally, the technical programme stipulates that window openings in cells in the women's wing and trustee wing do not feature grating in addition to bars.

In her reply, the Chief Inspector recommended that the Prison Administration continue its deliberations on other systems for meeting both the requirements bearing on security and cleanliness and detainees' right to sufficient lighting and aeration in cells.

### 8.1.6 Timeframes for assignment and transfer to sentencing institutions

The Chief Inspector is very often contacted by detainees, their families or lawyers about the length of timeframes for assignment and transfer to sentencing institutions. In February 2018 she referred this matter to the Prison Administration Department (DAP), outlining the violations that this situation can give rise to with regard to detainees' rights – not least the right to maintain family ties.

The DAP replied that one of the services' main difficulties involves gathering together all of the legal documents necessary for processing the case file. It specified that the Decree of 4 May 2017 nevertheless helped to simplify case file processing by allowing for the case file to be compiled and processed even if there are still some documents missing one month after the criminal justice decision becomes final. The DAP mentioned the following tentative deadlines: one month on average following the final conviction for the case file to be opened by the institutional registries, two months maximum for the assignment referral file to be processed by the security and detention departments of the Interregional Directorates for Prison Services (DISPs) and one month maximum for the processing of case files by the central administration's external mission and detention management office.

It informed the CGLPL that an IT tool, the transfer and assignment referral file, had been trialled in the Lyon, Dijon and Toulouse DISPs and that it was currently being rolled out across the other DISPs. This should particularly help to expedite the whole process and produce statistics. Roll-out was expected to be complete by the end of 2018.
Regarding the execution of decisions, the Prison Administration Department (DAP) explained that this could take a varying length of time depending on the waiting times in the sentencing institutions. The waiting times for some institutions are as long as 24 months. The chronic overcrowding in remand prisons and provision of individual cells in sentencing institutions inevitably generates waiting lists in remand prisons for sentenced offenders, whose numbers are far greater than the reception capacities of long-term detention centres or long-stay prisons.

The DAP claimed to be working on optimising the occupancy rates of sentencing institutions and the transfer of sentenced persons pending execution of their assignment decision. Finally, it said that it has set up a special assignment referral system in the Parisian region where overcrowding in remand prisons is a particular problem. This system would enable the immediate transfer of detainees to Le Havre, Rouen, Beauvais or Châlons-en-Champagne.

Discussions with the DAP on this matter will continue in 2019.

8.1.7 Psychiatric assessments

In January 2017, the Chief Inspector had referred to the Minister of Justice the matter of all the problems, identified in case referrals and during missions, associated with the performance of compulsory psychiatric assessments prior to the granting of sentence adjustments, pursuant to Articles 712-21 and 730-2 of the Code of Criminal Procedure. Beyond the general shortage of psychiatric experts, she drew attention to several problems: insufficient general information for sentenced detainees about these sentence adjustments; no anticipation of the performance of assessments; time-limits existing in some courts between the application submission and the expert referral, and then during release of the report; insufficient information for detainees about these time-limits and the outcome of the assessment; the overall poor conditions in which the assessments are performed in detention and, finally, the problems associated with the evaluation procedure by the National Assessment Centre (CNE) and involvement of the Multidisciplinary Committee for Safety Measures (CPMS). The Chief Inspector also reported the best practices that had come to her attention in this regard: information on an individual basis for detainees eligible for permissions to take leave, request for assessments by judges at a very early stage, set up of tables for monitoring assessments and procedures informing detainees about assessment performance times, etc.

In a response dated January 2018, the Minister of Justice claimed to share the Chief Inspector's concerns, especially since the number of assessments and referrals involving the CNE and CPMS looks set to increase given the steady extension in the scope for the social and judicial supervision sentence.

With respect to compulsory psychiatric assessments prior to the granting of sentence adjustments, she stressed that the main barrier to their performance was the shortage of psychiatric experts, which is exacerbated in jurisdictions where prisons accommodating a majority of sexual offenders are located.

She assured that her departments were looking into possible ways of renewing and increasing the "pool" of experts at national and regional level, and mentioned that a more general discussion on the status of expert should also be envisaged.

She also stressed that a specific discussion on the matter of assessments prior to the granting of sentence adjustments was crucial, with a view to considering the need to reform the way these assessments are carried out – possibly by developing their adversarial nature but also by improving information for detainees ahead of any application for sentence adjustment and planning tools for anticipating the need for such an investigation and monitoring its progress. She said that, in this context, the best practices referred to by the CGLPL would be highlighted and brought to the attention of her departments, such that an assessment of the situation is made and dissemination of
these practices can be considered. She pointed out that talks had been initiated with the Ministry of Health so as to involve this Ministry in these discussions.

Further, she said that she was aware of the difficulties generated by the application of the procedure under Article 730-2 of the Code of Criminal Procedure on the granting of certain conditional releases: the three sites of the CNE and CPMSs were overcrowded, and some detainees decided not to apply for a sentence adjustment. She announced that a new CNE site would be opening at Aix 2 prison, and that a meeting was planned with CPMS chairs and CNE directors to address all of the difficulties encountered and facilitate the pooling of practices. On a final note, she assured that her departments were committed to tackling the issue of long sentences and that research on this subject, primarily focusing on the derogating procedure prior to the granting of certain applications for conditional release, had been selected by the Public Interest Group (GIP) Law and Justice’s assessment committee.

The Chief Inspector is delighted that such discussions are in progress and will continue its discussions with the Minister of Justice on the subject.

8.2 Referrals still pending an answer

Other referrals bearing on nationwide concerns are more recent, and have not received an answer from one or all of the authorities contacted. This is the case for talks initiated with the Prime Minister and the Minister of Justice on prisoners’ right to vote, as well as talks with the Minister of Justice on the status of Muslim chaplains, the warders’ strike or the terminated national agreement that had been signed between the Prison Administration Department and the French National Student Group for Educating Prisoners (Genepi).

8.2.1 Prisoners’ right to vote

Regarding prisoners’ right to vote, talks had been initiated in 2017 with the Minister of Justice, who explained to the Chief Inspector in 2018 that the installation of polling stations in detention would be fraught with difficulty, in light of the security restrictions in prisons and the constitutional secret ballot principle and the compilation of electoral registers. She pointed that, as a result, the Ministries of Justice and the Interior had steered their discussions towards the choice of voting by post, with the setup, at the Ministry of Justice, of a voting operations commission responsible for drawing up a register for voting by post, listing the votes of prisoners who voted by post and transferring the results. She clarified that provisions had been adopted to that effect in the context of consideration of the 2018-2022 programming bill and justice reform. She said that she hoped to make this voting possibility effective for the forthcoming European elections.

Insofar as two ministries, the Ministry of Justice and Ministry of the Interior, are concerned, the Chief Inspector also drew the Prime Minister’s attention to this matter. In her letter she particularly mentioned that the amendment presented by the Government and voted by the Assembly in the context of the programming bill only provided for temporary provisions ahead of the European elections.

Talks with the relevant ministries will continue on this matter.

8.2.2 The procedures for issuing and renewing national identity documents

The Chief Inspector also referred to the Prime Minister the matter of the procedures for issuing and renewing national identity documents, on the basis of several reports alleging that these procedures had been suspended in a number of facilities.
Since the introduction of the "next-generation prefectures" plan in 2017, it has been compulsory to integrate biometric features. In order to collect these biometric features, a provisional system has been set up: prefectural officials travel to the penal institutions equipped with mobile collection devices. As part of an interministerial Interior-Justice system, the plan was to equip the prison registries with these devices. But this solution was reportedly rejected by the Prison Administration Department. With no consensus, some prefectures would seem to have been instructed not to travel to the penal institutions any more, undermining the provisional system set up pending a more permanent procedure for the first-time issuance or renewal of national identity documents in penal institutions.

In his response to the Chief Inspector, the Prime Minister said that he had forwarded the referral to the Ministers of Justice and the Interior for them to work on finding solutions to the difficulties reported. He stressed the importance he attaches to the citizenship of prisoners being recognised and effective under the Government's "prison plan". He assured that since the facilitation of procedures for issuing identity documents has this very purpose in mind, he would ensure that existing barriers to identity document issuance or renewal are removed.

The Chief Inspector hopes that these difficulties will swiftly be resolved.

### 8.2.3 Contents and renewal of toiletry and cleaning kits

The Chief Inspector has once again referred to the Prison Administration Department the multiple problems reported by detainees pertaining to the contents of toiletry and cleaning kits as well as the means for distributing and replenishing them.

Previous discussions had already been held on these matters because of the disparate practices observed between institutions. In 2015, the CGLPL was informed that a national contract had been signed at the end of February 2015 and that a memo dated 31 March 2015 stipulated the applicable rules in this regard.

And yet, in many of the letters sent to the CGLPL in 2018, detainees in diverse institutions report recurring difficulties in getting these kits replenished or obtaining all of the products that they should contain.

### 9. Follow-up on referrals revealing violations of rights, a few examples from 2018

#### 9.1 Searches in detention and custody

During the strike in January 2018, the prison staff particularly cited the repeal of Article 57 of the Prison Act of 24 November 2009, considering that this relaxation in the search regime had considerably driven up trafficking and acts of violence in detention.

The CGLPL contends that the aim of the Prison Act of 24 November 2009 was to ensure the right balance between the security of institutions and respect for detainees' dignity. Accordingly, since it violates the person's dignity, a decision to subject a person to a full-body search must be taken on an individual basis, i.e. grounded in the effective risk that the person's behaviour poses for safety and good order, and tailored to the personality of the person being searched.

From institutional inspections and the letters the CGLPL receives, it is clear that full-body searches are still widely practised and that the statutory provisions are applied in a very unequal manner depending on the penal institution. What is more, the procedure for conducting full-body
searches in certain penal institutions does not respect the right to privacy and dignity of the detainees being searched.

9.1.1 **Full-body searches that go beyond the legal framework of Paragraph 2, Article 57, Prison Act of 24 November 2009**

In one prison with sections incorporating different kinds of prison regime, several testimonies that tally from female detainees report systematic full-body searches on leaving visiting rooms as well as "random" searches that the female warders decide to carry out "depending on what mood they are in". During the inspection of this prison in 2014, the inspectors had observed that Article 57 of the Prison Act of 24 November 2009 was applied in a vague fashion with little regard for the letter of the law. At the time, the CGLPL had recommended drafting clear memos to ensure compliance with the legal guidelines. In light of this recommendation and the testimonies it had received, the CGLPL questioned the Director about the institution's search policy.

The latter replied that non-individual searches of the female detainees had been introduced following the frequent discovery of mobile phones and narcotic drugs, pursuant to Paragraph 2, Article 57, Prison Act of 24 November 2009.

And yet it emerged from the review of the non-individual search decisions, which the prison's management had forwarded to the CGLPL, that these went beyond the legal framework of Paragraph 2, Article 57, Prison Act, on two accounts. One, although these non-individual search measures referred to a specific incident, for a specific period of time, their juxtaposed application amounted to the practice of systematic searches, since the incident of 11 April justified systematic searches from 1 May to 31 May; the incident of 5 May justified those that took place from 1 June to 30 June; and the incident of 7 June justified those that took place from 1 July to 31 July, and so on. Second, these decisions did not appear to have sufficient grounds with regard to the principles of necessity and proportionality. Indeed, the discovery of banned items in the visiting rooms ended up justifying the systematic nature of full-body searches at the end of visiting room sessions, as well as for new prisoners arriving at the facility, or returning to it following an external movement or permission to take leave. Similarly, a single instance of a mobile phone being confiscated in a cell led to systematic full-body searches of all persons whose cell had been inspected.

In light of these facts, the CGLPL held that the practice of full-body searches in the women's wing of this prison amounted to misinterpretation of paragraph 2, Article 57, Prison Act of 24 November 2009. The CGLPL therefore recommended the strict application of the aforementioned provisions and urged the prison to comply with the national instructions issued in the DAP memo dated 2 August 2017 (although this post-dates the decisions concerned), which particularly stipulates that the time-limit for conducting non-individual searches is one week and in no way considers the performance of full-body searches on prisoners whose cell is inspected to fall within the scope of Paragraph 2, Article 57, Prison Act.

9.1.2 **Full-body searches performed in places that do not respect the right to privacy of the detainees being searched**

Detainees in a long-stay prison have drawn the Chief Inspector's attention to the layout of the places where full-body searches are performed when they leave the visiting rooms. The search booths located in the corridor heading away from the visiting rooms are not equipped (with a door or curtain for example) to guarantee the privacy of the detainee being searched. This corridor is not only used by detainees heading back from the visiting rooms to the detention area, but also by prison staff.

| Article R.57-7-81 of the Code of Criminal Procedure stipulates that "detainees may only be searched by officers of the same gender and under conditions which, whilst guaranteeing effective checks, maintain respect for the inherent |  |
dignity of humans”. The memo from the Prison Administration Department dated 14 October 2016 on the legal regime governing certain procedures for checking detainees stipulates that "Detainees may only be searched under conditions which, whilst guaranteeing effective checks, maintain respect for the inherent dignity of humans. [...] Any full-body search must be performed in a place that protects the privacy of the person, under satisfactory hygiene conditions (cleanliness and temperature) and which is equipped with the required security and warning devices. The search shall be conducted out of sight of anyone other than the officers in charge of the measure. [...] Insofar as the architectural constraints may not enable a separate search room to be designated, it is imperative that the detainee being subjected to the full-body search be given privacy from the rest of the prison population and officers by way of a mobile separation system (screen or curtains for example)".

The Chief Inspector therefore asked for the long-stay prison director's comments on the lay-out of the search booths outside the visiting rooms and the procedure for performing full-body searches on detainees when they finish their visit with their families; she called for the measures (installation of doors or curtains, etc.) outlined for effectively respecting detainees' right to privacy to be put in place.

At the time this report was being drafted, the Chief Inspector had not yet received a reply. She has nevertheless learned through detainees that the search booths have been fitted with curtains, so guaranteeing their privacy during full-body searches.

9.1.3 Professional conduct that violates the dignity of prisoners

The CGLPL's attention has been drawn on numerous occasions to officers' professional conduct when conducting frisk (or pat-down) searches of prisoners.

In the women's remand prison wing of one prison with sections incorporating different kinds of prison regime, there have been reports of certain female warders allegedly patting between the breasts and sliding their hands beneath prisoners' chests, while others reportedly placed their hands directly on the prisoners' breasts and pinched them; this latter move was nevertheless described as a one-off, done by a trainee warder. All of these allegations were sent to the female director of this prison for comment and to find out what the local or regional instructions are governing frisk searches and describing the techniques that should be used at the women's remand prison wing of the institution. This is another instance where the CGLPL has not heard back from the prison authorities.

Three young offenders imprisoned in two different prisons for minors reported the systematic nature of full-body searches conducted when they leave the visiting rooms and the way in which they are performed. Accordingly, in one of these prisons, the young people were sometimes asked during the full-body searches to cough, lean over or bend their knees. In the other prison, one young offender's full-body search was conducted in the presence of three officers, an initial warder and two other warders. Given that individual searches of juveniles should remain exceptional and only be carried out once the other detection means have been implemented, the CGLPL was compelled to ask the heads of the prisons in question for comments about these individual situations.

The CGLPL urged the prison heads to be more vigilant about the correct professional conduct being respected during execution of these security measures. A reminder has been given that, in accordance with the memo of 15 November 2013 on the means for checking detainees, a full-body search conducted by one warder should be the rule, even if the number of officers involved may be adjusted to the circumstances and personality of the detainee in question – with care taken that it be strictly limited to the needs. Regarding imprisoned minors, the CGLPL considers that special vigilance should be paid...
9.1.4 Searches on people in custody

The CGLPL’s attention has been drawn to the manner in which searches are conducted on people in custody in a police station, in a room with a CCTV camera. The comments that the General Director of the French national police force gave in response to the inspection report sent to this police station in 2011 were nevertheless as follows: "search operations are conducted out of sight of the public and staff, with respect for the persons’ privacy and dignity a constant concern, in keeping with the applicable texts. They take place in the appropriate room, previously occupied by the information and control centre. This room, situated near the office of the chief officer, is not equipped with CCTV surveillance".

The CGLPL asked the police commissioner to comment about the manner in which searches are conducted on people in custody and, in response, the Département-level Director for Public Security said that security searches were conducted in a room equipped with a camera so that the chief officer could intervene if necessary. She added that, pursuant to the Circular of 23 May 2011 on the application of provisions regarding custody, although security searches cannot entail the person in custody having to completely undress, it is possible to ask the latter to strip down to his or her underwear as long as this is a strictly necessary measure in light of the circumstances, gravity of the situation and the personality of the person in custody.

This means that a person in custody could have found themselves in their underwear in a room equipped with CCTV surveillance. Given that such a situation violates the right to privacy of people in custody, the CGLPL recommended that this means of surveillance be removed. The Département-level Director for Public Security replied that she was aware that the current system constituted an invasion of privacy for people in custody. She claimed to have changed the security search procedures and to have drafted a new internal memo dated 21 November 2018. This memo now prohibits any undressing in the search room and states that where any undressing does take place, it must be out of sight, in the presence of an officer of the same gender and in a room reserved for medical and legal interviews, where there is no CCTV surveillance system, and the officers responsible for the search must cover the window of the entrance door to this room before beginning the search. The CGLPL has duly noted these measures which bring an end to the reported invasion of privacy of people in custody.

9.2 Difficulties accessing specialist care in detention

The difficulties accessing specialist care in detention has been an ongoing major concern for the CGLPL since it was first set up. In the 2012 annual report, the CGLPL had already criticised the shortage of eye specialists and notorious lack of physiotherapy treatments across most penal institutions.

And yet, detained patients should have the same rights of access to health care as all other patients, subject to the restrictions associated with the deprivation of freedom of movement they are under. In the opinion of 16 June 2015 on provision for patients detained in health facilities, the CGLPL recommended that greater use be made of telemedicine or that measures be adopted conducive to encouraging medical consultants to travel to penal institutions.

The referrals sent to the CGLPL show that the care provision varies across facilities and that, often, detainees do not have access to satisfactory specialist care (eye care, physiotherapy, dermatology).
9.2.1 Eye care

The Chief Inspector has been referred the difficulties, encountered by two detainees in a long-term detention centre in the south of France, in obtaining regular eye appointments and spectacles. During the inspection of this centre, in May 2011, it was found that the optician was no longer as available owing to the decision not to renew the agreement between him and the centre. After a period of inactivity, another optician signed an agreement with the centre. The following procedure thus became applicable: where a person had a prescription from an eye specialist, they were informed by the head of their block that they had to write to the health unit to arrange an appointment with the centre's optician. In light of the difficulties reported, the Chief Inspector contacted the centre manager to see if an optician was still working in the centre. The CGLPL is waiting for the prison authorities to reply.

The Chief Inspector's attention was also drawn to the difficulties, encountered by detainees in another detention centre in central France, in obtaining regular eye appointments. In June 2015, the inspectors had been informed, during their inspection of the centre, that eye appointments had no longer been available since June 2012. This is because the site was located in a "medical desert": the waiting time for an eye appointment at the regional hospital centre was six months to a year on average, since the affiliated hospital did not cater to such appointments. The only way to obtain such an appointment was through the hospital emergency services. In 2015, only two detainees had benefited from an appointment at the regional hospital centre out of 451 detainees; in September 2016, 36 detainees were still waiting for an eye appointment. The centre manager had contacted the Regional Health Agency (ARS) about finding a solution, while the CGLPL recommended, at the end of its inspection, recruiting an eye specialist within the health unit.

In response, the Minister of Health had described the efforts being taken with the affiliated hospital to encourage its health workers to do stints at the detention centre. At the same time, the ARS had run a campaign to recruit orthoptists and considered plans to use specialised mobile equipment for performing simple visual acuity tests. Eye appointments had also been set up through a telemedicine system. It was, however, pointed out that this treatment option was not a solution for dilated fundus examinations. Moreover, whilst these initiatives were steps in the right direction, they did not seem to reduce the waiting list of detainees in need of a more advanced eye appointment, which numbered 50 in January 2018, including 15 with diabetes and requiring regular monitoring. In 2017, only 7 appointments, including 3 in A&E, were held.

In this respect, the Chief Inspector was informed that one of the difficulties apparently stemmed from the organisation of external movements for medical reasons, due to a shortage of prison officers authorised to do these. She therefore contacted the Grand-Centre Interregional Directorate for Prison Services (DISP) and the ARS about this situation. She began by reiterating the importance she attaches to having specialists within health units so as to limit the practice of external movements for medical reasons. If this is not possible, she recommended that the different departments concerned discuss how the detainees meeting the statutory conditions might be granted permissions to take leave, alone, within a health facility so as to benefit from medical appointments there. She particularly asked whether the shortage of eye specialists might have provided grounds for transferring detainees in regular need of such treatment and whether the centre had one or more teams responsible for external movements for medical reasons, and the number of movements cancelled.

In response, the ARS confirmed the difficulties that not only detainees have in accessing eye appointments, but also the whole of the population in the Département, where medical specialist cover is low (6.3 eye specialists for 100,000 inhabitants on 1 January 2018 versus 8.8 for the whole of France). It nevertheless clarified that a telemedicine plan was being looked into between two orthoptists from the multidisciplinary health centre and eye care department of the regional hospital.
centre with the long-term detention centre included. The plan should be up and running from the first quarter of 2019. The CGLPL will remain attentive as to its effective implementation among detainees.

One detainee in a remand prison, whose spectacles had broken accidentally, reported to the CGLPL that he had repeatedly asked for an appointment with an eye specialist. He was told that the prison did not have an attending eye specialist, and nothing was done to enable him to obtain a new pair of spectacles. The Chief Inspector asked the chief physician of the health unit about it, who replied that the physician who had conducted the eye appointments had retired. He did specify, however, that it would be possible to issue prescriptions for spectacles as soon as an automatic vision screener, which had been ordered, arrived, and that the teaching hospital would treat disorders requiring eye surgery. The CGLPL will remain attentive as to its effective implementation.

In June 2018, the CGLPL was informed that the eye specialist no longer attended the health unit of a prison with sections incorporating different kinds of prison regime, and that it seemed as if prisoners had to pay the sum of €28 for an eye appointment. And yet, during the inspection of this prison in September 2015, it had been observed that an eye specialist travelled twice a month to the prison. In response to the CGLPL's request for comments, the chief physician of the health unit explained that, since the eye specialist had retired, efforts were underway to find a replacement. Given the difficulties encountered in this regard, the teaching hospital and ARS planned to set up an appointment through delegation of tasks. Accordingly, spectacles are organised by an optician who travels to the prison, who may also perform a "vision examination" (not covered) if the detainee has a prescription dating back less than three years, with a view to renewing the pair of spectacles. Lastly, he added that prisoners' access to specialist care was disrupted by frequent cancellations of external movements for medical reasons (around 30%). On this latter point, the CGLPL recommended organising a discussion meeting between the health unit and the prison administration in a bid to find solutions for limiting the number of cancelled external movements for medical reasons. It will remain attentive as to its effective implementation.

9.2.2 Physiotherapy treatment

It has generally been observed during inspections of penal institutions that there is a shortage of physiotherapy treatments, when the lack of mobility and little opportunity for daily exercise to which prisoners are subjected can make such therapy essential. Several reasons have been cited to explain this shortage: dearth of physiotherapists in some regions, location of some penal institutions in hard-to-reach areas, low appeal of the place where the therapy is to be performed and session fee amounts and statuses. In its 2012 annual report, the CGLPL recommended that affiliated hospitals organise themselves to ensure the sufficient number of physiotherapy sessions in detention or, failing that, the organisation of such therapy in the affiliated hospital. At the same time, the CGLPL recommended developing the practice of granting permission to take leave or, where patients were not eligible, that external movements for medical reasons be facilitated.

One detainee in a prison with sections incorporating different kinds of prison regime in northern France contacted the CGLPL as she had not been able to access the physiotherapy sessions she had been prescribed. She had requested permissions to take leave for treatment, all of which were refused. The 2013 inspection report for this prison had already criticised the lack of physiotherapist, even though there was provision for such a position in the health unit. The Chief Inspector asked the chief physician of the health unit about what steps had been taken since 2013 to provide effective access to physiotherapy treatments. He replied that the prisoners primarily had access to permission to take leave for
specialist care and that the medical team was in touch with the judges via the prison authorities to facilitate the granting of such permission.

The Chief Inspector also contacted the head of the prison medicine unit at the regional teaching hospital (CHRU) to find out what steps were being considered or taken to overcome these difficulties and recruit physiotherapists. He confirmed the recruitment difficulties, particularly caused by the lack of financial appeal, and indicated that steps had been taken to improve the financial appeal of the physiotherapy profession in the prison setting: introduction of categories of better paid sessions and participation in university physiotherapy courses in a bid to inform and encourage interest. On a final note, he maintained that there is too limited scope for implementing external prison movements for physiotherapy treatment to be able to envisage rolling out a treatment strategy given the time it takes to organise external movements (several months) and frequent cancellations of transport on the scheduled day. The CGLPL can but express dismay at the struggles to recruit professionals in the prison setting and encourage efforts to find initiatives aimed at enhancing the appeal of vacant positions, so as to guarantee prisoners effective access to treatment.

During an inspection of a prison with sections incorporating different kinds of prison regime in central France in April 2016, there was a physiotherapist in attendance at the health unit on a 0.9 FTE (full-time equivalent) basis. And yet, according to prisoners' accounts received in 2018, they were no longer able to benefit from physiotherapy treatment in this prison. From discussions with the health unit, it emerges that the centre has been without a physiotherapist since July 2016 – despite active efforts to recruit one from the regional hospital centre. On 1 October 2018, there were 579 prisoners registered at this prison, which is shortly due to open three buildings with a total capacity of 748 places. In addition, there are plans for 18 cells to accommodate persons with reduced mobility, or paralysed prisoners. In such conditions and with respect to prisoners' access to health care, the CGLPL sought to make the ARS Director-General aware of this situation, and to find out what was being done to provide a physiotherapist’s services within this prison's health unit. The CGLPL is still waiting for a response.

In one prison with sections incorporating different kinds of prison regime in western France, one prisoner required at least two to three physiotherapy sessions a week in light of his condition. And yet, since his return to the prison after a spell in hospital, he had only received one to two sessions a month. The chief physician of the health unit explained to the CGLPL that a physiotherapist came to the prison twice a week and that a waiting list was drawn up based on demand for care. The CGLPL considers this situation to be particularly detrimental for this prison, which accommodates a high number of prisoners in need of follow-up care or presenting health problems, owing to the nearby Interregional Secure Hospital Unit (UHSI); it therefore urged the health unit to liaise with the managing staff at the affiliated hospital and the judges responsible for the enforcement of sentences on finding different solutions for strengthening the provision of physiotherapy care and effective access to such care.

In another prison with sections incorporating different kinds of prison regime located overseas, the CGLPL received reports of material accommodation conditions in the institution's remand prison wings that were adversely affecting the prisoners' health and causing or exacerbating their sore backs. Many prisoners were sleeping on mattresses – of an estimated thickness of 10 cm – placed on tiled flooring, and complained of "stiffness", "scoliosis" and "crushing of the pelvis". During the inspectors' visit of the prison, they found that no physiotherapist came there despite a 1996 agreement providing for part-time (0.5 FTE) physiotherapy care. The Chief Inspector therefore asked the chief physician of the health unit whether the situation had improved. He replied that the hospital was genuinely struggling to recruit physiotherapists, despite the increase in temporary physiotherapists over brief periods of time. He also drew attention to the significant overcrowding blighting the prison: on 31 August 2018, 145 prisoners were sleeping on the ground, in the conditions
described above. Finally, he claimed to have undertaken a training process in physical medicine and rehabilitation in a bid to address the difficulties encountered concerning disabilities in detention. The CGLPL underscores the adverse effects prison overcrowding has on prisoners' health and the provision of care available to them.\(^{56}\)

### 9.2.3 Dermatology treatment

The Chief Inspector's attention has been drawn to the waiting times prisoners at a long-term detention centre in eastern France have to undergo before receiving a dermatology appointment. Although a specialist from the dermatology department in the affiliated teaching hospital is tasked with receiving detained patients, only two dermatology appointments were held between 1 January and 30 April 2018 (in 2016 this department provided 27 appointments and 37 in 2017) and waiting times for this specialism exceed eight months – which is much longer than those observed for patients outside. The CGLPL therefore asked the head of the teaching hospital how dermatology treatment is organised for detainees and about the time-limits for such appointments.

Since the CGLPL is attentive as to the organisation of remote consultations in several medical specialisms, it asked whether such an option is being considered for prisoners in this long-term detention centre.

### 9.2.4 Access to psychological and psychiatric care

One prisoner in a long-term detention centre in eastern France has written to the CGLPL about his difficulties obtaining a session with a member of the psychological and psychiatric care team, given that he was in 150\(^{th}\) place on the waiting list. Having already been informed of these difficulties in this centre, the Chief Inspector contacted the chief physician of the health unit to find out what the prospects were regarding access to this type of care. He replied that the "psychology/psychiatry centre" of the health unit only had access to psychiatrists on a 0.4 FTE basis, psychologists on a 4.4 FTE basis and a State-qualified nurse on a 1.6 FTE basis for 600 detainees. The waiting list is long since, in the middle of August, there were 209 men (the first had been on it since March 2017) and 9 women (the first had been added in July 2018), with 113 names newly registered since 1 January 2018, which amounts to 15 requests a month. To cater to such demand, nursing supervision has been organised. The time-limits for getting an appointment with a psychiatrist, whether this is a new consultation or to renew a prescription, are three weeks for men and one week for women. These difficulties stem from the struggle to recruit psychiatrists, since the psychiatric hospital only has 20 psychiatrists to cover all types of care models (medico-psychological centre, full-time or part-time hospitalisation, psychological healthcare access centre for disadvantaged people, treatment in detention, etc.).

And yet this centre is indicated on the list of penal institutions "able to provide appropriate psychological and medical supervision"\(^{57}\) with regard to detained female sex offenders handed down a social and judicial supervision sentence. The inspection missions of institutions designated for providing this specialist care throw up a shortage of practitioners and waiting times for accessing psychological or psychiatric supervision.

\(^{56}\) See CGLPL thematic report on "Fundamental rights under threat from prison overcrowding", which can be accessed on the institution’s website www.cglpl.fr.

\(^{57}\) Article R.57-8-3 of the Code of Criminal Procedure.
9.3 Exercise of prisoners' right to maintain family ties

The right of prisoners to maintain their family ties is enshrined in the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), in Article 8. In domestic law, Article 35 of the Prison Act of 24 November 2009 reiterates prisoners' right to maintain relations with members of their family.

In the chapter "Maintaining family ties and persons deprived of liberty" of its 2010 Annual Report, the CGLPL found that the prison authority did not always deliver visit permits within reasonable timeframes and that prisoners' relatives were faced with a number of problems when booking sessions in family visiting rooms (booking time slots too restrictive, out-of-order booking terminals, etc.).

Moreover, the CGLPL is regularly contacted about the difficulties prisoners encounter in accessing family living units (UVFs). In one long-term detention centre in central France for instance, the CGLPL was informed that such units were finally opening nearly four years after their construction for want of staff to run them. In general, the CGLPL reiterates the recommendation it issued in its 2010 Annual Report, that all sentencing institutions must be equipped with family living units or family visiting rooms.

In view of the many referrals it receives every year on this matter, it appeared appropriate to go back over the difficulties that prisoners and their relatives encounter in endeavouring to stay in touch.

9.3.1 Refusal to grant a visit permit

The female partner of one prisoner reached out to the Chief Inspector about the difficulties she encountered in trying to visit her partner in the visiting rooms.

Convicted in the same case and imprisoned in the same remand prison, these two people had benefited from visit permits allowing them to visit each other as well as internal visiting rooms. They had been a couple prior to going to prison and had signed a civil partnership (Pacs) while in prison. The female partner had then been transferred to a long-term detention centre before being released.

On being released, she wanted to visit her partner, who was still being detained in the same remand prison, but she was told that, even though she had a permit issued by the remand prison director, she had to make a new request for a visit permit. She therefore sent her request to the prison, but it was denied.

On being referred this matter, the CGLPL asked the prison manager for explanations as to why this request for a visit permit was denied as well as the grounds for requiring a new initial request to be submitted. The CGLPL did not receive a response, but was informed that a visit permit was eventually granted to the partner.

9.3.2 Processing times regarding requests for visit permits

In 2017, the Chief Inspector's attention had been drawn to the length of time it took to process requests for visit permits submitted by persons wishing to visit Basque nationals imprisoned on the grounds of their membership or support of ETA. During talks on this subject with the heads of the prisons concerned to understand the cause of the difficulties identified, the latter maintained that

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58 “1. Everyone has the right to respect for his private and family life [...]; 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others”.
these requests were systematically forwarded to the Prison Administration Department, which inevitably lengthened the processing times – which could sometimes take up to 18 months.

The CGLPL therefore referred the matter to the Prison Administration Director to find out what the procedure was for issuing visit permits to relatives of imprisoned Basque nationals and what solutions were being considered to shorten the length of time it took for its departments to process these requests. With no reply forthcoming and given the more recent difficulties of a similar nature encountered in two new institutions (bringing the number of prisons where this issue is a problem to four), the CGLPL again referred the matter to the Prison Administration Director and is still awaiting an answer to this day.

9.3.3 The procedure for booking visiting rooms

The difficulties that prisoners' relatives encounter when booking visiting rooms, in a number of penal institutions, are an ongoing concern for the CGLPL. In its 2010 Annual Report, the CGLPL had already recommended that the time slots for booking visiting rooms be extended.

During the inspection of a remand prison in Ile-de-France (the Parisian region) in September 2013, the inspectors had been informed about the procedure for booking visiting rooms: either by calling the provider's dedicated service via a freephone number, Monday to Friday, from 9.00 to 17.00, or via the two terminals installed in the family reception centres. No particular difficulty had been reported to the inspectors in this respect. But in 2018, the CGLPL was informed that it took dozens of calls before being able to reach the booking service. To give an example, one person reported having called 252 times between 9.00 and 10.17 before finally getting an answer. Following this report, the CGLPL wished to find out what the remand prison management staff were doing to solve these problems, the number of sessions booked over the phone and using the touchscreen terminals over a specific period, and between what hours the freephone service could be reached. The prison authorities did not reply.

In one long-term detention centre in the Centre-East of France, a prisoner objected to the way visiting room bookings were organised in that his family were only able to book these rooms on Tuesdays and Thursdays over the phone. And yet, during the CGLPL's last inspection of the centre, in June 2014, it had noted that telephone bookings of visiting rooms could be made Monday to Friday from 9:00 to 17:00. The Chief Inspector therefore wished to find out when this new rule was introduced and the procedure for informing prisoners and their relatives about the procedure for booking visiting rooms. She was still awaiting a reply at the time this report was written.

Furthermore, the CGLPL's attention has been drawn to the difficulties that families living outside France encounter in visiting their relative detained in a prison with sections incorporating different kinds of prison regime in the South of France. This is because the freephone number available to families for booking a visiting room was not accessible from abroad. As such, one prisoner's family, living abroad, was unable to book a visiting room, even though it had been issued a visit permit by the investigating judge. Calling the freephone number was the only way a visiting room could be booked in this prison (the prison rehabilitation and probation service/SPIP made it clear that managing visits was not part of its remit) and no alternative was offered to the family in question.

In general, the CGLPL also received reports that accessing the freephone number was immensely difficult, with visitors having to call it several times before managing to get hold of an operator. Given the importance of prisoners' right to maintain family ties, the CGLPL wished to hear what the prison manager had to say and to find out what steps were being taken with the private service provider to resolve these difficulties, as well as what measures could be taken to enable families living outside France to book a visiting room in this prison. The CGLPL is still waiting for an answer.
9.3.4 **Access to the telephone**

The CGLPL was informed about a memo that was written for the attention of the prison population, dated 16 May 2018, telling prisoners in one penal institution that "telephone conversations had to be audible and not be held in a foreign language". Although telephone conversations may be supervised and intercepted, recorded, transcribed or cut off by the prison authorities on grounds relating to prevention of escapes or to safety and good order within penal institutions, the CGLPL points out that there are no provisions for drafting a blanket ban on holding a telephone conversation in a language other than French within a penal institution. Accordingly, with regard to the right to respect family life, particularly when it comes to foreign prisoners, some of whom are all alone in France, the CGLPL wished to hear what the prison director's thoughts were on the matter and to find out the reasons and grounds for the memo dated 16 May 2018, as well as what alternatives were available to prisoners who might wish to talk with a non-French-speaking member of their family over the phone. The CGLPL has still not heard back from the director on this subject.

In any event, the CGLPL reiterates the recommendation it issued in the opinion dated 10 January 2011 on telephone use in facilities where people are deprived of their liberty: "international communication, particularly for foreign prisoners (who often have no other means of contact with their family), must be permitted under the same conditions as national communication. The required formalities must not represent a barrier: in this instance again, proof (relationship, home address, etc.) by any means (passport, correspondence envelopes, etc.) must prevail, especially when it comes to nationals of distant countries. Calling hours must take into account time differences, in line with the above statements: without this flexibility, the right to call family and friends remains a dead letter".

Moreover, the CGLPL has on multiple occasions had cause to express regret about the steep telephone communication rates for prisoners. Accordingly, in the opinion dated 10 January 2011 on telephone use in facilities where people are deprived of their liberty: "In February 2010, the operator with which the authorities had signed a contract significantly increased the rates of local telephone communications in the wake of national decisions. Although no one denies the need for prisoners to finance their calls (the authorities usually and gladly bear the cost of one euro of communication on arrival at the institution, in order to inform convicted prisoners' family and friends), it must be possible for them to do so in similar conditions to those prevailing outside of institutions; all the more so as they do not have any choice of operator". The CGLPL was therefore interested to hear of the decision of the Conseil d'Etat (Council of State) dated 13 November 2018, which deemed that prisoners should not have to bear the specific charges incurred by their calls since "these services, which enable supervision of telephone communications pursuant to the provisions of Article 727-1 of the Code of Criminal Procedure, form part of the general police missions which, by nature, come under the State's remit". The CGLPL hopes that these recommendations will be taken on board during the renewal of the national contract on telephone use in detention.

9.4 **Aid granted on the grounds of indigence in detention**

Upon finding that penal institutions did not uniformly apply the provisions of the Circular of 17 May 2013 on fighting against poverty in prisons, the Chief Inspector called on the Prison Administration Director for comment on this subject and to share its recommendations.

And yet, three years later, a number of difficulties still persist in terms of provision for prisoners who lack adequate financial resources (access to work, supplying a stationery kit, access to a TV, etc.).

9.4.1 **Free use of refrigerators**
The Chief Inspector's attention has been drawn to one prisoner's situation who saw an amount equivalent to a three-month rental of the refrigerator being deducted from the €20 cash aid granted on the grounds of lack of resources. The inspectors have also found at regular intervals during their institutional visits that some institutions — upon prisoners no longer being considered indigent — demand reimbursement of the amounts corresponding to rental of the TV set or refrigerator. In a letter addressed to the Prison Administration Department, the Chief Inspector had already expressed her doubts over the lawfulness of such a measure, since she was under the impression that the aid granted was a gift, rather than a loan. Incidentally, the Prison Administration Department's memo dated 20 December 2015 now provides for free use of refrigerators for prisoners recognised as being indigent.

In response to the request sent to the prison manager for information on this point, the Prison Administration Department confirmed that refrigerators were now free for indigent prisoners and indicated that a reminder of the regulations had been sent to the management of the prison in this respect.

9.4.2  **No stationery kit supplied**

Several people detained in a prison with sections incorporating different kinds of prison regime have reported not being given the stationery kit (stamps, envelopes and sheets of paper or pad) which is distributed to prisoners recognised as being indigent. The CGLPL therefore contacted the prison management to find out how often aids in kind are distributed, what the procedure is and how indigent prisoners are informed of their possibility to ask for a stationery kit. At the time this report was written, the CGLPL had not received any response.

In another facility, the stationery kit distributed to indigent prisoners did not contain a pad or pen, and the stamps could not be used to send letters abroad. And yet the circular of 17 May 2013 on fighting against poverty in prisons provides that paper be distributed, as requested, to the indigent prisoner. What is more, in the opinion dated 9 May 2014 on the situation of foreign prisoners, the CGLPL noted that "the same applies for stamps, in principle provided in the newcomer's supplies: they are only intended for national correspondence (one exception is observed in a remand prison) and are of no use for international destinations; it must be possible to provide identical supplies for international correspondence".

Questioned by the CGLPL on these points, the prison management replied that stamps were now distributed separately (no longer on a batch of pre-stamped envelopes) so as to facilitate mail deliveries abroad, and that, in accordance with the Circular of 17 May 2013, indigent prisoners could benefit from paper supplies through the hospitality service.

9.4.3  **Restricted TV access for indigent prisoners**

The Chief Inspector's attention has been drawn to the subject of TV access for indigent prisoners in a long-term detention centre, for they did not have access to all of the free national DTT channels, only to channels 15 (BFMTV channel) and 10 (TMC).

When asked about this matter, the director of the centre replied that, pursuant to the Circular of 17 May 2013, he had decided to only give them access to two DTT channels, one news channel and the other a cultural channel, in a bid "to encourage the prisoners in question to leave their indigent status behind by requesting access to paid occupations or to get assistance from external

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59  See the CGLPL's annual report for 2015, p. 71
60  "Prisoners recognised as being indigent must be able to access the news and a recreational activity in their cell via free provision of television."
persons. It was observed that many prisoners qualified for this status to be able to benefit from the cash aid granted and access all of the DTT channels. Regarding the cash aid granted to indigent prisoners, he added that members of the single multidisciplinary committee (CPU) had decided to grant them €10 in aid, while some received more in conjunction with efforts invested in detention (participation in lessons, activities and so on). He nevertheless clarified that, since September 2017, after the Prison Administration Department issued a reminder, a cash aid of €20 was now granted on a systematic basis.

Given that the centre management’s interpretation of the circular of 17 May 2013 was overly restrictive, the Chief Inspector felt it important to reiterate that every indigent prisoner must be able to benefit from free TV, as stipulated in the circular. What this means is that all DTT channels must effectively be accessible to prisoners. Finally, the CGLPL gave a reminder that, under no circumstances may the refusal to engage in a paid occupation warrant removal of most of the DTT channels; the circular only provides for the withdrawal of the €20 cash aid where involvement in a paid occupation is refused "for no other reason than on personal grounds" and it being reiterated that, in such cases, "the review of the reasons leading to such an exclusion shall have to be detailed and take particular account of the ability of the person in question to carry out the occupation proposed".

The Chief Inspector was also referred the case of a female detainee in a remand prison who, upon arriving there and given her lack of financial resources, was given the sum of €20 by way of emergency aid for newcomers. During her accommodation in the "new arrivals" wing, she thus benefited from free access to the television in the cell. However, when the detainee was transferred to an ordinary cell after nine days in the "new arrivals" wing, she was denied free access to a television – even though she had not received any money transfer during this period. The remand prison director was referred the matter for comment, and cited the following reasons in her response: "having received the financial aid of €20 upon her arrival at the prison, she could not ask for the prison to pay for the rental cost of a television set upon being assigned to ordinary detention. For, during her transfer, she could not be recognised as being indigent and benefit from the entitlements on these grounds".

The CGLPL nevertheless contends that the time-limit during which the prison authorities must grant aid to newcomers should not be restricted solely to the period during which prisoners are accommodated in the "new arrivals" wing, for the simple fact that this period of time varies across institutions and even that some do not have such a wing at all. The time-limit during which newcomers require aid should, on the contrary, be understood as running from the arrival date to the date of the first session of the single multidisciplinary commission (CPU) tasked with fighting against poverty in prisons. As such, in keeping with the spirit of Article 31 of the Prison Act of 24 November 2009, all of the allowances intended for newcomers (emergency cash aid and aid in kind such as free TV access) must be applied during the interval between their arrival and the CPU session – regardless of the assignment of the prisoner in question.

9.4.4 The handling of indigence in an Overseas prison: delay in the payment of the cash aid, denied aid in kind and no attribution of emergency aid

Several prisoners at this prison (with sections incorporating different kinds of prison regime) felt compelled to reach out to the CGLPL about their difficulties in having their indigent situation...
recognised: cash aid paid out several months after their arrival, when they met the criteria for granting such aid provided for under Article D.347-1 of the Code of Criminal Procedure\textsuperscript{62}, cumulative payment over several months of financial aid, which strips the prisoner of indigent status, and delayed or denied aid in kind (stationery kit, toiletries kit). The CGLPL asked the prison director about all of these claims.

In his reply, the director explained that, owing to the fund transfer procedure, the time it took for the aid to be paid in to the prisoners’ accounts could be long, since the general treasury did not consider the prison to take priority. Moreover, he confirmed the delay in paying out aid during a change in software.

The CGLPL pointed out that such late payments were likely to result in violations of the rights to defence, maintenance of ties with the outside and the dignity of individuals and recommended that the prison director issue reminders to facilitate and expedite these payments. The CGLPL also drew the director's attention to the consequences of cumulating the sums paid out, which saw the prisoners concerned by this late payment lose their status, so penalising them on two accounts: initially because they had to go several months with no cash aid and, subsequently, by their loss of eligibility and impoverishment over the months that followed. The CGLPL thus recommended that the software's operational problems be taken into account without fail during indigence committees: the prisoners receiving cumulative payment of cash aid must retain their status even if their monthly balance at the time exceeds the statutory amount of €50 owing to late payment of the sums received on the grounds of indigence.

The director also said that individual situations would be examined during a CPU session scheduled on the first Thursday of the month. The Chief Inspector replied that attribution of the emergency aid should not be examined within the usual framework of this CPU session, since it is intended to be paid out as soon as possible to alleviate situations of poverty upon arrival, pursuant to the Circular of 17 May 2013 on fighting against poverty: "One shall rely upon information collected from the person at the time of their imprisonment to identify and attribute emergency aid prior to the CPU review".

The director then cited a possible deterioration in supplies as grounds for refusing to pay out aids in kind. The CGLPL reminded him that only the refusal to engage in a paid occupation proposed by the CPU following a request made by a prisoner "and for no other reason than on personal grounds" can lead to the €20 financial aid being withdrawn.

Finally, he indicated that toiletries kits were no longer handed out prior to payment of aids in kind to prevent indigent prisoners from thinking that they had received their monthly €20 and so fill out canteen coupons. The Chief Inspector recommended organising distribution on a set date so that the prisoners in question could obtain their toiletries according to an expected schedule and informing them monthly about the supply of their account by any other means (delivery of the monthly personal account statement, oral notification issued by the staff, etc.).

9.4.5 Does refusal to work constitute grounds for cutting off aid?

One prisoner in a long-term detention centre contacted the Chief Inspector about the failure to grant the aid stipulated for indigent prisoners and her exclusion from the indigence schemes on the grounds that she allegedly refused selection for a work position.

\textsuperscript{62} "Prisoners are considered indigent when the following criteria are all met: the disposable part of their personal account over the month preceding the current month is less than €50; the disposable part of their personal account over the current month is less than €50; and their cumulative expenditure over the current month is less than €50."
During the inspection of this centre, the inspectors had already noted these exclusions, which pointed to a liberal interpretation of the provisions of the Circular of 17 May 2013 on fighting against poverty in prisons. Indeed, at the time of the inspection, most of the prisoners meeting the financial criterion for receiving the aid for indigent prisoners were not assisted. In the report drafted following this inspection, a reminder was given that such prisoners should be identified with greater account taken of the wording and intention of the circular: "During detention, indigent prisoners shall be identified via the regular review of personal accounts. Such information is collected prior to the convening of the single multidisciplinary committee (CPU) so as to determine and propose appropriate aid. Once a detainee has been identified as being indigent, s/he shall become eligible for attribution of the aid mentioned in Part II herein. The prison authorities shall be committed to ensuring that indigent prisoners receive a subsistence level for maintaining their dignity. Neither behaviour nor choices made by the prisoner in terms of occupations should constitute grounds for excluding them from aid - save under exceptional circumstances. Accordingly, where a prisoner refuses to engage in a paid occupation proposed by the CPU, following the latter's request and for no other reason than personal grounds, the €20 financial aid may be withdrawn. The review of the reasons leading to such an exclusion shall have to be detailed and take particular account of the ability of the person in question to carry out the occupation proposed".

In the same centre, the Chief Inspector's attention has been drawn to the lack of any explanation for refusals to grant aid taken by the indigence CPU. Indeed, the decisions notified to the prisoners did not specify the eligibility criteria for this scheme, stipulated in Article D.347-1 of the Code of Criminal Procedure, nor the grounds for the rejection of their request. In one of the decisions forwarded, it was thus indicated simply that "the CPU shall not grant you indigence aid".

The Chief Inspector therefore sought the management's observations on these various issues to do with indigence, such as the type of information provided to the person who was denied indigence aid, the type of schemes available to indigent prisoners and so on. The CGLPL is awaiting a response from the centre.

9.5 The situation of individuals held in a waiting area in Mayotte from 21 March to 10 April 2018

The CGLPL was contacted about the situation and reception and provision conditions of individuals held in waiting areas in the municipality of Dzaoudzi-Labattoir, Mayotte, from 21 March to 10 April 2018, amid the Union of the Comoros' opposition to the readmission of its nationals deported from France. On 21 March 2018, the Comorian Minister of the Interior published an order prohibiting carriers from allowing Comorian nationals to board without their consent. This decision was confirmed by a circular dated the same day issued by the Minister of State for Transport, prohibiting maritime and air companies from transporting "any person considered by Mayotte's administrative authorities as being in an irregular situation". As such, 96 individuals subject to a deportation procedure from French territory were turned away from the Union of the Comoros; the Mayotte prefectural services therefore decided to hold the individuals in question in waiting areas.

On 21 March, the gymnasium located in the municipality of Pamandzi was requisitioned and a waiting area was set up there by order dated 22 March. Amid the backlash from local officials and part of the population, the prefecture decided not to accommodate the individuals in question in this sports centre, and they were taken to the hall of Dzaoudzi port for the night.

45 people including 23 children under 10 years of age were allegedly taken from 23 March to the waiting area within the health assessment premises of Dzaoudzi-Labattoir Hospital where they reportedly spent three days and two nights before being transferred to the waiting area set up within Pamandzi detention centre for illegal immigrants. Their reception conditions were unsanitary, with the people being held in two rooms described as cages, equipped with nothing more than makeshift beds and mattresses on the ground; there was only one toilet available, a single water supply point and no
showers or washing facilities. The people being held, the children included, were not given any change of clothes or a suitable place for prayer. 53 men were taken to the hospital's health assessment waiting area from 26 March to 10 April in similar accommodation conditions: locked cells, no showers or change of clothes for several days, access to a single wash basin and toilet, smoking was not allowed, there was not enough space to pray and the people being held who were on some form of treatment were unable to access their medicines.

From 24 March, 39 women and 19 children (ten of whom were under 5 years of age) were held within a waiting area at the Pamandzi detention centre for illegal immigrants (CRA), where there was a single room measuring about 45 sq.m., the space was confined and the conditions were unsanitary (no change of clothes, no access to any health care during the first few days, few outings into a corridor). Following an intervention by the fire brigade, two pregnant women and six children were reportedly evacuated to Mayotte Hospital.

Pursuant to the Act of 30 October 2007 amended, the CGLPL referred the case to the Mayotte prefect for comment, not least as regards the sanitary and medical conditions, access to health care and means of staying clean, the arrangements for calling on the assistance of a lawyer or interpreter and the specific measures taken with respect to unaccompanied minors. Finally, the CGLPL enquired as to what due diligence was being conducted to envisage alternative solutions to detention of children accompanying adults denied entry.

In his response, the Mayotte prefect confirmed that the reception conditions had been less than satisfactory but drew attention to the tense social and community backdrop in March 2018, which called for "emergency" accommodation solutions. Measures have nevertheless been taken: a waiting area has been created within the inspection room of the Département-level Border Police Directorate (DDPAF) where there are toilets, showers and a patio, and several detention areas of the CRA have been converted into a waiting area to improve their reception conditions. Furthermore, the Red Cross was reached out to for toiletries kits and health assessments. It is specified that although the people held were allowed to keep their mobile phone, none asked for the assistance of interpreters. No lawyers came to the scene at any point during the detainment and La Cimade, an advocacy group that assists migrants, refugees and asylum seekers, was allowed to access the various waiting areas as soon as it requested to do so.

Given that such conditions of deprivation of liberty (quality of accommodation and overcrowding, limited access to showers and toilets, confined exercise yard) – especially where children are concerned – are an affront to the dignity of the people being held, the CGLPL decided to refer the matter to the Ministry of the Interior for comment and to find out what measures are envisaged to prepare for the end of the exception (in May 2019) provided for in Paragraph 1, Article L.221-2-1, Code for Entry and Residence of Foreigners and Right of Asylum (CESEDA), which has applied to the Département of Mayotte with regard to accommodation conditions in waiting areas.

In his response, the Minister of the Interior stressed that the Mayotte prefect's decision to place 96 Comorian nationals in a waiting area as a matter of urgency was grounded in the need to protect public order and the safety of the individuals concerned. He further maintained that everything had been done to ensure the best possible provision for the individuals concerned, both in terms of their reception and health care conditions. He explained "that it goes without saying that the means allocated by the State to resolve this crisis and to manage flows of migrants in Mayotte are aimed at ensuring that this type of extreme situation cannot happen again". On a final note, he pointed out that Act No. 2018-778 of 10 September 2018 allowed for a five-year extension of the exception set out in Paragraph 1, Article L. 221-2-1, Code for Entry and Residence of Foreigners and Right of Asylum in France, with regard to the exceptional migrant situation in Mayotte.
9.6 Violations of rights of children hospitalised in mental health facilities ill-suited to their situation

The CGLPL has received regular referrals about the situation of children committed to psychiatric hospitals in conditions that do not respect their rights. This issue was addressed for the first time in the thematic report on the fundamental rights of children in mental health facilities, published by Dalloz in 2017.

This report identified and described three types of situation:

- children who, for diverse reasons, are committed to hospital wards for adults, mostly accommodated in an individual room and often in a seclusion room;
- children committed to psychiatric hospitals when they do not require psychiatric care but social or medical-social care (medical-educational institute/IME, therapeutic and educational institute/ITEP);
- a number of autistic children are accommodated in child psychiatry wards which are not correctly equipped for receiving them in proper conditions.

Care provision for the children is unsatisfactory in all three of these situations, and leads to violations of multiple rights.

Since this thematic report was written, the CGLPL has been contacted about several similar instances of children – often of a very young age – accommodated in a mental health facility under wholly inappropriate conditions: one 14 year-old boy exhibiting hetero-aggressive behavioural problems was hospitalised in an adult ward for several months and held daily in the seclusion room; one 15 year-old boy, hospitalised for several weeks in a calming room on general psychiatry ward, remained there despite the Liberty and Custody Judge granting a release from the involuntary care measure; one 16 year-old boy suffering from attention deficit hyperactivity disorder had been in and out of hospital for the past year in a facility for adults, most of the time in solitary confinement in conjunction with a restraint measure experienced as punishment; one hospitalised 13 year-old boy was kept in a seclusion room for more than a month on an adult ward following reports of sexual assault committed in the child psychiatry ward where he was hospitalised, etc.

The situations above are primarily reported by the nursing staff, who feel ill-equipped to cope with the situations they identify as violating patients' rights, but also sometimes by the families of the children in question. In all of the situations reported by the nursing staff, it was made clear that solitary confinement was the only option given the inappropriate design of the host facility.

The CGLPL conducted several inquiries, by post and on-site, in order to more fully understand these often complex situations. Following these inquiries, the CGLPL found that the fundamental rights of these children had been seriously violated on a number of occasions, and sent recommendations to the facility managers. It also observed first-hand the suffering of children and nursing staff alike, who, for their part, are much troubled by the fact they cannot provide suitable care.

Similar findings have been made in 2018 by the Defender of Rights, who issued a scathing opinion about the institutional violence of which these children are a victim: "the institutions, through their ill-suited provision, lack of action or response, running or organisation, etc., do not sufficiently heed the children's needs, and can thus end up committing substantive violence in their regard".

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Such was the case for Corentin\textsuperscript{64}, whose situation was subject to an on-site inspection in 2017, and not only illustrated but also summed up a number of the problems often observed. A deprived sector, with no child psychiatry bed in full-time hospitalisation and unable to provide this child with mental health monitoring right when he needed it, was compounded by a lack of communication and concerted efforts on the part of the various stakeholders: physicians in the host hospital, child welfare social workers and judges. The dysfunctional communication between the different institutions led to a hospitalisation in a legal framework which significantly complicated the child’s care, and lost sight of its protection and healthcare objective because of a primarily security purpose – the end result being the child was deprived, for nearly eight months, of direct access to fresh air, contact with other children of his age and schooling.

In this regard, the comments made in response to the forwarding of the inquiry report to the management of the hospital in which the child was hospitalised are particularly telling.

\textbf{“To the Chief Inspector,}

Following your letters on the report following the on-site inspection of Corentin’s situation, please find below the following observations:

A large part of the report concerns the way institutions, bodies or professionals are run, each with their own operational strategy and on which it is not our place to comment.

For the hospital, we were very quick to raise the alarm regarding the inappropriate hospitalisation of Corentin on an adult ward, whilst maintaining his hospitalisation out of concern for the child’s protection and, of course, the population.

Since all efforts to find a suitable facility for Corentin’s particular situation were in vain, and his hospitalisation was extended, the accommodation conditions were much improved by the conversion of a double room into a “bedsit” with a TV and customised decoration in line with Corentin’s wishes.

Although the facility is ill-suited and the nursing staff inadequately trained for this type of care, a care and occupational programme has been implemented.

I would add that considerable human resources were dedicated to Corentin’s welfare, since two nurses were systematically assigned to his care plan.

To sum up, during the 226 days of Corentin’s hospitalisation, the psychiatry ward’s team endeavoured to respond as best it could to an exceptional and complex situation with inadequately trained human resources, ill-suited premises and bodies or institutions with no solutions for reception in appropriate facilities.”

In 2018, another on-site inquiry looked into the situation of a 16 year-old girl, hospitalised for nearly three months in an admissions unit solely accommodating adults, in a seclusion room bare of any personal decoration. In this unit, during the CGLPL’s inspection she was subject to a five-point restraint measure on a permanent basis, except when showering and during mealtimes. Special assistance measures had been set up: access to a recreational area adjoining the room leading to a patio, as well as assistance with care delivery with a nursing aide position and medical-psychological aide position on a full-time basis.

\textsuperscript{64} The child’s first name has been changed to guarantee his anonymity.
The CGLPL certainly commends the dedication of the staff in the facility concerned, but that does not change the fact that it considered the permanent situation of restraint to which this child was subject to be in violation of her dignity and well-being.

In such situations, no matter how dedicated the nursing staff, violations of rights are multiple: violation of the right to an education, since no schooling was provided and there was little continuity of educational provision; violation of the right to a social life and learning in this regard, owing to the solitary confinement and lack of contact with other young people; violation of the right to access health care; unequal treatment across some regions where there are not enough child psychiatry facilities; violation of the freedom of movement owing to the long-term confinement in a seclusion room and, finally, unfounded deprivation of liberty when the sole justification for holding within a locked facility is the difficulties finding a suitable facility.

The persistence of such situations is inadmissible, both for the children concerned and the staff responsible for their care provision. The CGLPL reiterates the following recommendations: the public authorities and responsible authorities must endeavour to improve coordination between the diverse social, medical-social, educational, health and judicial services working with children; the public authorities must make sure that any child in need of care can be accommodated in a suitable institution, which is close enough to his or her home to be able to maintain family ties.

10. **On-site and document-based verifications performed in 2018**

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

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

Some on-site verifications are conducted as part of thematic thought processes, which can take place prior to a publication, in the form of an opinion or thematic report. Accordingly, two of the on-site verifications conducted in 2018 bore on work initiated in 2017 on access to medical care in detention centres for illegal immigrants, with an opinion expected to be published on this subject in early 2019. Another was performed in the context of work that led to an opinion on 22 November 2018, on consideration of situations of loss of autonomy due to age and physical disability in penal institutions.

The other on-site verifications follow on from referrals bearing on individual circumstances. In all cases, on-site verifications – even when they concern an individual situation – are always an opportunity for the CGLPL to issue general recommendations with a view to preventing fundamental right violations.
All on-site verifications lead to a written report setting out the inspectors' findings and recommendations. The report is sent to the authorities concerned, who feed back their observations.

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

From January to December 2018, the CGLPL performed five on-site verifications – two of which were carried out unannounced. The other on-site verifications were announced two to three days prior to the inspectors' arrival.

Some of them required observations to be made swiftly on-site with no prior adversarial talks with the responsible authority. In other situations, the information gathered from an adversarial procedure conducted beforehand by post did not enable the CGLPL to gain an objective picture of the situation.

Two on-site verifications were carried out at detention centres for illegal immigrants, two in penal institutions and one in a hospital.

10.1 Access to medical care for detained migrants

As part of the discussions initiated by the Chief Inspector on access to medical care for detained migrants, an initial on-site verification was carried out at Bordeaux detention centre for illegal immigrants (CRA) in 2017.

Two other on-site verifications were conducted in 2018 within the same context, at Paris CRA-4 (Court of Law), on 18 & 19 January 2018, and at Marseilles CRA, from 28 February to 3 March 2018. In the same way as the on-site verification at Bordeaux CRA, these inquiries particularly focused on access to psychiatric treatment and the hospitalisation procedure for the migrants, which mostly entailed voluntary committal to a closed unit. In this context, the question of hospitalised detainees' access to legal information and advice was given particular consideration. The inquiries probed all of the questions associated with the detained migrants' access to medical care (healthcare system, mission of the detention centre's medical unit, medical appointment procedure, procedures in the event of incompatibility with staying in the detention centre or a removal, continuity of care, etc.).

A joint report was written up on all three of these on-site verifications, compiling the inspectors' observations during the inquiries, with a view to cross-linking practices and comparing them against the statutory provisions on medical care delivered to detainees. Contrary to the CGLPL's usual procedure, which involves issuing recommendations to the individuals responsible for the place of deprivation of liberty following an on-site verification, pursuant to the provisions of Article 6-1 of the Act of 30 October 2007, this report only sets out the findings made on-site. For these have been analysed, with the inspection reports and referrals on this issue, during the drafting of an opinion on the health provision for individuals placed in detention centres for illegal immigrants, published in the first quarter of 2019 in the Journal officiel de la République française (Official Gazette of the French Republic).

10.2 Hospitalisation conditions of a 16 year-old girl

In February 2018, the CGLPL received a report concerning the situation of a 16 year-old female patient who was hospitalised in an admission unit solely accommodating adults. It was specified that she was placed in a seclusion room, under permanent restraint, and sometimes left without any care, particularly fresh changes, for half a day.
The Chief Inspector tasked two inspectors with conducting unannounced on-site verifications at the facility on 12 February 2018. They met with the main professionals involved in the child’s care and consulted her administrative record. At the end of these on-site verifications, the findings and recommendations were written up in a report, which will be published on the institution’s website with anonymity guaranteed.

This report highlights the dedication of the nursing staff tending to the patient, as well as their resourcefulness in improving her provision of care: installation of a stretcher enabling her to wash, setup of a dedicated team, opportunities to go out in the grounds in a suitable wheelchair.

But observation of the day-to-day provision for the girl nevertheless gave rise to several recommendations and suggestions for improvement (improving the layout of the room, need for time with the somatic physician and for dental care and need for time together with other patients). Furthermore, the inspectors found that the nursing staff’s practices and ethical conduct were tested insofar as restraint was the central care measure: the patient was subject to a five-point restraint measure on a permanent basis, which was only eased during mealtimes or when showering. The CGLPL indicated in its report that this permanent situation of restraint to which this teenage girl was subject above all violated her dignity and well-being.

Finally, the CGLPL found that, although all of the people it met with shared their misgivings about the purpose and limitations of the provision set up for this young female patient on their ward, they were simply unable to offer an alternative care plan.

At the end of this inquiry, the CGLPL reiterated, for the attention of the public authorities, the recommendation from its thematic report on the fundamental rights of children in mental health facilities: the public authorities must make sure that any child in need of care can be accommodated in a suitable institution, which is close enough to his or her home to be able to maintain family ties.

10.3 The independent living and support unit at Bédenac long-term detention centre

In preparation for the opinion dated 17 September 2018 on consideration of situations of loss of autonomy due to age and physical disability in penal institutions, on-site verifications were conducted at Bédenac long-term detention centre with a view to observing the running of the independent living and support unit (USA), opened in 2013.

With 21 cells specifically designed for accommodating elderly detainees with diminished autonomy and suffering from multiple chronic conditions, this unit is located within the immediate vicinity of the health unit and at a distance from the ordinary detention area. The average age of the detainees assigned there is 69 years old; the oldest at the time of the inquiry was 89.

The detainees in this unit can access an exercise yard specifically dedicated to them; they can go to the ordinary detention area, to do sport or go to the library for example. An overwhelming sense of idleness was nevertheless found on the part of the detainees: only a few workshops were organised, some of the detainees played pétanque and another tended to his garden for example. The detainees could freely access a common room which served as both the kitchen and dining hall; two sets of fitness equipment including an exercise bike have also been installed. There is no dedicated team of warders and no awareness-raising or training has been offered to officers.

The general finding is that the opening of this unit was not anticipated and that the medical team was not consulted – except for the layout of the cells for people with reduced mobility and the location of the call buttons on the bedheads in particular. A local agreement has been signed between the prison authorities and home care provider, ADMR, to clean the cells and help the detainees to
wash. The time it takes to obtain assistance is very long, however. With respect to social aid for instance, the General Council does not travel to the centre to assess the level of loss of autonomy, which holds up applications for the personal care allowance (APA). Medical and nursing care is administered properly. An on-call nursing service is organised on-site at the weekends from 9.30 to 16.00 with coordination by the Mobile Emergency and Resuscitation Service (SMUR) in medical emergencies. Access to medical consultations is effective, except for physiotherapy treatments. That said, no additional resources have been allocated for organising external movements for medical reasons, when a number of the people assigned to this unit suffer from multiple chronic conditions.

Regarding preparation for release, the general sentence enforcement policy is restrictive and searches for housing remain problematic – not least facilities with medical care since there is no agreement with a nursing home (EHPAD) or other type of care provider.

In its inquiry report, the CGLPL highlighted the quality of accommodation and assistance offered to detainees assigned to the USA. This should not exclude the benefit of a suspended sentence on medical grounds or adjusted sentence, however, insofar as provision for elderly, dependent detainees has its limits and raises questions over the purpose of the sentence. The CGLPL recommends an assessment of the running of this unit and its relevance as part of national discussions on the care provision for elderly, dependent and disabled prisoners.

10.4 The detention and management conditions in the punishment wing of Bayonne remand prison

In the wake of a report and as part of a thought process ongoing at the CGLPL on punishment and solitary confinement in prisons, on-site verifications were organised at Bayonne remand prison to check the detention and management conditions in the punishment wing, as well as the protocol for managing punishment within this prison.

Bayonne remand prison has one punishment cell, located in the detention building, on the ground floor, behind a door leading to two cells. The second, currently being used as a cloakroom, was being upgraded to meet the safety and fire standards. No officer had been assigned to the direct and permanent surveillance of the wing, instead this was carried out by the on-duty officer on the ground floor via regular rounds and the intercom system.

On the day of the inspection, the cell was clean and occupied since that morning by someone completing a punishment that had been postponed following the placement in prevention of the person concerned by the report. The punishment cell was found to be lacking in daylight due to the heightened system of bars and grating obstructing its opening, located high up not far from a wall. The window, damaged three weeks earlier, had still not been replaced.

Generally speaking, management of prisoners in the punishment wing seemed to be correct and responsive, as attested to by the prisoners who had spent time there, with whom confidential interviews were arranged.

But the fact that detention was managed in a verbal manner to the detriment of written texts meant that less attention was paid to record-keeping and traceability. What is more, it was noted that no professional interpreters were called on during the disciplinary committee sessions and investigations, which violated the foreign prisoners' right to defence.

The inspectors also found that incidents and punishment were managed in a particularly flexible manner on a case-by-case basis, probably due to there being only one punishment cell. As such, it was found that the toughest punishments in this wing seldom lasted more than a week and accounted, since 1 January 2018, for less than 40% of punishments handed down.

The inspectors also found that most of the incident reports concerned the discovery of mobile phones or recovery of banned substances or items on the sports ground. Bayonne remand prison
does not have calling points in the detention area. Only the three exercise yards are equipped with 'phones, as well as the sports ground. Prisoners therefore only have 11 slots per week when they can access the 'phone, for which they have to leave their cell to go to the sports ground or exercise yard and their friends and family have to be available during restrictive time slots in the morning or afternoon. The fact that they are unable to call their family on Saturday afternoons or Sundays further limits their scope of keeping in touch with their relatives over the 'phone. The mobile phones introduced illegally within the prison, mainly by throwing over the sports ground, represent the main grounds for disciplinary proceedings.

In its on-site verification report, the CGLPL recommended that access to the telephone be facilitated by installing calling points in the detention area or handsets in cells, and that the access times be extended to meet the needs of the prison population and the time constraints of their families and friends.

More generally, the CGLPL recommended that a regular overview be conducted of incidents to analyse the causes of their recurrence and to find sustainable solutions for addressing the needs identified in this context.
Chapter 5

Assessment of the work of the Chief Inspector of Places of Deprivation of Liberty in 2018

11. Relations with public authorities and other legal entities

11.1 Relations with public authorities

As is the case every year, the Chief Inspector of Places of Deprivation of Liberty met with the President of the Republic to hand him her annual report. This meeting was an opportunity to raise the CGLPL's main concerns, on two points in particular: on the one hand the issue of prison overcrowding and the need to set up a prison entry-exit regulation system, and on the other the bill for controlled immigration and an effective right of asylum, regarding which the CGLPL, opposed to extending detention time-limits, has strong reservations, and would like to see the bill provide an opportunity for putting an end to the detainment of children with their families.

The Chief Inspector also met with the Prime Minister on two occasions, first to present the institution and then to hand him her annual report. This second meeting was an opportunity to discuss with the Prime Minister the issues already raised with the President of the Republic.

Meetings were also held with the Ministers of Justice and Health to give them the annual report too. The CGLPL particularly regrets that a request for a meeting with the Ministre d'Etat, Minister of the Interior, went unanswered.

The CGLPL's cooperation with Parliament has taken many forms. Over and above the traditional submission of the annual report to the Presidents of the assemblies and its presentation to the Committees of Laws, the CGLPL was asked to attend a number of hearings.

At the National Assembly, the Chief Inspector was heard by:

- the rapporteur for the Committee of Laws on the bill for controlled immigration and an effective right of asylum;
- the information mission of the Committee of Laws on the search regime in detention;
- the rapporteur for opinion of the Committee of Laws on the appropriations of the prison administration and judicial youth protection in the finance bill for 2019;
- the information mission of the Committee of Laws on juvenile justice;
- the working group on immigration detention of families with children and vulnerable adults.

At the Senate, the Chief Inspector was heard by:

- the committee of inquiry on the organisation and resources of State departments for responding to the changing terror threat following the fall of Islamic State;
- the information mission of the Laws Committee on the reintegretion of detained children;
- the rapporteur for opinion of the Laws Committee on the appropriations of the Prison Administration;
- the rapporteur for opinion of the Laws Committee on the appropriations of the "Government policy management" mission.

She also took part in a "Psychiatry in prison" symposium, organised at the Senate by Ms Esther Benbassa, Senator for Paris, and Association of psychiatry sectors in prisons (ASPMP).

She met with several MPs at their request too.

Finally, the Chief Inspector was heard by the Department on Reports and Studies at the Conseil d'État on the subject of citizenship and by the National Consultative Commission on Human Rights (CNCDH) on the subject of detained children.

The Chief Inspector's hearing at the Conseil d'État on the subject of citizenship was an opportunity to address the notion of deprivation of liberty from a little explored angle. The requirements were clarified for a principle of including individuals deprived of liberty in society who, unless expressly provided otherwise, must benefit from the same rights as all citizens; the need for grassroots scrutiny of places where people are deprived of their liberty was reiterated and the fact that such places must, in all circumstances, safeguard or restore the detained person's ties with community was underscored. Then, an analysis was carried out of the situation regarding respect for fundamental rights associated with citizenship. These concern the right to information about the detention measure, a right to general information, the right to vote and political rights, religious freedom and freedom of expression as well as a right to collective expression on the service.

11.2 Relations with non-public legal entities

11.2.1 Relations with associations and unions

As is the case every year, the publication of the annual report paved the way to a series of meetings:

- trade unions representing staff working in places of detention were met one at a time;
- associations grouping together representatives of health workers attending prisons were received together;
- the CGLPL also met with the Chair of the Conference of Chairs of Institutional Medical Committees in Psychiatric Hospitals, the National Association for Prison Visitors and the National Association for External Assessors on the Disciplinary Committee of Penal Institutions;
- lastly, one meeting convened all of the associations concerned by places of detention.

The CGLPL contributed on many occasions to the AGMs or symposiums organised by associations or foundations. For instance, the CGLPL spoke at:

- the AGM of the association "Le courrier de Bovet";
- the conference "Prison: alpha and omega of punishment?" organised by the Jean Jaurès Foundation;
- the conference of the association "Psypropos" on the subject "Impact of the exercising of freedom and deprivation of freedom in the lives of our fellow citizens";

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65 Association des professionnels de santé exerçant en prison (APSEP) and Association des secteurs de psychiatrie en milieu pénitentiaire (ASPMP).
- the conference of the European LGBT Police Association (EGPA) organised in Paris by the association "FLAG!";
- a conference on the rights of detained women for the attention of members of the association Creuset d’avenir;
- the 8th national meeting of associations of reception centres for families and relatives of prisoners-UFRAMA;
- the symposium "Psychiatry, lifting the state of emergency" organised by the Institut Montaigne and Foundation "Fundamental";
- the closing event of the Community Work Tour de France organised by the Community Work Forum;
- a debate on prison overcrowding organised at the Paris Institute of Political Studies by the CASP-ARAPEJ as part of the National Prison Days 2018;
- the 37th "Prison Justice Day" of the French National Student Group for Educating Prisoners (Genepi).

Finally, "sector-specific" meetings with associations were organised, one with associations advocating for the rights of foreigners and the other with associations advocating for the rights of prisoners. These more specific meetings, initiated in 2016, set the stage for highly constructive discussions both on the lines of work and concerns of the associations and on the activities of the CGLPL.

11.2.2 Related with professional bodies

Several meetings were organised with the National Council of the French Medical Association with which a three-year cooperation agreement was renewed on 15 June and several work focuses were identified, not least concerning respect for doctor-patient privilege and the healthcare provision in immigration detention.

The CGLPL also took part in the symposium "Prison: why? For whom and how?" organised by the Legal Association of the Paris Bar.

The CGLPL also attended the Inter-UMD 2018 Days organised by Paul Guiraud Hospital in Villejuif (Val-de-Marne).

11.3 Relations with universities and public official training providers

The CGLPL spoke in training schools for judges, civil servants and the military which decide or implement detention measures. Accordingly, the Chief Inspector contributed to course teaching for trainee judges on two occasions at the National School for the Judiciary, while other members of the CGLPL shared their expertise during continuing professional development programmes and courses for foreign judges or symposia that this school organised: "Involuntary psychiatric care", "Prison in questions", "Fundamental rights in detention" and "The foreigner and the judge".

Other training initiatives were held for the benefit of trainee police commissioners, trainee gendarme officers, trainee heads of prison services, trainee prison officers and trainee directors for prison rehabilitation and probation services. The CGLPL also contributed on four occasions to the training of police officers of all ranks ahead of their first position in the border police services.

The CGLPL contributed on a good many occasions to university symposia or programmes in 2018: an institutional presentation for students taking a foundation course at the Lycée Gustave Eiffel in Bordeaux; a debate organised by Master's students in their second year of criminology at the University of Paris 2; the symposium on criminal justice for juveniles organised by the CRIC – Centre
for Research, Information and Consultation on the Rights of the Child in Bordeaux; an institutional presentation followed by a tutorial for the Master's students in their second year of fundamental rights litigation at the University of Grenoble-Alpes; the symposium "Women and criminal law" organised by the Institute of Criminology and Criminal Law of the University of Paris 2; a contribution on the relations between the CGLPL and ECHR for the European and International Business Law Master's degree of the University of Paris-Dauphine; a contribution at the Accessing Rights Clinic at the Paris Institute of Political Studies.

Finally, the CGLPL took part in a training programme on sectioning organised by the Union of Lawyers of France.

The CGLPL's commitment to encouraging academic research in its sphere of action was clearly shown in the organisation of an open day for research professors on 20 September 2018.

An "open day" for researchers

Over the past decade, the CGLPL has produced enough work for research to be able to meaningfully inform it, put it into perspective and even, where applicable, shine a light on areas that need to be improved.

This institution focuses on a wholly unique research subject: detention – considered from the angle both of the places it inspects (150 inspections a year, which makes around 1,500 since the CGLPL's founding and just as many reports) and of the detainees whose views we listen to in interviews during inspections and whose accounts we receive, some 4,000 letters a year. A specific methodology is required for this unique research subject: procedures bearing on the inspections and processing of referrals and their respective follow-up as well as conceptual, documentary and practical tools developed over the years and which are still being updated to this day.

In the context of this work, which is always undertaken within the short timeframe of a professional practice, it appeared worthwhile strengthening the CGLPL's relations with academia, since universities have a broader perspective of these subjects and similar or related subjects.

In the past, the CGLPL has had the opportunity of hosting doctoral students or researchers for work focusing on the CGLPL's remit. These experiences, though few in number, were immensely constructive. In her firm belief that this constructive thought process on the CGLPL and on the deprivation of liberty may only be informed by the variety of research work, its multidisciplinarity, diversity and even its contradictions, the Chief Inspector organised this open day to nurture this potential.

After a presentation of institutional and documentary questions, attention turned successively to the most pressing issues relating to each of the categories of places inspected: prison, mental health facilities, detention centres for illegal immigrants, juvenile detention centres and custody facilities.

23 researchers primarily from universities but also from other public research centres were thus able to meet with CGLPL members and jointly plan contributions to be presented before student groups or talk about lines of research, some of which were initiated before the end of 2018.

11.4 Participation in conferences and symposia

The CGLPL took part in a wide variety of conferences and symposia organised by public and private stakeholders alike:
- a conference entitled "Comparative perceptions of prison" organised by the City of Reims' Network of Libraries (Marne);
- a screening + debate of the documentary "Après l’ombre" by Stéphane Mercurio in Paris;
- a contribution at the annual conference on juvenile justice organised by the Paris Court of Appeal;
- a symposium on the restriction of freedom in psychiatry organised by the Centre Val de Loire Regional Ethical Think Tank in Orléans (Loiret);
- the annual meeting of the European Network of Ombudspersons for Children (ENOC) organised by the Defender of Rights on "mental health in children and adolescents";
- a day for discussion and debate on respect for patients' rights organised by Saint-Cyr Hospital in Le Mont-d’or (Rhône);
- the symposium "Rethinking prison", organised by Versailles Court of first instance in civil and criminal matters (Yvelines);
- a day for discussion on the ethical conduct of law enforcement in their relations with migrants in Europe, Presentation organised by the Defender of Rights during the meeting with IPCAN66, an informal network of exchange and cooperation amongst independent, national structures in charge of external supervision over security forces.

But the most original highlight of the 2018 calendar was without doubt the CGLPL's participation in "La Nuit du droit", a series of nationwide events organised by a host of legal stakeholders on the initiative of the Constitutional Council.

### The CGLPL’s role in the "La Nuit du droit" event

Across five penal institutions (Versailles women's remand prison, prisons with sections incorporating different kinds of prison regime of Nancy-Maxéville and Caen, and Nîmes and Valenciennes remand prisons), the CGLPL organised encounters with the prisoners and professionals of all statuses who work with them in a range of capacities.

In each of the institutions, two CGLPL inspectors oversaw the talks, in which an MP (except in one of the institutions) and a lawyer also took part.

The aim was to present the measures available for protecting prisoners' fundamental rights and, for the professionals, to present the recent report on "Staff in places of deprivation of liberty".

The encounters were held in two stages at the end of the afternoon and gave rise to hugely constructive discussions.

### 11.5 The work of the Chief Inspectorate's scientific committee

The CGLPL's scientific committee met three times through 2018, on 21 March, 20 June and 18 October.

As it has done ever since its creation in November 2016, this committee continued to invite researchers and professionals working in the CGLPL's fields of expertise (i.e. defence of the

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66 Independent Police Complaints Authorities’ Network.
fundamental rights of people detained following judicial and administrative judgments) in prisons, psychiatric hospitals or detention centres for illegal immigrants.

Over the course of an afternoon, external participants and inspectors therefore met at regular intervals to debate, on the basis of planned contributions and informal conversation, in closed sessions, without any reporting. This approach, which has been followed from the outset, is regarded as one of the conditions for enabling both the inspectors and external participants alike to speak their minds freely.

It appeared worthwhile extending the committee's initial membership, by bringing new participants on board depending on the chosen subjects. The flexibility of this committee, an option which the Chief Inspector adopted right at the beginning, has made such progress easier. Indeed, alongside the "core members" of the committee (whose honorary chairmanship was initially entrusted to Ms Mireille Delmas-Marty, Honorary Professor at the Collège de France), invitations were sent out to broaden the informal circle of members who, always on a voluntary basis, have agreed to share their knowledge and thoughts with the inspectors. Each meeting is prepared beforehand with documentation being drawn up that is shared by the inspectors and external participants.

On 21 March 2018, the first meeting was devoted to discussions on the purpose of detention, in terms of migration policy, policy on judicial matters (and its repercussions in penal institutions) and in psychiatry. Stefan Le Courant, an anthropologist at the EHESS and member of the Babels research programme (coordinated by Michel Agier, an ethnologist, who is already a committee member) and Dr Thierry Najman, a psychiatrist who has signed the "Manifeste des 39 contre la dérive sécuritaire en psychiatrie" (Manifesto of the 39 against the excessive security trend in psychiatry), also attended this meeting at a time when new texts were being examined in a bid to stem the inflow of migrants and facilitate their deportation and when the report by Bruno Cotte and Julia Minkowski had just been published on "the purpose and effectiveness of sentences".

On 20 June, discussions bore on both checks in detention centres for illegal immigrants and monitoring of deportations of irregular migrants, regarding which the 2014 legislation had tasked the CGLPL with supervision. To hold discussions on inspectors' operating methods, and their questions about the purpose of their work, it appeared worthwhile inviting Danièle Lochak, public law professor and former Chair of the GISTI (Information and Support Group for Immigrants), Claire Rodier, Lawyer and Co-Founder of the Migreurop Network and author of a number of publications on refugee and asylum seeker policy, as well as Serge Slama, Professor of Public Law at the University of Grenoble. Taking the reports written by the CGLPL following on-site inspections as well as broader assignments as its starting point, the discussion compared the approach inherent in report-writing with the specific approach taken by lawyers who, in this instance, are also human rights activists.

On 18 October, with a CGLPL assignment at the psychiatric infirmary of Paris Police Headquarters (IPPP) coinciding with the new version being released of "La folie à Paris" (published by Jérôme Millon), by the psychiatrist Paul Garnier who had run it in the late 19th century, Jean-Jacques Courtine, Professor Emeritus at the Sorbonne and University of Auckland, who wrote the foreword to this text, was invited. A psychiatrist at the asylum clinic of Sainte Anne and legal expert (particularly on serious criminal cases tried at the Crown Court), Professor Garnier had undertaken to describe in meticulous detail the clinical cases he had handled as well as the running of the psychiatric institution where he worked. In his introduction, "Le Paris des délires", Professor Courtine reframed this text within the context of a city, the Paris of Baron Haussmann, in the throes of major upheaval. Sometimes unexpected parallels could be drawn between then and now, on the social supervision in particular of individuals who find themselves unable to live within a setting that has become unbearable.
For his part, Dr Daniel Zagury, who has assisted the Scientific Committee from the beginning, came to talk about his book "La barbarie des hommes ordinaires" (published by Editions de l'Observatoire) and his experience as both a caregiver and expert.

12. Publication of the CGLPL's Rules of Procedure

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. Over and above the statutory provisions on administrative and logistical organisation, this document describes what the CGLPL does across the board.

During the drafting of this text, amendments to older pieces of legislation that had become necessary as practices have progressed were incorporated and the means by which the CGLPL applies new legislative provisions were clarified – not least in terms of the Act of 20 April 2016 on ethics and the rights and duties of civil servants as well as the Act of 20 June 2018 on the protection of personal data, which incorporates into French law European Regulation No 2016/679, known as the General Data Protection Regulation (GDPR).

Two new positions have now been created at the CGLPL: pursuant to the first of these texts, that of Ethics Officer, and, pursuant to the second, that of the "DPO" (Data Protection Officer).

The CGLPL's rules of procedure were published in the *Journal officiel* (Official Gazette) of 23 December 2018.

13. International relations

13.1 Promotion of an approach to mental health care that is grounded in human rights

The CGLPL got involved in events promoting an approach to mental health care that is grounded in human rights, first and foremost the Consultation on Human Rights and mental health: "Identifying strategies to promote human rights in mental health", organised by the Office of the High Commissioner for Human Rights (UN Human Rights), in response to Resolution 36/13 of the Human Rights Council in Geneva. The prevalence of the biomedical model, increasing use of detention and institutionalisation of patients – irrespective of the countries' level of development – the use of restraint and ensuing abuses all drew strong criticism throughout the event. Approaches that are more respectful of human rights were promoted, based upon such community or innovative mental health initiatives as "Open dialogue" or "Un chez soi d'abord". There needs to be a change in mindset, for exclusion starts off being collective before becoming institutionalised. A consensus emerged among the experts attending on the need for a paradigm shift in the delivery of care for mental health sufferers, through the roll-out of policies underpinned by the principles of the United Nations Convention on the Rights of Persons with Disabilities (CRPD).

The CGLPL then took part in a conference entitled "community mental health and democracy" organised by Trieste Mental Health Department (WHO CC), celebrating 40 years of the "180" law, which established the psychiatry reform in Italy: the notion of psychiatric dangerousness no longer appears in the legislation, and voluntary care has become the rule. Trieste's experience, which formed the basis for this reform instigated by Dr Basaglia, has led to psychiatric hospitals being closed and replaced with community mental health services. In the space of a few years, the local psychiatric hospital was closed and its patients provided with an alternative care model via a de-
institutionalisation policy inspired by the French sector. This conference was an opportunity to look at the lessons from this experience and the remaining challenges from an Italian and international perspective. Not all mental health departments operate in the same way in Italy, and such foreign practices as "Open dialogue" could provide worthwhile inspiration. The importance of placing the individual entitled to such rights at the centre of the care model was underscored, which can only be achieved by integrating care better within the community. More than ever it is essential to factor in the social dimension of mental illness, and to challenge the purpose of separation that confinement represents as well as the use of restraint. Mental health programmes cannot be rolled out without taking the experience and views of mental health sufferers into account.

This conference ended with the Chief Inspector's and several inspectors' tour of the psychiatric arrangements currently in place at Trieste, grounded in social psychiatry inspired by the concepts of phenomenology. Four centres with four to six beds each have opened to cater to the needs of a population equivalent to a psychiatry sector in France, and for which there would be 260 inpatient beds. In 2017, some 4,800 people were in contact with the community mental health centres, but only 25 of them were sectioned, which corresponds to involuntary health care. The tour included a mental health centre, the general hospital's emergency psychiatry ward and a residence for the enforcement of security measures (REMS), i.e. somewhere patients are placed by judicial measure, with a two-bed capacity.

Finally, the CGLPL and CNCDH informed the French Government of their opposition to the draft additional protocol to the Oviedo Convention concerning the protection of human rights and dignity of persons with mental disorder with regard to involuntary placement and involuntary treatment. This draft of the Council of Europe, overseen by the Committee on Bioethics (DH-BIO), is opposed by the Human Rights Commissioner, the Parliamentary Assembly of the Council of Europe, Special Rapporteurs of the United Nations and European Network of National Human Rights Institutions. A number of associations advocating for the protection of mental health patients have also strongly voiced their opposition to this draft. This is because its approach upholds a vision and practice of involuntary care which, at this stage, is at odds with the CRPD: the definition of mental disorder, consent, the criteria for using involuntary treatment and/or placement, legal guarantees governing such use and lack of precision in such terms as "appropriate environment" run counter to the Convention, or are not precise enough.

13.2 Assessment of the impact of National Preventive Mechanisms (NPMs)

During the celebrations of the tenth anniversary of the Slovenian NPM's creation, the CGLPL took part in a conference in Ljubljana, in April 2018, on the assessment of the impact of NPMs, which followed on from two other meetings held on the subject in 2017, under the auspices of the Council of Europe.

As a public structure, NPMs are subject to Parliamentary scrutiny, but must also conduct their own self-assessment on the basis of the guide drawn up by the Subcommittee on Prevention of Torture, peer reviews, or can be subject to an external review. Measuring the impact of NPMs' work in terms of preventing torture and ill treatment is an essential task, but can prove a complex business.

The ultimate aim should be to improve the conditions of individuals deprived of their liberty, but this depends on a number of factors, in which the NPM's role is not easy to identify. What therefore needs to be done is to identify intermediate objectives, such as assessing the internal performance of the NPM with regard to government spending, assessing the effectiveness of new standards, and the procedure for following up on recommendations: how are these implemented in everyday practice, in administrative judgments and how have they been conveyed in the law, etc.? The mandate, resources and working methods of mechanisms are just some of the indicators that should be taken into consideration. The perception of users and civil society should also be borne in mind. The causal link between the work of the NPM and shifts observed in practice must also be assessed in
a bid to enhance the NPM's effectiveness or identify the dimensions of its recommendations that are not applied.

13.3 Protecting the rights of foreigners placed in immigration detention

Regarding the issues associated with detaining irregular migrants, in December 2018 the CGLPL took part in a regional meeting organised in Milan (Italy) by the Association for the Prevention of Torture (APT) and OSCE Office for Democratic Institutions and Human Rights (ODIHR). NPMs have worked together with civil society representatives from more than thirty European countries on identifying best practices and strategies for preventing torture and ill treatment in places of detention. The solutions take different forms for the countries of origin and countries of destination, with the latter advised to give precedence to alternatives to detainment. The detention period, increasing prison-like nature of places, lack of procedural safeguards, lack of staff training and detention of children are examples of the subjects addressed during the meeting. It became clear that information exchanges between civil society and NPMs are at the cornerstone of most of the best practices and strategies identified, for the purposes of addressing these various aspects and so improve the protection of detainees. In some European countries, alarming practices along the lines of criminalising NGOs who actively support detainees – and even criminalising an NPM – were also laid bare.

During the discussions, the Council of Europe's draft instrument to codify existing standards relating to the conditions of detention of migrants was mentioned on several occasions, prompting concern among the participants. It would seem that a number of the recommendations stemming from the consultation process opened in 2017 for the attention of NPMs, international experts and civil society, to which the CGLPL had contributed, have not been taken into account in the document's most recent versions.

Moreover, the CGLPL attended a hearing in April 2018 with the European Council on Refugees and Exiles (ECRE) as part of an information mission in France. This was an opportunity to add input to the Asylum Information Database "AIDA", which contains information on asylum procedures, reception and detention conditions across some 20 European countries. At the end of this mission, the report entitled "access to asylum and detention at France's borders" was also published, analysing the legal and practical implications of procedures set up across certain waiting areas and at the Franco-Italian border.

13.4 Protecting the rights of LGBTI detainees

The CGLPL lent its support to the APT during the final stage of revising their guide, Towards the Effective Protection of LGBTI Persons Deprived of Liberty. The symposium organised in 2015 on the subject had lifted the lid on the lack, for the watchdogs responsible for monitoring such places, of suitable tools for grasping the specific difficulties encountered by these individuals on being detained. Other NPMs along with UN and CPT experts as well as civil society, also attended.

The guide outlines the method to be adopted in most effectively taking into account respect for the rights of LGBTI individuals, and breaks down the approach to monitoring the situation according to place: police custody, immigration detention and, above all, prison. In each case, the challenges and issues are presented and illustrated through case studies and/or best practices. Monitoring checklists are given, so that the monitoring bodies use these as part of thematic missions or take this new perspective on board during their regular visits to facilities.
13.5 Participation in the Global Study on Children Deprived of Liberty

With a view to ensuring more effective protection of the rights of children deprived of liberty, the CGLPL contributed to the Global Study on Children Deprived of Liberty. This was commissioned by the United Nations Secretary General pursuant to Resolution A/RES/69/157 adopted by the General Assembly in 2014. This commission followed the finding that children are being detained at a younger and younger age and held for longer periods of time. The study will thus assess the magnitude of the phenomenon, document best practices and capture the view and experiences of children. Its ultimate aim is to provide recommendations for law, policy and practice to significantly reduce the number of children deprived of liberty and better safeguard their rights.

This study had been called for throughout the Children's Rights Behind Bars project coordinated by Defence for Children – Belgium (the Belgian section of the non-governmental organisation Defence for Children International). Initiated in 2014, and in which the CGLPL participated as an expert during the drafting of a practical guide on monitoring places where children are deprived of liberty, this project ended this year with the organisation of a final conference.

13.6 Participation in regional and international meetings

At regional level, the CGLPL also took part in a pilot project organised by the European Union Agency for Fundamental Rights (FRA) and Council of Europe, aimed at creating a database of information from the monitoring of places of detention. Similarly, the CGLPL contributed to a study by the French Institute of Rights and Liberties, a FRA focal point, on the procedural safeguards in terms of police custody and preventive detention.

At international level, the CGLPL took part in a workshop organised in November 2018 in Tunis by the Venice Commission of the Council of Europe, entitled "Role and place of independent bodies in a democratic state". This brought together members of independent bodies from countries of the Mediterranean region mostly, but also from Europe and North America. The nature of these institutions, safeguards for independence, methods for appointing and dismissing members and impact of their decisions on administrations were just some of the subjects addressed during the workshop.

On 31 July and 1 August 2018, an inspector took part in a regional seminar organised in Amman, Jordan, by the Palestinian Independent Commission for Human Rights, in cooperation with the non-governmental organisation Penal Reform International.

Following the Palestinian authority's ratification of OPCAT on 29 December 2017, it must now create its own NPM. The seminar was aimed at sharing the experiences of countries that have already set up such a supervisory body. Alongside France, representatives were also invited to the discussions from the UK, Central Asia, Armenia, Georgia, Greece, Morocco, Mauritania, Tunisia and Lebanon.

On a final note, the CGLPL attended a hearing with the United Nations Subcommittee on Prevention of Torture with a view to discussing its working methods, success stories, challenges and possibilities of exchange between the two institutions. The question of the lack of status before the UN of NPMs that are not national human rights institutions was addressed in particular.

14. Cases referred

Article 6 of the Act of 30 October 2007 amended establishing the Chief Inspector of places of deprivation of liberty provides that "any natural person, as well as any legal entity with the task of ensuring respect of fundamental rights, can bring to the attention of the Chief inspector of places of deprivation facts or situations that are likely to come within its remit."
Article 6-1 of said Act provides that when natural or legal persons bring facts or situations to the attention of the CGLPL, which they consider to constitute an infringement or risk of infringement of the fundamental rights of persons deprived of liberty, the CGLPL may conduct verifications, on-site if necessary.

The inspectors in charge of the referrals, delegated by the Chief Inspector for conducting on-site verifications, benefit from the same prerogatives as at the time of inspections: confidential interviews, access to any useful document necessary for properly understanding the situation brought to the knowledge of the CGLPL and access to all of the facilities.

When these inspections have been completed and after having received the observations of the competent authorities with respect to the denounced situation, the Chief Inspector may make recommendations pertaining to the facts or situations to the person responsible for the place of deprivation of liberty concerned. These observations and recommendations may be made public.

There was a marked increase in the time it took for the Prison Administration Department to respond to the verifications in 2018.

However, the average time it took for the Chief Inspectorate to respond to referrals was upheld. Accordingly, the average response time in 2015 was 68 days. In 2016 this was 52 days, and in 2017, 51 days; in 2018, it was 49 days.

It should be noted that the significant increase in case referrals concerning health facilities observed in 2016 and then in 2017 has continued, with such referrals now accounting for more than 11% of all letters sent to the Chief Inspector.
14.1 Analysis of the cases referred to the CGLPL in 2018

14.1.1 The letters received

*Overall volume of the number of letters sent to the CGLPL per year*

The number of case referrals is stable compared with 2017 (+0.06%).

Out of the letters of referral as a whole received between 1 January and 31 December 2018, an average of two letters (2.08) concerned the same person’s situation.

![Graph showing the number of letters received from 2008 to 2018](image)

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 1,743 individuals concerned by referrals in 2018 include 1,497 men (85.89%) and 246 women (14.11%).
Monthly trends of numbers of letters received

Comparison of the number of letters received 2017/2018

14.1.2 Persons and places concerned

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.
Number of Persons Deprived of Liberty (or groups of persons) concerned by cases referred to the CGLPL for the first time

Distribution of cases by category of person referring them and nature of the institution concerned

<table>
<thead>
<tr>
<th>PENAL INSTITUTIONS</th>
<th>Person concerned</th>
<th>Family / relatives</th>
<th>Association</th>
<th>Lawyer</th>
<th>Other</th>
<th>Physicians / medical staff</th>
<th>IGA</th>
<th>TOTAL</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>MA and qMA - remand prison and remand prison wing</td>
<td>999</td>
<td>128</td>
<td>34</td>
<td>106</td>
<td>55</td>
<td>14</td>
<td>16</td>
<td>1352</td>
<td>44.39% of PI</td>
</tr>
<tr>
<td>CD and qCD - long-term detention centre and long-term detention centre wing</td>
<td>680</td>
<td>82</td>
<td>21</td>
<td>27</td>
<td>26</td>
<td>2</td>
<td>2</td>
<td>840</td>
<td>27.58%</td>
</tr>
<tr>
<td>CP - prison with sections incorporating different kinds of prison regime (wing not specified or other)</td>
<td>409</td>
<td>40</td>
<td>29</td>
<td>16</td>
<td>10</td>
<td>5</td>
<td>7</td>
<td>516</td>
<td>16.94%</td>
</tr>
<tr>
<td>MC and qMC - long-stay prison and long-stay prison wing</td>
<td>204</td>
<td>25</td>
<td>6</td>
<td>7</td>
<td>14</td>
<td>0</td>
<td>1</td>
<td>257</td>
<td>8.44%</td>
</tr>
</tbody>
</table>

68 The distribution is as follows: 1,209 individuals identified (1,038 men and 171 women), 152 groups and 40 unknown persons.

69 The "other" category includes 42 individuals, 25 participants, 20 fellow persons deprived of liberty, 18 professional organisations, 13 staff members, 10 "other", 10 judges, 10 referrals from the Office of the President of the Republic, 9 unknown persons, 4 prison rehabilitation and probation counsellors (CPIP), 3 institution directors and 1 MP.

70 Including 10 referrals concerning National Assessment Centres (CNE).
<table>
<thead>
<tr>
<th>Healthcare Institutions</th>
<th>251</th>
<th>71</th>
<th>25</th>
<th>7</th>
<th>30</th>
<th>22</th>
<th>5</th>
<th>411</th>
<th>11.34% of PDL</th>
</tr>
</thead>
<tbody>
<tr>
<td>EPS - public psychiatric institution</td>
<td>149</td>
<td>30</td>
<td>15</td>
<td>4</td>
<td>13</td>
<td>12</td>
<td>2</td>
<td>225</td>
<td>54.74% of HI</td>
</tr>
<tr>
<td>EPS - public health institution psychiatric department</td>
<td>71</td>
<td>29</td>
<td>10</td>
<td>3</td>
<td>9</td>
<td>10</td>
<td>2</td>
<td>134</td>
<td>32.60%</td>
</tr>
<tr>
<td>HI - Unspecified / All</td>
<td>18</td>
<td>5</td>
<td>0</td>
<td>0</td>
<td>7</td>
<td>0</td>
<td>1</td>
<td>31</td>
<td>7.54%</td>
</tr>
<tr>
<td>UMD - Unit for difficult psychiatric patients</td>
<td>11</td>
<td>7</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>19</td>
<td>4.62%</td>
</tr>
<tr>
<td>Private institution with psychiatric treatment</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>0.49%</td>
</tr>
<tr>
<td>Immigration detention</td>
<td>14</td>
<td>4</td>
<td>76</td>
<td>7</td>
<td>7</td>
<td>0</td>
<td>3</td>
<td>111</td>
<td>3.06% of PDL</td>
</tr>
<tr>
<td>CRA - Detention centre for illegal immigrants</td>
<td>13</td>
<td>3</td>
<td>55</td>
<td>7</td>
<td>3</td>
<td>0</td>
<td>2</td>
<td>83</td>
<td>74.77% of ID</td>
</tr>
<tr>
<td>ZA - waiting area</td>
<td>1</td>
<td>1</td>
<td>17</td>
<td>0</td>
<td>3</td>
<td>0</td>
<td>1</td>
<td>23</td>
<td>20.72%</td>
</tr>
<tr>
<td>Deportations</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>3</td>
<td>2.70%</td>
</tr>
<tr>
<td>LRA - Detention facility for illegal immigrants</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0.90%</td>
</tr>
<tr>
<td>ID - other</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0.90%</td>
</tr>
<tr>
<td>Custody facilities</td>
<td>9</td>
<td>0</td>
<td>0</td>
<td>13</td>
<td>1</td>
<td>0</td>
<td>2</td>
<td>25</td>
<td>0.69% of PDL</td>
</tr>
<tr>
<td>CIAT - police stations and headquarters</td>
<td>7</td>
<td>0</td>
<td>0</td>
<td>10</td>
<td>1</td>
<td>0</td>
<td>2</td>
<td>20</td>
<td>80% of custody facilities</td>
</tr>
<tr>
<td>Custody facilities - unspecified</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>3</td>
<td>12%</td>
</tr>
<tr>
<td>BT - territorial gendarmerie</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>8%</td>
</tr>
<tr>
<td>Other</td>
<td>6</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>3</td>
<td>1</td>
<td>0</td>
<td>13</td>
<td>0.36% of PDL</td>
</tr>
<tr>
<td>Unspecified</td>
<td>11</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>13</td>
<td>0.36% of PDL</td>
</tr>
<tr>
<td>Court cells</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>4</td>
<td>0.11% of PDL</td>
</tr>
<tr>
<td>Juvenile detention centres</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0.03% of PDL</td>
</tr>
<tr>
<td>Total</td>
<td>2638</td>
<td>359</td>
<td>196</td>
<td>184</td>
<td>165</td>
<td>45</td>
<td>37</td>
<td>3624</td>
<td>100%</td>
</tr>
</tbody>
</table>
| Percentage | 72.79% | 9.91% | 5.41% | 5.08% | 4.55% | 1.24% | 1.02% | 100% | 71 Including 28 referrals concerning one UHSA, 10 concerning the EPSNF and 2 a UHSI.  
72 Including 4 letters related to EHPAD care homes and retirement homes.
In 2018, the increase in referrals concerning health institutions observed in 2016 and 2017 is continuing, with such referrals accounting for 11% of the total. The proportion of referrals from the people concerned by hospitalisation remains high (251 letters received versus 246 in 2017, which represents a 2.03% increase).

The percentage of referrals bearing on immigration detention is still above 3%, with associations remaining the main source (76 letters received, so 68.47% of referrals concerning this category).

With respect to penal institutions, the proportion of referrals sent by detainees is slightly up in 2017 (2,346 letters versus 2,261 in 2017, so an increase of 3.76%) and the proportion reaching the CGLPL from lawyers is also nudging up (156 letters received versus 147 in 2017, which makes a 6.12% rise).

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73This table does not present the statistics drawn up in 2009 and 2010, which were based on the 1st referral letter and not on all of the letters received.
The rise in referrals from attorneys/counsel observed in 2017 is continuing in 2018 (184 letters received versus 168 in 2017, which represents a 9.52% increase).

All places combined, there has been a stabilisation in the number of referrals from the people concerned (2,638 letters received versus 2,561 in 2017, so a 3% increase) and medical staff (45 letters received versus 33 in 2017, so 36.36% increase) and a drop in the number of referrals from relatives (359 letters versus 427 in 2017, which is a 15.92% decrease), other IGAs (37 letters received versus 48 in 2016, which represents a 22.92% decrease in the number of dispatches) and associations (196 letters versus 236 in 2017, which represents a 16.95% decrease).

14.1.3 The situations raised

Distribution of cases referred according to the primary grounds and type of person referring the case

For each letter received, primary grounds and secondary grounds for referral of the case are given. The last column of the table below shows the percentage of occurrence of different types of grounds, taking the reasons for referral of cases as a whole (without distinguishing between primary and secondary grounds).

---

74 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.
For example, although the main grounds for referrals concerning difficulties with psychiatric hospitals appear to be procedural issues (34.72%), these grounds only account for 19.72% of all the problems addressed to the CGLPL between 1 January and 31 December 2018 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, health institutions and immigration detention.

**Healthcare institutions receiving involuntary patients: primary grounds according to the category of person referring the case**

<table>
<thead>
<tr>
<th>Order of grounds</th>
<th>Psychiatric hospital grounds</th>
<th>Person concerned</th>
<th>Family / relatives</th>
<th>Other</th>
<th>Physicians / medical staff</th>
<th>Association</th>
<th>Total</th>
<th>% 2018</th>
<th>% 2017</th>
<th>% all grounds combined (primary and secondary) 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>PROCEDURE</td>
<td>108</td>
<td>24</td>
<td>7</td>
<td>0</td>
<td>3</td>
<td>142</td>
<td>34.72%</td>
<td>41.60%</td>
<td>↘19.72%</td>
</tr>
<tr>
<td></td>
<td>Dispute of hospitalisation</td>
<td>93</td>
<td>16</td>
<td>3</td>
<td>0</td>
<td>1</td>
<td>113</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Liberty and custody judge procedure</td>
<td>8</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>12</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Non-compliance with procedure</td>
<td>3</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>7</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Other</td>
<td>4</td>
<td>4</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>PREPARATION FOR RELEASE</td>
<td>36</td>
<td>5</td>
<td>1</td>
<td>4</td>
<td>0</td>
<td>46</td>
<td>11.25%</td>
<td>4%</td>
<td>↘6.98%</td>
</tr>
<tr>
<td></td>
<td>Discharge from hospitalisation</td>
<td>19</td>
<td>3</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>23</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Preliminary discharge</td>
<td>16</td>
<td>2</td>
<td>0</td>
<td>4</td>
<td>0</td>
<td>22</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Other</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>SOLITARY CONFINEMENT</td>
<td>9</td>
<td>7</td>
<td>10</td>
<td>6</td>
<td>6</td>
<td>38</td>
<td>9.29%</td>
<td>8.80%</td>
<td>↗10.05%</td>
</tr>
<tr>
<td></td>
<td>Duration</td>
<td>5</td>
<td>4</td>
<td>6</td>
<td>0</td>
<td>1</td>
<td>16</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Conditions</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>1</td>
<td>11</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Grounds provided</td>
<td>3</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>9</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Protocol</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>ACCESS TO HEALTHCARE</td>
<td>18</td>
<td>5</td>
<td>4</td>
<td>1</td>
<td>5</td>
<td>33</td>
<td>8.07%</td>
<td>9.33%</td>
<td>↗12.19%</td>
</tr>
<tr>
<td></td>
<td>Access to psychiatric healthcare</td>
<td>6</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>4</td>
<td>12</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Healthcare programme</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Relations with general practitioner</td>
<td>5</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Access to medical records</td>
<td>1</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Access to somatic healthcare</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Other</td>
<td>3</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>MATERIAL CONDITIONS</td>
<td>11</td>
<td>5</td>
<td>2</td>
<td>4</td>
<td>1</td>
<td>23</td>
<td>5.62%</td>
<td>3.47%</td>
<td>↗9.86%</td>
</tr>
<tr>
<td></td>
<td>Accommodation</td>
<td>5</td>
<td>1</td>
<td>1</td>
<td>4</td>
<td>0</td>
<td>11</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hygiene/Upkeep</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Clothing</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>4</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Food</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>ASSIGNMENT</td>
<td>7</td>
<td>6</td>
<td>4</td>
<td>2</td>
<td>1</td>
<td>20</td>
<td>4.89%</td>
<td>4.27%</td>
<td>↘3.44%</td>
</tr>
</tbody>
</table>

注: "other" category includes 11 referrals from individuals, 7 from lawyers, 4 from IGAs, 4 from unknown persons, 3 from patients on behalf of other patients, 3 from judges, 2 from participants, 2 from hospital directors and 1 "other" referral.
In 2018, the three primary grounds for referring a case regarding health institutions are procedures, preparation for release and placement in solitary confinement.

Since 2010, the main primary grounds has been procedures – particularly dispute of hospitalisation.

In 2018, all grounds taken together, the main ones are procedures, access to health care and placement in solitary confinement, as in 2016. In 2017, relations with the outside world were in third place.

It can be highlighted that, in 2018, the persons concerned as well as their families and relatives primarily referred cases to the CGLPL about procedures, and associations and medical staff about placement in solitary confinement.

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76 Letters concerning the other grounds are not enough in number to be significant. They pertain to relations with the CGLPL (correspondence, interview requests), staff working conditions, legal information and advice (exercising avenues of appeal, access to information, etc.), relations between patients, internal order (confiscation of items), activities, the right to vote, financial management and other grounds.
**Immigration detention**: primary grounds according to the category of person referring the case

<table>
<thead>
<tr>
<th>Order of grounds</th>
<th>Immigration detention grounds</th>
<th>Association</th>
<th>Person concerned</th>
<th>Lawyer</th>
<th>Other</th>
<th>Total</th>
<th>% 2018</th>
<th>% all grounds and combined (primary and secondary) 2018</th>
</tr>
</thead>
<tbody>
<tr>
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<td>PROCEDURE</td>
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<td>2</td>
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<td>23.58%</td>
<td>↓18.34%</td>
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<td>Dispute of procedure (judicial, administrative, other)</td>
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<td>2</td>
<td>20</td>
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<td>0</td>
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<td>2</td>
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<td>12</td>
<td>11.32%</td>
<td>↓9%</td>
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<td>Means of remedy</td>
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<td>Other (information, etc.)</td>
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<td>↑4.84%</td>
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<td>(confrontational relations, other)</td>
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<td>3</td>
<td>5</td>
<td>4.72%</td>
<td>↓3.46%</td>
</tr>
<tr>
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<td>(visiting rights, informing relatives)</td>
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<tr>
<td>-</td>
<td>OTHER GROUNDS79</td>
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<td>5</td>
<td>18</td>
<td>16.98%</td>
<td>↓16.60%</td>
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<tr>
<td>Total</td>
<td></td>
<td>73</td>
<td>13</td>
<td>7</td>
<td>13</td>
<td>106</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

In 2018, the three primary grounds for referring a case regarding immigration detention were procedures, material conditions and legal information and advice. All grounds taken together, the main ones are procedures, material conditions and access to health care.

77 A statistical analysis had not been carried out of the grounds associated with immigration detention in previous years, which means that the datasets are not compared to those obtained in 2017.
78 The "other" category includes 4 referrals from families or relatives, 3 referrals from a professional organisation, 3 referrals from an IGA, 1 referral from a detainee on behalf of other detainees, 1 referral from a participant and 1 referral from a judge.
79 Letters concerning the other grounds are not enough in number to be significant. They pertain to internal assignment, self-harming behaviour, internal order, use of restraint means during external prisoner movements, relations between detainees, etc.
Penal institutions: primary grounds according to the category of person referring the case

The last column of this table lists the percentage of different grounds when the reasons for a particular letter are considered as a whole (one letter may contain one or more reasons), rather than the primary grounds only, as before. Accordingly, regarding transfers, although this reason accounts for 10.94% of the primary grounds for letters received between 1 January and 31 December 2018, this percentage goes down if its positioning is considered in light of all the reasons, when it only represents 7.09% of all difficulties brought to the CGLPL’s attention in 2018. The percentage of the second primary grounds for referral, material conditions, further increases when all of the reasons are looked at together, accounting for 14.43% of all the difficulties brought to the CGLPL’s attention in 2018.

<table>
<thead>
<tr>
<th>Order of grounds 2018</th>
<th>Penal institution grounds</th>
<th>Person concerned</th>
<th>Family / relatives</th>
<th>Lawyer</th>
<th>Other*</th>
<th>Association</th>
<th>IKA</th>
<th>Total</th>
<th>% 2018</th>
<th>% 2017</th>
<th>% all grounds combined (primary and secondary)</th>
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<td>335</td>
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<td>9.77%</td>
<td>↘10.96%</td>
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<td>70</td>
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<td>4</td>
<td>2</td>
<td>0</td>
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<td>13</td>
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<td>Other (medical certificates, consent to treatment, access to the medical record, etc.)</td>
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<td>0</td>
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<td>16</td>
<td>13</td>
<td>15</td>
<td>334</td>
<td>10.94%</td>
<td>11.17%</td>
<td>↗14.43%</td>
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<td>119</td>
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<td>Hygiene/upkeep</td>
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<td>4</td>
<td>3</td>
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<td>Cloakroom/search</td>
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<td>TRANSFER</td>
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<td>12</td>
<td>16</td>
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<td>334</td>
<td>10.94%</td>
<td>10.62%</td>
<td>↘7.09%</td>
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<td>295</td>
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<td>10.42%</td>
<td>↗10.20%</td>
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<td>106</td>
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</tr>
</tbody>
</table>

80 The "Other" category includes 28 individuals, 22 institutional participants, 21 physicians, 16 fellow prisoners, 14 professional organisations, 10 referrals from the Office of the President of the Republic, 8 staff members, 7 "other", 6 judges, 4 unknown persons, 4 CPIP, 1 director, 1 MP and 1 prefecture.
<table>
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<th>Access to visiting rights</th>
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<th>23</th>
<th>9</th>
<th>2</th>
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<td>Maintenance of parent/child bonds</td>
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<td>Confiscation, retention of property</td>
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</tr>
<tr>
<td>Adjustment of sentences</td>
<td>63</td>
<td>13</td>
<td>2</td>
<td>6</td>
<td>0</td>
<td>0</td>
<td>84</td>
</tr>
<tr>
<td>Administrative formalities</td>
<td>23</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>0</td>
<td>30</td>
</tr>
<tr>
<td>SPIP / Preparation for release</td>
<td>21</td>
<td>2</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>24</td>
</tr>
<tr>
<td>Permission to take leave</td>
<td>12</td>
<td>3</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>17</td>
</tr>
<tr>
<td>Other (deportation procedure, relations with external bodies, etc.)</td>
<td>17</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>24</td>
</tr>
<tr>
<td>8 ACTIVITIES</td>
<td>132</td>
<td>4</td>
<td>13</td>
<td>3</td>
<td>5</td>
<td>1</td>
<td>158</td>
</tr>
<tr>
<td>Work</td>
<td>67</td>
<td>1</td>
<td>9</td>
<td>1</td>
<td>2</td>
<td>0</td>
<td>80</td>
</tr>
<tr>
<td>IT</td>
<td>27</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>29</td>
</tr>
<tr>
<td>Exercise</td>
<td>15</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>16</td>
</tr>
<tr>
<td>Other (education, training, sociocultural activities, etc.)</td>
<td>23</td>
<td>3</td>
<td>2</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>33</td>
</tr>
<tr>
<td>9 RELATIONSHIP BETWEEN PRISONERS</td>
<td>114</td>
<td>18</td>
<td>5</td>
<td>10</td>
<td>3</td>
<td>0</td>
<td>150</td>
</tr>
<tr>
<td>Physical violence</td>
<td>52</td>
<td>12</td>
<td>3</td>
<td>6</td>
<td>2</td>
<td>0</td>
<td>75</td>
</tr>
<tr>
<td>Threats/racketeering/theft</td>
<td>53</td>
<td>5</td>
<td>2</td>
<td>3</td>
<td>1</td>
<td>0</td>
<td>64</td>
</tr>
<tr>
<td>Other</td>
<td>7</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>7</td>
</tr>
<tr>
<td>Measures taken after an offence</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>10 INTERNAL ALLOCATION</td>
<td>81</td>
<td>8</td>
<td>10</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>102</td>
</tr>
<tr>
<td>Allocation of cells</td>
<td>45</td>
<td>7</td>
<td>5</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>59</td>
</tr>
<tr>
<td>Differentiated regime</td>
<td>26</td>
<td>0</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>29</td>
</tr>
</tbody>
</table>
In 2018, the primary grounds for referring a case regarding penal institutions are access to health care, material conditions and transfers (with the same number of letters received) and relations with the outside world.

From 2010 to 2016, the primary grounds for referring a case remained the same: transfers. The secondary grounds remained access to health care (from 2010 to 2012), then concerned staff/prisoner relations (in 2013 and 2014), relations with the outside world (in 2015) and finally material conditions (2016).

In 2018, all grounds combined\(^{81}\), the primary grounds are material conditions, access to health care and relations with the outside. In 2017, these were associated with material conditions, relations with the outside and access to health care.

---

\(^{81}\) The "Other" category includes 27 "other" letters, 21 letters concerning external movements (on medical and legal grounds), 18 for an unspecified reason, 10 concerning religious practices, 7 staff working conditions and 2 voting rights.  
\(^{82}\) i.e. the primary and secondary grounds included.
Furthermore, note that the number one reason for cases being referred to the CGLPL by the persons concerned is associated with transfers; families and relatives primarily refer cases about relations with the outside world, and lawyers about access to health care. Referrals from IGAs primarily concern material conditions, as do referrals from associations.
14.2 The consequences

14.2.1 Overall data

Type of letters sent

<table>
<thead>
<tr>
<th>Type of letters sent</th>
<th>Type of action taken</th>
<th>Total 2018</th>
<th>Percentage 2018</th>
<th>Percentage 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Verifications (Article 6-1 of the Act of 30 October 2007)</td>
<td>Referral of case to the authority by letter</td>
<td>633</td>
<td>23.90%</td>
<td>24.56%</td>
</tr>
<tr>
<td></td>
<td>Number of on-site verification reports sent</td>
<td>14</td>
<td>0.53%</td>
<td>0.10%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sub-total</td>
<td>647</td>
<td>24.43%</td>
</tr>
<tr>
<td>Responses given to letters not having given rise to the immediate opening of an inquiry</td>
<td>Request for details</td>
<td>909</td>
<td>34.33%</td>
<td>33.50%</td>
</tr>
<tr>
<td></td>
<td>Information</td>
<td>741</td>
<td>27.98%</td>
<td>31.23%</td>
</tr>
<tr>
<td></td>
<td>Other (consideration for visit, passed on for reasons of competence, etc.)</td>
<td>245</td>
<td>9.25%</td>
<td>8.07%</td>
</tr>
<tr>
<td></td>
<td>Lack of competence</td>
<td>106</td>
<td>4%</td>
<td>2.54%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sub-total</td>
<td>2001</td>
<td>75.57%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>TOTAL</td>
<td>2648</td>
<td>100%</td>
</tr>
</tbody>
</table>

As part of the verifications undertaken, the CGLPL sent the following letters between 1 January and 31 December 2018:

- 647 letters to the authorities concerned (as compared to 709 in 2017);
- 551 letters to persons having referred cases, informing them of the verifications conducted (625 in 2017);
- 322 letters to authorities to which the cases were referred, informing them of actions taken in order to follow-up on the verifications (478 in 2017);
- 281 letters to persons having referred cases, informing them of actions taken in order to follow-up on the verifications (368 in 2017);
- 878 reminder letters (445 in 2017);
- 577 letters to persons having referred cases, informing them of reminders issued (302 in 2017).

The CGLPL thus sent 5,257 letters between January and December 2018 (as compared to 5,093 in 2017), i.e. an average of 438 letters per month (as compared to 424 in 2017).

The doubling in number of reminders sent out in 2018 should be considered in light of the centralisation of responses by the Prison Administration Department (DAP) following a memo implemented on 26 July 2017 and the subsequent delay (or even lack in some cases) in response. Since August 2017, more than two-thirds of inquiries sent to institution managers (67%) have gone unanswered.

In 2018, the proportion of verifications addressed to prison directors was around 60%.

---

83 Four on-site verification reports were sent to 14 authorities concerned.
84 Including 54 to the Defender of Rights.
85 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.
82% of verifications addressed to prison directors in 2018 are still pending a response\(^{86}\). When the CGLPL does receive responses from the prison administration department (DAP), these take 7 months to arrive on average (in 2017 and 2018) versus 3 months for responses received directly from prison directors.

<table>
<thead>
<tr>
<th>Date</th>
<th>No. of prison management inquiries</th>
<th>No. of responses with no response</th>
<th>% with no response</th>
<th>Responses from directors</th>
<th>Average time to receive a response from directors</th>
<th>Responses from DAP</th>
<th>Average time to receive a response from DAP</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 2017</td>
<td>26</td>
<td>5</td>
<td>19%</td>
<td>21</td>
<td>76 days (2.5 months)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>February 2017</td>
<td>60</td>
<td>2</td>
<td>3%</td>
<td>57</td>
<td>96 days (3 months)</td>
<td>1</td>
<td>Not applicable</td>
</tr>
<tr>
<td>March 2017</td>
<td>30</td>
<td>3</td>
<td>10%</td>
<td>26</td>
<td>95 days (3 months)</td>
<td>1</td>
<td>Not applicable</td>
</tr>
<tr>
<td>April 2017</td>
<td>20</td>
<td>1</td>
<td>5%</td>
<td>18</td>
<td>116 days (4 months)</td>
<td>1</td>
<td>Not applicable</td>
</tr>
<tr>
<td>May 2017</td>
<td>54</td>
<td>7</td>
<td>13%</td>
<td>45</td>
<td>109 days (3.5 months)</td>
<td>2</td>
<td>167 days (5.5 months)</td>
</tr>
<tr>
<td>June 2017</td>
<td>45</td>
<td>7</td>
<td>16%</td>
<td>37</td>
<td>105 days (3.5 months)</td>
<td>1</td>
<td>Not applicable</td>
</tr>
<tr>
<td>July 2017</td>
<td>33</td>
<td>4</td>
<td>12%</td>
<td>20</td>
<td>80 days (2.5 months)</td>
<td>9</td>
<td>214 days (7 months)</td>
</tr>
<tr>
<td>August 2017</td>
<td>30</td>
<td>7</td>
<td>23%</td>
<td>4</td>
<td>63 days (2 months)</td>
<td>19</td>
<td>204 days (7 months)</td>
</tr>
<tr>
<td>September 2017</td>
<td>31</td>
<td>10</td>
<td>32%</td>
<td>5</td>
<td>93 days (3 months)</td>
<td>16</td>
<td>238 days (8 months)</td>
</tr>
<tr>
<td>October 2017</td>
<td>47</td>
<td>17</td>
<td>36%</td>
<td>6</td>
<td>74 days (2.5 months)</td>
<td>24</td>
<td>226 days (7.5 months)</td>
</tr>
<tr>
<td>November 2017</td>
<td>34</td>
<td>12</td>
<td>35%</td>
<td>5</td>
<td>43 days (1.5 months)</td>
<td>17</td>
<td>245 days (8 months)</td>
</tr>
<tr>
<td>December 2017</td>
<td>29</td>
<td>11</td>
<td>38%</td>
<td>4</td>
<td>46 days (1.5 months)</td>
<td>14</td>
<td>259 days (8.5 months)</td>
</tr>
</tbody>
</table>

**Sub-total 2017**

<table>
<thead>
<tr>
<th></th>
<th>439</th>
<th>86</th>
<th>20%</th>
<th>248</th>
<th>95 days (3 months)</th>
<th>105</th>
<th>229 days (7.5 months)</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 2018</td>
<td>30</td>
<td>20</td>
<td>67%</td>
<td>1</td>
<td>Not applicable</td>
<td>9</td>
<td>197 days (6.5 months)</td>
</tr>
<tr>
<td>February 2018</td>
<td>31</td>
<td>13</td>
<td>42%</td>
<td>6</td>
<td>75 days (2.5 months)</td>
<td>12</td>
<td>158 days (5 months)</td>
</tr>
<tr>
<td>March 2018</td>
<td>32</td>
<td>24</td>
<td>75%</td>
<td>0</td>
<td>Not applicable</td>
<td>8</td>
<td>158 days (5 months)</td>
</tr>
<tr>
<td>April 2018</td>
<td>52</td>
<td>41</td>
<td>79%</td>
<td>5</td>
<td>62 days (2 months)</td>
<td>6</td>
<td>175 days (6 months)</td>
</tr>
<tr>
<td>May 2018</td>
<td>34</td>
<td>30</td>
<td>88%</td>
<td>0</td>
<td>Not applicable</td>
<td>4</td>
<td>144 days (5 months)</td>
</tr>
<tr>
<td>June 2018</td>
<td>32</td>
<td>26</td>
<td>81%</td>
<td>3</td>
<td>56 days (2 months)</td>
<td>3</td>
<td>131 days (4 months)</td>
</tr>
<tr>
<td>July 2018</td>
<td>30</td>
<td>27</td>
<td>90%</td>
<td>2</td>
<td>18 days (0.5 months)</td>
<td>1</td>
<td>Not applicable</td>
</tr>
<tr>
<td>August 2018</td>
<td>37</td>
<td>37</td>
<td>100%</td>
<td>0</td>
<td>Not applicable</td>
<td>0</td>
<td>Not applicable</td>
</tr>
<tr>
<td>September 2018</td>
<td>32</td>
<td>29</td>
<td>91%</td>
<td>2</td>
<td>19 days (0.5 months)</td>
<td>1</td>
<td>Not applicable</td>
</tr>
<tr>
<td>October 2018</td>
<td>21</td>
<td>19</td>
<td>90%</td>
<td>2</td>
<td>33 days (1 months)</td>
<td>0</td>
<td>Not applicable</td>
</tr>
<tr>
<td>November 2018</td>
<td>20</td>
<td>19</td>
<td>95%</td>
<td>1</td>
<td>Not applicable</td>
<td>0</td>
<td>Not applicable</td>
</tr>
<tr>
<td>December 2018</td>
<td>20</td>
<td>20</td>
<td>100%</td>
<td>0</td>
<td>Not applicable</td>
<td>0</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>

\(^{86}\) Over the last six months of the year, so since July 2018, 94% of the 160 verifications sent to prison directors did not receive any response.

\(^{87}\) Some inquiries were closed with no further action taken.
<table>
<thead>
<tr>
<th>Sub-total 2018</th>
<th>371</th>
<th>305</th>
<th>82%</th>
<th>22</th>
<th>53 days (2 months)</th>
<th>44</th>
<th>160 days (5 months)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>810</td>
<td>391</td>
<td>48%</td>
<td>270</td>
<td>92 days (3 months)</td>
<td>149</td>
<td>208 days (7 months)</td>
</tr>
</tbody>
</table>

Percentage of inquiries that have gone unanswered
Verifications addressed to prison directors (2017-2018)

As at 31 December 2018, the CGLPL had replied to 459 letters of referral addressed to it during 2017 (i.e. 12% of its replies) and to 3,365 letters that arrived in 2018 (i.e. 88% of its replies).

<table>
<thead>
<tr>
<th>Length of response time</th>
<th>Number 2018 (Jan. – Dec.)</th>
<th>% 2018</th>
<th>Number 2017 (Jan. – Nov.)</th>
<th>% 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-30 days</td>
<td>1507</td>
<td>33.44%</td>
<td>1503</td>
<td>37.91%</td>
</tr>
<tr>
<td>30-60 days</td>
<td>1007</td>
<td>22.35%</td>
<td>774</td>
<td>19.52%</td>
</tr>
<tr>
<td>More than 60 days</td>
<td>1310</td>
<td>29.07%</td>
<td>1193</td>
<td>30.09%</td>
</tr>
<tr>
<td>Response pending</td>
<td>516</td>
<td>11.45%</td>
<td>333</td>
<td>8.40%</td>
</tr>
<tr>
<td>Cases not taken up(^{88})</td>
<td>166</td>
<td>3.68%</td>
<td>162</td>
<td>4.08%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>4506</td>
<td>100%</td>
<td>3965</td>
<td>100%</td>
</tr>
</tbody>
</table>

For letters replied to in 2018, this reply was received within 60 days for 55.79% of them. In 2017, this rate was 65.62%. The average response time in 2018 was 49 days (i.e. 1.6 months). In 2017, this response time was 51 days (i.e. 1.7 months).

\(^{88}\) 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.
14.2.2 **Verifications with the authorities**

In view of the institutions concerned and the issues raised in the cases referred\(^89\), requests for observations and documents are, in most cases, sent to prison directors and physicians working in health blocks and regional mental health departments for prisons (SMPR).

*Category of authorities called upon as part of the verifications*

<table>
<thead>
<tr>
<th>Type of authority referred to</th>
<th>Number of referrals</th>
<th>Percentage 2018</th>
<th>Percentage 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Head of institution</td>
<td>442</td>
<td>68.32%</td>
<td>69.25%</td>
</tr>
<tr>
<td>Prison director</td>
<td>382</td>
<td>(59.04%)</td>
<td>(61.21%)</td>
</tr>
<tr>
<td>Director of a hospital facility</td>
<td>31</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Director of a detention centre/facility for illegal immigrants or a waiting area</td>
<td>23</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police station</td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other director</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medical staff</td>
<td>117</td>
<td>18.08%</td>
<td>15.09%</td>
</tr>
<tr>
<td>Physician in charge of health block, SMPR</td>
<td>107</td>
<td>(16.54%)</td>
<td>(14.10%)</td>
</tr>
<tr>
<td>Physician in a detention centre for illegal immigrants</td>
<td>9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other physician</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decentralised management</td>
<td>28</td>
<td>4.33%</td>
<td>5.78%</td>
</tr>
<tr>
<td>DISP</td>
<td>11</td>
<td>(1.70%)</td>
<td>(2.68%)</td>
</tr>
<tr>
<td>Prefecture</td>
<td>11</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ARS</td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SPIP</td>
<td>21</td>
<td>3.25%</td>
<td>3.10%</td>
</tr>
<tr>
<td>DSPIP</td>
<td>15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Satellite office</td>
<td>6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Central administration</td>
<td>16</td>
<td>2.47%</td>
<td>2.96%</td>
</tr>
<tr>
<td>DAP</td>
<td>11</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other central management</td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minister</td>
<td>13</td>
<td>2%</td>
<td>1.13%</td>
</tr>
<tr>
<td>Minister of the Interior</td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minister of Justice</td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minister of Health</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Minister</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Judge</td>
<td>8</td>
<td>1.24%</td>
<td>2.12%</td>
</tr>
<tr>
<td>Other</td>
<td>2</td>
<td>0.31%</td>
<td>0.56%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>647</strong></td>
<td><strong>100%</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

\(^89^\)See above, analysis of the cases referred to the CGLPL
**Inquiry case-files**

When the situation brought to the CGLPL's attention calls for verifications with an authority, an inquiry case file is opened. This can lead to one or more inquiry letters being sent out to one or more authorities; as such, the number of files newly opened is less than the number of inquiry letters generated in the year. The start of the inquiry corresponds to the date on which the letter giving rise to these verifications is received, and the end of the inquiry to the dispatch dates of the letters informing the persons referring the cases of the action taken and the analysis to the authorities referred the information which they have brought to the attention of the CGLPL.

In 2018, 442 new inquiry case-files were opened (versus 452 in 2017), of which 79 were closed as at 31 December 2018 (versus 113 in 2017). Among the inquiry case-files that were opened earlier:

- 172 were still in progress as at 31 December 2018 (versus 133 as at 31 December 2017);
- 231 had been closed during the year (versus 242 in 2017).

The following statistics pertain only to the inquiry case-files that were newly opened (unless specified otherwise).

**Types of persons referring cases leading to the opening of case-files**

<table>
<thead>
<tr>
<th>Category of persons</th>
<th>Total 2018</th>
<th>% 2018</th>
<th>% 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Person concerned</td>
<td>295</td>
<td>66.74%</td>
<td>67.26%</td>
</tr>
<tr>
<td>Lawyer</td>
<td>38</td>
<td>8.60%</td>
<td>7.74%</td>
</tr>
<tr>
<td>Family / relatives</td>
<td>36</td>
<td>8.14%</td>
<td>12.17%</td>
</tr>
<tr>
<td>Association</td>
<td>36</td>
<td>8.14%</td>
<td>7.74%</td>
</tr>
<tr>
<td>Other</td>
<td>15</td>
<td>3.39%</td>
<td>2.43%</td>
</tr>
<tr>
<td>Physicians / medical staff</td>
<td>9</td>
<td>2.05%</td>
<td>0.66%</td>
</tr>
<tr>
<td>Own-initiative referrals (CGLPL)</td>
<td>8</td>
<td>1.81%</td>
<td>1.34%</td>
</tr>
<tr>
<td>Fellow person deprived of liberty</td>
<td>5</td>
<td>1.13%</td>
<td>0.66%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>442</strong></td>
<td><strong>100%</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

**Type of institutions concerned**

<table>
<thead>
<tr>
<th>Place of deprivation of liberty</th>
<th>Total</th>
<th>% 2018</th>
<th>% 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Penal institution</td>
<td>390</td>
<td>88.24%</td>
<td>89.38%</td>
</tr>
<tr>
<td>MA – remand prison (or remand prison wing)</td>
<td>167</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CD – long-term detention centre (or long-term detention centre wing)</td>
<td>100</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CP – prison with sections incorporating different kinds of prison regime (or unspecified wing or other)</td>
<td>94</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MC – long-stay prison (or long-stay prison wing)</td>
<td>18</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All</td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hospitals (UHSA)</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>EPM - Prison for minors</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Immigration detention</td>
<td>25</td>
<td>5.66%</td>
<td>5.09%</td>
</tr>
<tr>
<td>CRA - Detention centre for illegal immigrants</td>
<td>21</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ZA - Waiting area</td>
<td>3</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
LRA - Detention facility for illegal immigrants 1
Healthcare institution 23 5.20% 4.87%
EPS - public psychiatric institution 14
EPS - public health institution psychiatric department 5
UMD - Unit for difficult psychiatric patients 3
EPS - other 1
Custody facilities 3 0.68% 0.66%
CIAT - police stations and headquarters 3
Other 1 0.22% -
Total 442 100% 100%

**Average length of inquiries**

310 inquiry case-files were closed between January and December 2018 (versus 355 in 2017). The average length of time taken by inquiries was 11 months (versus 8 months in 2017).

The increase in inquiry time-limits should be considered in light of the delay in responses received on the part of prison directors with regard to verifications (see Para. 1.2.1 on overall data).

<table>
<thead>
<tr>
<th>Duration</th>
<th>Number of case-files 2018</th>
<th>Percentage 2018</th>
<th>Cumulative percentage 2018</th>
<th>Cumulative percentage 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 6 months</td>
<td>82</td>
<td>26.45%</td>
<td>26.45%</td>
<td>41.13%</td>
</tr>
<tr>
<td>From 6 to 12 months</td>
<td>130</td>
<td>41.94%</td>
<td>68.39%</td>
<td>80.85%</td>
</tr>
<tr>
<td>More than 12 months</td>
<td>98</td>
<td>31.61%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>310</strong></td>
<td><strong>100%</strong></td>
<td><strong>100%</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

**Primary grounds upon which verifications were taken up with the authorities**

The CGLPL may request observations concerning various different issues from authorities to which cases are referred. However, the CGLPL defines each inquiry case-file on the basis of the primary grounds for verification.

**Primary grounds with regard to health institutions receiving involuntary patients**

<table>
<thead>
<tr>
<th>Psychiatric hospital grounds</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Solitary confinement</strong> (duration, conditions, grounds, other)</td>
<td>9</td>
</tr>
<tr>
<td>Preparation for <strong>release</strong> (preliminary discharge, other)</td>
<td>4</td>
</tr>
<tr>
<td>Assignment (inappropriate unit, readmission following UMD)</td>
<td>3</td>
</tr>
<tr>
<td><strong>Procedure</strong> (Liberty and custody judge)</td>
<td>2</td>
</tr>
<tr>
<td>Relations with the <strong>outside world</strong> (visits, informing family)</td>
<td>2</td>
</tr>
<tr>
<td><strong>Restraints</strong> (duration)</td>
<td>2</td>
</tr>
<tr>
<td>Other (access to a <strong>lawyer</strong>, access to <strong>somatic care</strong>)</td>
<td>2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>24</strong></td>
</tr>
</tbody>
</table>

**Primary grounds concerning immigration detention (centres, facilities or waiting areas)**

<table>
<thead>
<tr>
<th>Immigration detention grounds</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Material conditions</strong> (food, accommodation, hygiene)</td>
<td>5</td>
</tr>
<tr>
<td>Access to <strong>health care</strong> (unfit for detention (health condition), medical provision)</td>
<td>4</td>
</tr>
</tbody>
</table>
Primary grounds concerning penal institutions

<table>
<thead>
<tr>
<th>Penal institution grounds</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to healthcare (somatic, specialist, psychiatric, etc.)</td>
<td>78</td>
</tr>
<tr>
<td>Relations with the outside world (access to visiting rights, telephone, etc.)</td>
<td>52</td>
</tr>
<tr>
<td>Material conditions (accommodation, hygiene/upkeep, canteens, etc.)</td>
<td>49</td>
</tr>
<tr>
<td>Internal order (discipline, body searches, security devices, etc.)</td>
<td>38</td>
</tr>
<tr>
<td>Relations between prisoners (threats/racketeering/theft, physical violence, etc.)</td>
<td>31</td>
</tr>
<tr>
<td>Transfer (requested, administrative, conditions of the transfer, etc.)</td>
<td>28</td>
</tr>
<tr>
<td>Activities (work, IT, education/training, sports, etc.)</td>
<td>24</td>
</tr>
<tr>
<td>Solitary confinement (grounds, conditions, duration, etc.)</td>
<td>16</td>
</tr>
<tr>
<td>Preparation for release (administrative formalities, adjustment of sentences, etc.)</td>
<td>15</td>
</tr>
<tr>
<td>Legal information and advice (means of remedy, personal data access, etc.)</td>
<td>12</td>
</tr>
<tr>
<td>Procedures (dispute of procedure, permission to take leave, etc.)</td>
<td>10</td>
</tr>
<tr>
<td>Internal assignment (assignment to a cell, differentiated regime, etc.)</td>
<td>9</td>
</tr>
<tr>
<td>Transfers (for medical or legal reasons, conditions, cancellations, etc.)</td>
<td>8</td>
</tr>
<tr>
<td>Financial situation (payment to civil parties, consideration of poverty, etc.)</td>
<td>7</td>
</tr>
<tr>
<td>Prisoner/staff relations (violence, confrontational relations)</td>
<td>5</td>
</tr>
<tr>
<td>Self-harming behaviour (suicide/suicide attempt, etc.)</td>
<td>3</td>
</tr>
<tr>
<td>Other (religious practices, processing of appeals, right to vote, other)</td>
<td>6</td>
</tr>
<tr>
<td>Total</td>
<td>391</td>
</tr>
</tbody>
</table>

Fundamental rights concerned in inquiry case-files by type of place of deprivation of liberty

<table>
<thead>
<tr>
<th>Fundamental rights</th>
<th>Penal institution</th>
<th>Immigration detention</th>
<th>Healthcare institution</th>
<th>Custody facilities</th>
<th>Total 2018</th>
<th>% 2018</th>
<th>% 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to healthcare and prevention</td>
<td>79</td>
<td>6</td>
<td>4</td>
<td>89</td>
<td>20.09%</td>
<td>19.03%</td>
<td></td>
</tr>
<tr>
<td>Dignity</td>
<td>74</td>
<td>4</td>
<td>1</td>
<td>3</td>
<td>82</td>
<td>18.51%</td>
<td>14.16%</td>
</tr>
<tr>
<td>Physical integrity</td>
<td>63</td>
<td>4</td>
<td>4</td>
<td>1</td>
<td>72</td>
<td>16.25%</td>
<td>16.15%</td>
</tr>
<tr>
<td>Maintenance of family bonds, relations with the outside world</td>
<td>53</td>
<td>2</td>
<td>3</td>
<td>58</td>
<td>13.09%</td>
<td>12.39%</td>
<td></td>
</tr>
<tr>
<td>Integration / preparation for release</td>
<td>18</td>
<td>3</td>
<td>3</td>
<td>21</td>
<td>4.74%</td>
<td>5.09%</td>
<td></td>
</tr>
<tr>
<td>Access to work, activity, etc.</td>
<td>20</td>
<td></td>
<td></td>
<td>20</td>
<td>4.51%</td>
<td>5.09%</td>
<td></td>
</tr>
<tr>
<td>Right of defence</td>
<td>13</td>
<td>1</td>
<td>2</td>
<td>16</td>
<td>3.61%</td>
<td>2.21%</td>
<td></td>
</tr>
<tr>
<td>Equal treatment</td>
<td>14</td>
<td>1</td>
<td></td>
<td>15</td>
<td>3.39%</td>
<td>3.54%</td>
<td></td>
</tr>
<tr>
<td>Legal information and advice</td>
<td>10</td>
<td>3</td>
<td>1</td>
<td>14</td>
<td>3.17%</td>
<td>4.65%</td>
<td></td>
</tr>
<tr>
<td>Confidentiality</td>
<td>12</td>
<td>1</td>
<td></td>
<td>13</td>
<td>2.93%</td>
<td>1.33%</td>
<td></td>
</tr>
<tr>
<td>Protection from</td>
<td>9</td>
<td>2</td>
<td>2</td>
<td>13</td>
<td>2.93%</td>
<td>5.53%</td>
<td></td>
</tr>
</tbody>
</table>
The case-files newly opened in 2018 primarily concerned access to healthcare, as far as penal institutions and immigration detention are concerned; the same applies for health institutions, on an equal footing with physical integrity, while dignity is the fundamental right cited most often for police custody facilities.

The six main fundamental rights on which the newly opened inquiries focused this year are more or less the same as in 2017: access to health care, dignity, physical integrity, maintaining family ties, access to activities and work and, more than in 2017, integration and preparation for release.

### 14.2.3 Verification findings at the closing of the case-file

For the fourth year in a row, the CGLPL is able to give indications on the findings of the verifications carried out with the authorities with which cases are taken up. In order to report these findings, a distinction has been drawn between any violations of fundamental rights, the results obtained for the person concerned and action taken as regards the authorities.

The following data show that violations occurred (even partially) in 55.16% of the inquiry case-files (versus 51.55% in 2017).

In 48.07% of case files, the problem has been resolved: either for the person, or for the future, or in a partial manner (versus 41.13% in 2017).

Finally, as regards the actions taken, the Chief Inspector sent recommendations to the authorities called upon in 19.68% of cases (versus 21.97% in 2017). Corrective measures resulting from the inquiry addressed by the CGLPL to the authorities concerned were taken in nearly 11.93% of cases (versus 13.52% in 2017). No special follow-up was given by the chief inspectorate in 47.10% of inquiry case-files (versus 38.31% in 2017), either because no violation of a fundamental right was proven, or because the person deprived of liberty was transferred or released and the fundamental right in question could not be dissociated from his or her individual situation, or due to a lack of information justifying the issue of recommendations or a call for vigilance.

Out of the 310 case-files closed in 2018, the following results were obtained:

<table>
<thead>
<tr>
<th>Results of the inquiry</th>
<th>Number of case-files</th>
<th>% 2018</th>
<th>% 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Violation of a</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>fundamental right</td>
<td>Violation not proven</td>
<td>139</td>
<td>44.84%</td>
</tr>
<tr>
<td></td>
<td>Violation proven</td>
<td>105</td>
<td>33.87%</td>
</tr>
<tr>
<td></td>
<td>Violation proven</td>
<td>66</td>
<td>21.29%</td>
</tr>
<tr>
<td>Total</td>
<td>310</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Result for the</td>
<td>Problem solved</td>
<td>68</td>
<td>21.94%</td>
</tr>
</tbody>
</table>
## 15. Visits conducted in 2018

### 15.1 Quantitative data

**Visits per year and per category of institution**

<table>
<thead>
<tr>
<th>Categories of institutions</th>
<th>Total no. of institutions&lt;sup&gt;90&lt;/sup&gt;</th>
<th>2008-2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
<th>TOTAL</th>
<th>including institutions visited once&lt;sup&gt;91&lt;/sup&gt;</th>
<th>% visits over no. of institutions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Custody facilities</td>
<td>4,059</td>
<td>296</td>
<td>55</td>
<td>58</td>
<td>52</td>
<td>48</td>
<td>53</td>
<td>562</td>
<td>519</td>
<td>12.79%</td>
</tr>
<tr>
<td>– including police&lt;sup&gt;92&lt;/sup&gt;</td>
<td>673</td>
<td>193</td>
<td>27</td>
<td>32</td>
<td>22</td>
<td>24</td>
<td>35</td>
<td>333</td>
<td>295</td>
<td></td>
</tr>
</tbody>
</table>

<sup>90</sup> The number of institutions changed between 2017 and 2018. The figures shown below were updated for penal institutions (as at 1 November 2018).

<sup>91</sup> The number of follow-up visits is respectively one in 2009, five in 2010, six in 2011, ten in 2012, seven in 2013, thirty-six in 2014, sixty-one in 2015, fifty-two in 2016, forty-one in 2017 and fifty-four in 2018. 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.

<sup>92</sup> 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.
<table>
<thead>
<tr>
<th>Category</th>
<th>Data Provided By</th>
<th>January 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>gendarmerie</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Customs detention</td>
<td></td>
<td></td>
</tr>
<tr>
<td>including courts</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ordinary law</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Court jails/cells</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Penal institutions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>including remand prisons</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- prisons</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- detention centres</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- long-stay prisons</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- institutions for minors</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- open prisons</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- EPSNF</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Immigration detention</td>
<td></td>
<td></td>
</tr>
<tr>
<td>including detention centres for illegal immigrants</td>
<td></td>
<td></td>
</tr>
<tr>
<td>LRA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ZA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other information</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Deportation measure</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Healthcare institutions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>including CHS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CH (psychiatric sector)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Data provided by the DGGN, January 2018.

These are facilities of the central directorates of the national police (PJ, PAF, etc.).

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.

The cases in which the cells or jails of the TGI and those of the courts of appeals are located at the same site are not taken into account.

Military detention facilities, etc.

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.

The number of 51 waiting areas is a rough estimate and should not be taken literally: almost all of the detained foreign nationals are held in the waiting areas of the airports of Roissy-Charles-de-Gaulle and Orly.

In October 2016, the CGLPL monitored the operations to dismantle the Calais Jungle Camp.

Data provided by the DGOS for psychiatric institutions with the capacity to receive involuntary patients at any time of the day or night, for hospitals having secure rooms and for UMJ (December 2014).
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Number of visits</strong></td>
<td>52</td>
<td>163</td>
<td>140</td>
<td>151</td>
<td>159</td>
<td>140</td>
<td>137</td>
<td>160</td>
<td>146</td>
<td>148</td>
<td>145</td>
</tr>
</tbody>
</table>

### 15.1.2 Average length of visits (in days)

102 The ratio is not calculated with the total of institutions visited at least once between 2008 and 2018, indicated in the previous column, but on the visits from which visits to custody facilities, customs detention facilities, court jails and cells and military detention centres, as well as the monitoring of deportation procedures were subtracted; i.e. 587 visits for a total of 770 places of deprivation of liberty;
In 2018, the inspectors spent:
- 146 days in hospitals (versus 179 in 2017);
- 134 days in detention facilities (versus 123 in 2017);
- 84 days in custody facilities (versus 86 in 2017);
- 22 days in immigration detention (versus 31 in 2017);
- 31 days in juvenile detention centres (versus 16 in 2017);
- 7 days in jails and cells of courts (versus 15 in 2017);
- 5 days on deportation procedures (versus 8 in 2017);
- 5 days in customs detention centres (versus 3 in 2017).

i.e. a total of 434 days in places of deprivation of liberty (versus 461 in 2017).

### 15.2 Nature of the visits (since 2008)

<table>
<thead>
<tr>
<th></th>
<th>Custody facilities, TGI cells, customs, etc.</th>
<th>Juvenile detention centres</th>
<th>Healthcare institutions</th>
<th>Penal institutions</th>
<th>Detention centres and facilities, waiting areas</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>20</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>2009</td>
<td>69</td>
<td>0</td>
<td>5</td>
<td>3</td>
<td>6</td>
<td>16</td>
</tr>
<tr>
<td>2010</td>
<td>60</td>
<td>2</td>
<td>8</td>
<td>0</td>
<td>8</td>
<td>10</td>
</tr>
<tr>
<td>2011</td>
<td>57</td>
<td>1</td>
<td>10</td>
<td>1</td>
<td>25</td>
<td>14</td>
</tr>
<tr>
<td>2012</td>
<td>96</td>
<td>0</td>
<td>7</td>
<td>0</td>
<td>13</td>
<td>9</td>
</tr>
<tr>
<td>2013</td>
<td>81</td>
<td>0</td>
<td>12</td>
<td>0</td>
<td>13</td>
<td>4</td>
</tr>
<tr>
<td>2014</td>
<td>70</td>
<td>0</td>
<td>8</td>
<td>1</td>
<td>11</td>
<td>5</td>
</tr>
<tr>
<td>2015</td>
<td>70</td>
<td>2</td>
<td>8</td>
<td>1</td>
<td>13</td>
<td>21</td>
</tr>
<tr>
<td>2016</td>
<td>64</td>
<td>0</td>
<td>7</td>
<td>0</td>
<td>21</td>
<td>22</td>
</tr>
</tbody>
</table>

<sup>103</sup>Only the waiting area of Roissy was visited in 2013, over a five-day period.
In all, 76.44% (1,178) of institutions were visited unannounced and 23.56% (363) 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:

- 99.03% with regard to police custody facilities, court cells and customs;
- 96.34% with regard to juvenile detention centres;
- 91.85% with regard to detention centres for illegal immigrants, waiting areas and deportation procedures;
- 47.32% with regard to healthcare institutions;
- 40.33% with regard to penal institutions;

This distribution between scheduled and unannounced visits varies little from one year to the next. In principle, it obeys a simple rule:

- visits to complex institutions in which persons deprived of liberty can spend several years are scheduled, unless there are grounds to do otherwise, since this way, the CGLPL can benefit, as soon as it arrives, from a documentary case-file and a meeting attended by the institution's main managers;
- on the other hand, visits to small institutions in which persons deprived of liberty spend only brief periods are, in principle, unannounced.

### 15.3 Categories of institutions visited

A total of 1,541 visits have been conducted since 2008. They are distributed as follows:

- 36.47% concerned police custody facilities;
- 19.86% concerned penal institutions;
- 19.27% concerned healthcare institutions;
- 7.72% concerned detention centres and facilities for illegal immigrants and waiting zones;
- 6.81% concerned court jails and cells;
- 5.52% concerned juvenile detention centres;
- 3.24% concerned customs detention facilities;
- 1.04% concerned deportation measures;
- 0.07% concerned other places.
This distribution does not change much from one year to the next because past history plays an important role here.
16. Resources allocated to the chief inspectorate in 2018

CGLPL figures at a glance
- 59 members of staff, including 33 permanent employees
- 87% officers in charge of inspection duties, including:
  - 18 permanent inspectors;
  - 7 inspectors in charge of processing case referrals;
  - 26 external inspectors, with public service collaborator status.
- 7% management staff
- 5% of officers in charge of executive secretarial or support duties
- 64% are women and 36% are men
- 56 years old: average age (49 years old for permanent employees)
- 4 and a half years of seniority on average
- 66% of staff arrived between 2014 and 2018
- 5.2m in overall budget (4.2m in staff appropriations and 1m in operating appropriations)

16.1 Stable human resources since 2015

The Finance Act for 2015 enabled the creation of three additional jobs owing to the new areas of competence bestowed by the legislation. The creation of two additional jobs had been anticipated in the 2015 management strategy and confirmed in the 2016 management strategy, bringing the institution’s employment ceiling to 33 FTEs.

To ensure the performance of missions, the institution also works on a collaborative basis with 26 external inspectors.

16.1.1 Human resources: permanent positions and external staff, trainees and casual employees in 2018

Permanent positions and external staff

In 2018, the creation of a Chief Inspector of places of deprivation of liberty position secured the legal situation of the authority heading up the institution. During an inspection conducted in 2017 on the policies and practices bearing on remuneration of independent government agencies, the French Court of Auditors had identified the irregularity of the situation of the Chief Inspector, posted on a contract identical to her predecessor. Decree No. 2018-653 of 25 July 2018 amending Decree No. 2008-246 of 12 March 2018 on the Chief Inspector of places of deprivation of liberty closed a legal loophole by classifying the position of Chief Inspector of places of deprivation of liberty; the Order of 25 July 2018 adopted under Decree No. 2008-246 of 12 March 2008 amended provides for the scheme of allowances that comes with the position. Both of these measures, effective as of 1 July 2018, present a neutral effect on the net pay of the current Chief Inspector.
The institution's two executive assistants, who report to the Chief Inspector and Secretary-General, engaged in mobility in 2018. They were replaced by two contract associates, due to a lack of satisfactory permanent civil servant applications.

Two Chief Superintendents of the French National Police Force, inspectors, would like to retire by the end of 2019.

Seven external inspectors ended their collaboration with the Chief Inspectorate in 2018. Six external inspectors were recruited (one former judge, one retired director for prison rehabilitation and probation services, one prison services attaché, who is also retired, one former director of the association Caritas France, one former employee of a humanitarian organisation and one former prefect).

**Trainees and casual employees**

The Chief Inspector of places of deprivation of liberty received thirteen trainees during the year, who came from civil service schools, professional training institutions or French universities.

<table>
<thead>
<tr>
<th>Professional training institutions</th>
<th>Civil service schools (ENM, ENAP, IRA)</th>
<th>Universities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of trainees received</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>4</td>
</tr>
</tbody>
</table>

**Contract workers on short-term missions**

Five casual contract workers were recruited in succession in 2018 to replace a vacant secretarial position, to process the referrals of individuals deprived of liberty and conduct a comparative research mission on national protective mechanisms.

**16.1.2 Social assessment data**

**Statues of permanent employees**

![Pie chart showing the distribution of statuses of permanent employees.]

The highest proportion of 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.

Contract workers are mainly recruited as legal experts, 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).

In its report on the policies and practices bearing on remuneration of independent government agencies, the French Court of Auditors had recommended that the normal working position be retained for civil servants occupying roles in IGAs stipulated by the special status of their profession, rather than posting on contract. The Assistant Director for Legal Affairs, who was previously recruited on a contract basis, and met the application criteria pursuant to the Sauvadet Act for gaining permanent, civil servant status, was appointed to the Government department attaché profession in 2018. Following her appointment, she was placed in a normal working position. In 2019, two attachés with support and documentation duties are also set to be placed in this position when their posting on contract comes to an end.

**Gender distribution among all staff members**

Most CGLPL staff members are women. Distribution among the inspection duties is fairly equal (22 women for 20 men) and 75% of executive positions are occupied by women.

**Pyramid of ages of all staff**

The social assessment of the institution does not always distinguish data bearing on officials appointed for permanent positions from data concerning the institution's external collaborators,
insofar as they form a working community where external collaborators are fully recognised for their participation in the institution's work.

**Turnover and absenteeism among permanent staff**

<table>
<thead>
<tr>
<th>Year</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff turnover rate</td>
<td>26%</td>
<td>9%</td>
<td>12%</td>
<td>25%</td>
</tr>
</tbody>
</table>

The staff turnover rate, on the rise, indicates the institution's sound capacity to renew its workforce and equip them with skills that are in demand on the public job market.

<table>
<thead>
<tr>
<th>Rate of absenteeism for sickness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall</td>
</tr>
<tr>
<td>Contract workers</td>
</tr>
<tr>
<td>Civil servants</td>
</tr>
</tbody>
</table>

There is a slightly higher rate of absenteeism for civil servants than for contract workers, which can particularly be explained by a workplace accident that justified a long period of sick leave for the official concerned.

**2018 training**

<table>
<thead>
<tr>
<th>Training modules</th>
<th>No. of days</th>
<th>Provider</th>
<th>No. of staff members</th>
</tr>
</thead>
<tbody>
<tr>
<td>Psychiatry and criminal justice</td>
<td>5</td>
<td>ENM Paris</td>
<td>1</td>
</tr>
<tr>
<td>Prison in question</td>
<td>5</td>
<td>ENM Paris</td>
<td>3</td>
</tr>
<tr>
<td>Addictions</td>
<td>5</td>
<td>ENM Paris</td>
<td>1</td>
</tr>
<tr>
<td>Introduction to political philosophy</td>
<td>5</td>
<td>ENM Paris</td>
<td>1</td>
</tr>
<tr>
<td>Democracy and terrorism</td>
<td></td>
<td>ENM Paris</td>
<td>3</td>
</tr>
<tr>
<td>In-house training for inspectors: methods and tools, organisation of the institution</td>
<td>1</td>
<td>In-house</td>
<td>7</td>
</tr>
<tr>
<td>Extensive language course, Arabic</td>
<td>5</td>
<td>Ministry for Europe and Foreign Affairs</td>
<td>1</td>
</tr>
<tr>
<td>Occasional training leader: designing and running training sessions</td>
<td></td>
<td>CEGOS</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total no. of staff members trained</strong></td>
<td></td>
<td></td>
<td><strong>18</strong></td>
</tr>
</tbody>
</table>

In 2017, major emphasis had been placed on in-house training programmes addressing inspections in psychiatry. These programmes did not continue in 2018; that said, in-house training is still given to new recruits on the CGLPL's tools and methods.

**16.2 Multiannual growth in financial resources**

**16.2.1 Stable financial resources over the past two years**
### Appropriations in €m

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th></th>
<th>2018</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Staff appropriations</td>
<td>Operating appropriations</td>
<td>Staff appropriations</td>
<td>Operating appropriations</td>
</tr>
<tr>
<td>Appropriations voted in the initial Finance Act</td>
<td>4.089</td>
<td>1.024</td>
<td>1.104</td>
<td>4.185</td>
</tr>
<tr>
<td>Appropriations open</td>
<td>4.065</td>
<td>0.899</td>
<td>0.972</td>
<td>4.164</td>
</tr>
<tr>
<td>Appropriations used</td>
<td>3.911</td>
<td>0.622</td>
<td>0.972</td>
<td>4.047</td>
</tr>
<tr>
<td>Utilisation rate</td>
<td>96%</td>
<td>69%</td>
<td>100%</td>
<td>97%</td>
</tr>
</tbody>
</table>

### A stable volume of jobs and wage bill since 2016

The Act of 26 May 2014 amending the Act of 30 October 2007 establishing a Contrôleur général des lieux de privation de liberté has particularly authorised scrutiny over the enforcement in practice of procedures for removing foreign nationals up until their handing-over to the State of destination and established a right to an on-site visit of the people deprived of liberty who referred a case to the institution. The CGLPL has therefore seen an extension in its areas of competence which justified a certain increase in its staff over the 2015 financial year, completed in 2016, as well as an extension of its premises so as to accommodate additional workstations and lay out suitable meeting rooms.

In terms of staff expenses and jobs, the institution benefited from five new jobs created by the 2015 and 2016 Finance Acts on account of the new areas of competence bestowed by the Act of 26 May 2014. The institution's employment ceiling has been increased as a result of these measures from 28 FTEs in 2014 to 33 in 2016.

The institution has a relatively significant wage bill for its employment ceiling insofar as it mainly recruits category A and A+ civil servants, who are highly experienced. Every year, around 5% of allocated appropriations are not used owing to frictional vacancy.

### An intact operating appropriations budget in 2018

Compared with the wage bill, the institution's operating appropriations, especially in terms of payment appropriations, are relatively restricted in light of its workforce and activities, which entail extensive mobility on the part of inspectors. Operating expenditure is marked by a high level of rigidity, leaving little room for manoeuvre: expenditures on rented properties, which are unavoidable, account for over 1/3 of total expenditures. Mission expenses, which are difficult to reduce, make up another third.

The institution only has room for manoeuvre on a small proportion of expenditures, including general operating costs, entertainment expenses and data processing, as well as on funding of highlights of institutional life (seminars).

Operating appropriations to the institution in the form of payment appropriations have been decreasing since 2015, due to budget regulation measures imposed over the course of the financial year in 2016 and 2017.

In 2017, the institution’s anniversary colloquium, held on 17 and 18 November, was mostly funded out of management savings, with some external financing (in particular for international guests’ travel expenses, by the Ministry for Europe and Foreign Affairs).

In 2018, the institution benefited from an appropriations budget that remained intact after a 3% reserve was initially set aside. This budget has enabled the institution to offset any difference in expenditure from one year to the next that it had had to practice in the past, whilst upholding a thriving editorial policy (thematic reports and publication of the proceedings from the 2017
anniversary colloquium) and efforts to secure its IT architecture. In 2019, the setup of a data portal that can be accessed remotely whilst guaranteeing the protection of personal data will round off the IT upgrading operation.

Appropriations allocated to the CGLPL in 2019 will enjoy a measure of stability. The payroll will only evolve due to a positive age and job-skill coefficient.

As regards operating appropriations, the resources made available to the institution will also remain stable, requiring ongoing efforts to economise.

16.2.2 **Efforts to rationalise operating expenditure**

Since 2016, amid an appropriations shortfall, the institution has had to make every effort to rationalise its expenditure in order to keep within the appropriations budget allocated, including:

- keeping the general operating expenses budget at levels below that of 2014, before expansion of the institution’s workforce and notwithstanding the increase in postal charges and the cost of translating referral letters;
- a close watch on consumption of mission expenses, with economising on accommodation expenses and anticipation of airfares – not easy to do, however, in the context of accompanying forced repatriations of foreigners.

The procurement procedure (MAPA) conducted in 2018 by the CGLPL to cater to needs that are not met by shared procurement (media monitoring and cleaning of premises) have brought down the cost of these services compared with previous contracts. Renewal of the media monitoring contract enabled 12% savings to be obtained on the former contract, and renewal of the cleaning contract enabled 15% savings. The savings made, modest in absolute value (€4,000 in all), have been reassigned to priority expense items, including IT and securing the CGLPL’s information systems.

As regards a multiyear plan for optimisation of expenditures by pooling the institution’s services with those of other independent government agencies, recommended by Act No. 2017-55 of 20 January 2017 conferring general status on independent government agencies and independent public authorities, it has to be said that lack of immediate geographic proximity with another IGA makes any real pooling difficult.

Notwithstanding the difficulty of pooling services, the CGLPL has nevertheless made every effort to rationalise its support function. Two staff members have been assigned to support functions since 2013 (an Administrative Director and an Administrative Manager).

No more staff have been added to such functions despite the growth of the CGLPL’s workforce, thanks to increased efficiency largely due to use of financial information systems (Chorus DT, in particular), use of interministerial contracts deployed by the State Purchasing Directorate (DAE) and close cooperation with the Prime Minister’s services (Directorate of Administrative and Financial Services/DSAF) in the context of a service agreement.

Moreover, although certain services are difficult to share, that does not mean that IGAs cannot cooperate or interact with each other. In 2019 for instance, support officers will take part in discussion groups on support duties in IGAs (general running and human resources). These discussion groups may particularly pave the way to such joint measures as shared public tendering.
Chapter 6

"To the Chief Inspector..."

Letters received

Deteriorated detention conditions

“Subject: INFORMATION - detention conditions at the T. detention centre for illegal immigrants.

For the attention of the Liberty and Custody Judge near the T. Court of first instance in civil and criminal matters. R 552-17 and R552-18 of the Code for Entry and Residence of Foreigners and Right of Asylum (CESEDA)

Dear Sir or Madam,

We are writing to tell you about the situation regarding our detention conditions.

Since last week, the toilet door of a washing point has been removed.

On Tuesday 27/11/2018, a washing point was blocked then returned to working order during the day but only in part.

At the moment, we therefore have two washing points that place us in undignified conditions:

One washing point works but there is no toilet door.

The other washing point works, but there are no hand basins.

Article R.553-3 of the CESEDA clearly states that each centre shall have "Freely accessible washing facilities, including hand basins, showers and WC, in sufficient number, i.e. one washing point per ten detainees".

There are currently 20 of us detained and the detention conditions no longer meet the criteria set out.

We are therefore asking you to take action on legal grounds to officially observe these conditions and take the corresponding measures.

Thank you in advance, yours faithfully."

Letter signed by 16 people

Problems associated with external movements on medical grounds and hospital admissions in detention

"To the Chief Inspector

By letter dated 13 April 2018, you asked me to explain the problems associated with hospital admissions for detainees at V. Prison.

This letter also bore on a particular situation about which Dr B., who is taking care of it, was expected to give you a response.

Generally speaking, I've been waiting for an assessment made recently before sending you a precise response, for the problems are as follows:

- Regarding external prisoner movements in general, with the exception of pressing emergencies, only a mere 50% of requests are carried out on the first date set. This calls for major planning/cancellation efforts. The reasons primarily cited for postponements are shortage of escorts, vehicles, etc. but also therefore longer timeframes, the need to prioritise, intercurrent releases or transfers, and prisoners’ refusals to leave at the time of departure (they cannot be informed of the dates in advance on security grounds). To enable the prison authorities to carry out transfers between institutions without having to postpone external movements for medical reasons (only one vehicle), we have decided not to schedule
anything on one day each week (Thursday, see review on planned hospital admissions). Following this decision, the percentage of postponements has remained stable, even though there has been a rise in requests (reopening of a wing), which has driven up the total number of external movements.

- Regarding the specific case of hospital admissions:
  ○ For the Interregional Secure Hospital Unit (UHSI), relations with the physicians are good and if indications are clear, then organisation is generally effective, sometimes with long waiting times though when the opinion of certain specialists has to be obtained, or promptly in an emergency or semi-emergency. But for about a year now, the V. prison officers have had to make the outbound journey, which is only exacerbating the problems highlighted above (before, it was the UHSI escort).
  ○ For pressing hospital admissions in the affiliated hospital: no difficulties
  ○ Regarding planned hospital admissions, the situation is very difficult. Since January 2017, the police forces have cut back on the system whereby guards remain in place to keep watch at the hospital. After negotiations and given the fraught situation regarding prison authority escorts (see above), in October 2017 we decided to stop scheduling external movements on Thursdays (the day where the police has stated it is unable to provide this guard service), in order to limit the postponements that had become systematic on that day. The situation has not improved, with 75% of postponements or cancellations over the period from October 2017 to April 2018: 33 postponements or cancellations for 11 planned hospital admissions carried out. There are many reasons for these postponements:

  - 9 priority cases or postponements of the hospital
  - 6 refusals by detainees
  - 5 releases and 5 transfers
  - 2 postponements by the prison authorities
  - 6 postponements by the police (including 4 Thursday dates that had been scheduled several months beforehand for October and November)

The timeframes increase the number of postponements or admissions not carried out on account of other priority cases, transfer or release, with the police refusal more than one planned hospital admission a week.

The situation becomes even more difficult for deferred emergencies (intervention in 3-4 days): problems arising in almost all cases: either there is no prison escort, or police available, and the daily hourly slots in which operating theatre specialists are available are not extensive. There can be medico-legal consequences. Sometimes it takes hours to organise/negotiate admissions before they are actually carried out – or not – on time, with other prisoner movements being postponed (owing to priority cases).

I hope I have been clear enough, yours faithfully."

**Detention conditions of a person with reduced mobility**

"Dear Ms ADELINE HAZAN I am writing to you because I have just been transferred to M. long-term detention facility which is not compatible with my health condition. I am in a wheelchair and there is no cell for reduced mobility, access to the showers and exercise yard is difficult because of one or more steps, and I can't even access any sports activity. Before coming to M. I was at B., which is the same facility as M. I have no exercise and haven't showered in 2 months. I have requested a transfer to a prison compatible with my health condition. Please do something, please come and visit me, you will see what life is like for me, I am sending you my medical certificate."

**Access to physiotherapy in detention**

"To the Chief Inspector,

I have been detained in R. Prison since 14 November 2016.

On 5 September 2017, I suffered an accident while playing football in the context of the prison's sports activities.

The next day, because I had a very painful left heel and great difficulties walking, I was taken to A&E at the R. regional hospital (CHR) where I was diagnosed with a partial Achilles tendon tear.

I then had to wear a cast for six weeks.

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When I left the hospital, the doctor had advised me that I should not put any weight on my foot and
that, once the cast had been taken off, I should see a physiotherapist to help with recovery.

The cast was removed on 24 October at the CHR. Without checking the extent of stabilisation of my
Achilles tendon through an MRI scan, a support overshoe was ordered for me which I had to wait two
weeks for, and in the meantime I had to walk around on crutches, taking care not to place any weight
on my left foot.

When I asked to see a physio, I was told that this wasn't possible as the prison did not have any
attending physiotherapists.

I am writing to you today for two reasons:
* because I believe that a new MRI scan would be necessary to check the condition of my Achilles
tendon;
* because I am not entitled to physiotherapist sessions, even though I would be able to avail of this
right if I were not in prison.

As you know, the Act of 18 January 1994 on public health provides that "the quality and continuity of
care shall be guaranteed to detainees in equivalent conditions to those from which the whole of the
population benefits."

I therefore consider that this right has not been respected and that this lack of treatment could leave me
with a permanent disability.

This is why I would grateful for anything that you are able to do to ensure that my rights are honoured.

For the time being, I have written to Ms A., Director-General of the Regional Health Agency, on the
one hand, and Mr O., Director-General of the Regional Hospital on the other, to draw their attention
to my situation and ask them to do everything possible so that a physiotherapist can come to the prison.

I have also referred my situation to Mr, Defender of Rights delegate, to whom I am sending a copy of
this letter.

I am grateful to you for the consideration you give my requests. Sincere regards.

Booking visiting rooms and visits in detention

"To the Chief Inspector,

Thank you for the attention you paid to my letter dated 30 November 2017, in which I told you that I
had called 133 times without being able to book a visiting room. I finally got through on my 195th call.
My ex-partner had to try 216 times the following week. You can imagine our despair at having to spend
so long on the phone; the following attempts were better: 47 calls in January, 7 in February, 5 in March.

February and March were exceptional. I have no other means of booking the visiting rooms. I live 700
km away from Corbas, my ex-partner more than 500 km away, and we visit our son every 5 to 6 weeks
or so. I should like to inform you of an incident that happened to me. I had booked a single visiting slot
on 30 January and a double one for the 31st. I caught my direct train Laval-Lyon which arrived at 17.30
at La Part Dieu, but this was too late for my visiting session on the 30th. The surprise was for the 31st.
I was denied the double visiting slot.

It must be said that the strike was over but some officers were still mobilised. The 2 warders who
opened the visiting room door confirmed that I only had a single visiting slot according to their other
colleague at the computer. When my son protested with the management, the warder "at the computer"
reported that I had a double visiting slot. My son had 2 visits in January: his brother on the 26th and me
on the 31st. The bookings switchboard confirmed that I had 1 double visiting slot on the 31st. Each
visit to my son costs me around €230/€250. I have tried to fit the visit into a single day, but the timing
is too tight (train, bus). The trains are frequently delayed (by up to 2 hours 10) or cancelled.

I won't go into the problems encountered by other families.

I finally feel relief only on leaving the remand prison: train on time, the bus has always been on time
until now, with no strikes. My son is there, for twice the door of his cell was open, because the cell has
begun. Missing a visiting room when you live in Lyon and come several times a week is annoying, but
when you live a long way away, it's quite another matter.

Many thanks again, yours faithfully"
**Arriving in detention**

"Dear Madam, I would like you to help me. I have been in prison for 5 days; I brought the clothes that the police officer told me to take when he came to get me at my home, and for 5 days + 3 days in custody I have not been able to change. I should like to tell you that I feel very dirty and even my fellow prisoners can smell my body odour. It's made me become a filthy person when that's not who I am. When I was free I paid attention to my hygiene and here I can no longer do that. I would be grateful for your help.

Yours faithfully."
Chapter 7

Places of deprivation of liberty in France: statistics

By Nicolas Fischer

CNRS – Centre for Sociological Research on Law and Penal Institutions

This data uses principal statistical sources including data on measures of deprivation of liberty and the persons concerned. Sources were described in more detail in section 10 of the Chief Inspector of places of deprivation of liberty’s reports for 2009 and 2011. Changes noted were commented upon in these reports, to which the reader is invited to refer.

As for the other reports, this edition updates the same basic data on the basis of availability of the various sources. The tables and graphs are accompanied by informative notes on methods and short comments.

Bringing together in one single document data relating to deprivation of liberty in the penal field (custody and incarceration), health field (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.

104This year once again, the author would like to extend his sincere thanks to Bruno Aubusson de Cavarlay (CNRS-Cesdip), author of the statistics shown in the reports from 2009 to 2014, for his advice and invaluable help. This chapter is an update of the statistical series that he initially created, and also includes comments that he suggested.
1. Deprivation of liberty in criminal cases

Introductory note: For this edition, it has not been possible to update the police statistics concerning persons implicated in offences, custody measures and imprisonment. These statistics were previously supplied by the Ministerial Statistical Department for Internal Security (SSM-SI) of the Ministry of the Interior, from a count carried out by the police forces. This count is now being re-examined which means that the data has not been distributed this year.

Although the lack of such statistics for 2017 must unfortunately be noted, this shortcoming calls for a more general thought process on the production of policing statistics. The figures published over recent years and presented in the tables below have been marked, since 2015, by a number of instances of bias acknowledged by the ministerial departments, which thus makes any commentary on them difficult. Such bias has also been identified in the 2018 report by the Temporary Detention Surveillance Committee, regarding counts of prisoners following the procedure (see Temporary Detention Surveillance Committee, 2017-2018 Report, Paris, CSDP, 2018, p. 59), but the finding is identical where custody measures are concerned. In both cases, a change in software in April 2015 at the national police force led to the police officers entering data in a different way. 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.

This problem does remind us of the limits of statistical tools, however: far from stating an absolute "truth", the figures depend (among other things) on the social conditions of recording of the activity they describe, and the tools organising this recording. Whilst it is essential to bear these reservations in mind, there is also just cause for bemoaning the lack of reliable series accessible to the public on such fiercely debated issues as police handling of crime.

1.1 Number of persons implicated in offences, police custody measures and persons imprisoned

<table>
<thead>
<tr>
<th>PERIOD</th>
<th>PERSONS IMPLICATED IN OFFENCES</th>
<th>CUSTODY MEASURES</th>
<th>which lasted 24 hours or less</th>
<th>which lasted more than 24 hours</th>
<th>IMPRISONED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975-1979</td>
<td>593,005</td>
<td>221,598</td>
<td>193,875</td>
<td>27,724</td>
<td>79,554</td>
</tr>
<tr>
<td>1980-1984</td>
<td>806,064</td>
<td>294,115</td>
<td>251,119</td>
<td>42,997</td>
<td>95,885</td>
</tr>
<tr>
<td>1985-1989</td>
<td>809,795</td>
<td>327,190</td>
<td>270,196</td>
<td>56,994</td>
<td>92,053</td>
</tr>
<tr>
<td>1990-1994</td>
<td>740,619</td>
<td>346,266</td>
<td>284,901</td>
<td>61,365</td>
<td>80,149</td>
</tr>
<tr>
<td>1995-1999</td>
<td>796,675</td>
<td>388,895</td>
<td>329,986</td>
<td>58,910</td>
<td>64,219</td>
</tr>
<tr>
<td>2000</td>
<td>834,549</td>
<td>364,535</td>
<td>306,604</td>
<td>57,931</td>
<td>53,806</td>
</tr>
<tr>
<td>2001</td>
<td>835,839</td>
<td>336,718</td>
<td>280,883</td>
<td>55,835</td>
<td>50,546</td>
</tr>
<tr>
<td>2002</td>
<td>906,969</td>
<td>381,342</td>
<td>312,341</td>
<td>69,001</td>
<td>60,998</td>
</tr>
<tr>
<td>2003</td>
<td>956,423</td>
<td>426,671</td>
<td>347,749</td>
<td>78,922</td>
<td>63,672</td>
</tr>
<tr>
<td>2004</td>
<td>1,017,940</td>
<td>472,064</td>
<td>386,080</td>
<td>85,984</td>
<td>66,898</td>
</tr>
<tr>
<td>2005</td>
<td>1,066,902</td>
<td>498,555</td>
<td>404,701</td>
<td>93,854</td>
<td>67,433</td>
</tr>
<tr>
<td>2006</td>
<td>1,100,398</td>
<td>530,994</td>
<td>435,336</td>
<td>95,658</td>
<td>63,794</td>
</tr>
<tr>
<td>2007</td>
<td>1,128,871</td>
<td>562,083</td>
<td>461,417</td>
<td>100,666</td>
<td>62,153</td>
</tr>
<tr>
<td>2008</td>
<td>1,172,393</td>
<td>577,816</td>
<td>477,223</td>
<td>100,593</td>
<td>62,403</td>
</tr>
<tr>
<td>Year</td>
<td>Number of Persons Implicated</td>
<td>Number of Persons in Police Custody</td>
<td>Number of Persons Imprisoned</td>
<td>Number of Persons Detained</td>
<td>Number of Persons Released</td>
</tr>
<tr>
<td>------</td>
<td>-----------------------------</td>
<td>-----------------------------------</td>
<td>-----------------------------</td>
<td>---------------------------</td>
<td>--------------------------</td>
</tr>
<tr>
<td>2009</td>
<td>1,174,837</td>
<td>580,108</td>
<td>479,728</td>
<td>100,380</td>
<td>59,933</td>
</tr>
<tr>
<td>2010</td>
<td>146,315</td>
<td>523,069</td>
<td>427,756</td>
<td>95,313</td>
<td>60,752</td>
</tr>
<tr>
<td>2011</td>
<td>1,172,547</td>
<td>453,817</td>
<td>366,833</td>
<td>86,984</td>
<td>61,274</td>
</tr>
<tr>
<td>2012</td>
<td>1,152,159</td>
<td>380,374</td>
<td>298,228</td>
<td>82,146</td>
<td>63,090</td>
</tr>
<tr>
<td>2013</td>
<td>1,106,022</td>
<td>365,368</td>
<td>284,865</td>
<td>80,503</td>
<td>55,629</td>
</tr>
<tr>
<td>2014</td>
<td>1,111,882</td>
<td>364,911</td>
<td>284,926</td>
<td>79,985</td>
<td>52,484</td>
</tr>
<tr>
<td>2015</td>
<td>1,089,782</td>
<td>352,897</td>
<td>272,065</td>
<td>80,832</td>
<td>34,814</td>
</tr>
<tr>
<td>2016</td>
<td>1,066,216</td>
<td>360,423</td>
<td>268,139</td>
<td>92,284</td>
<td>31,227</td>
</tr>
</tbody>
</table>

**Note:** As pointed out in the previous note, the sharp drop in numbers of people imprisoned from 2015 onwards appears above all to be due to the change in the way data is collected, following digitisation of procedural management. This figure used to include people referred to the State Prosecutor’s Office but who were only subject to detainment in cells pending appearance before a judge. The new definition now only includes imprisoned persons. In addition to this change in counting method is the disparate filling-out of police databases, also mentioned above.

### 1.2 Trends in numbers of persons implicated in offences, police custody measures and persons imprisoned


**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:** 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


Scope: Crimes and offences reported to the State Prosecutor's Office by the police and gendarmerie (apart from traffic offences), Mainland France.

<table>
<thead>
<tr>
<th>Type of offence</th>
<th>1994</th>
<th>2008</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Persons implicated in offences</td>
<td>Custody measures</td>
<td>%</td>
</tr>
<tr>
<td>Homicide</td>
<td>2,075</td>
<td>2,401</td>
<td>115.7%</td>
</tr>
<tr>
<td>Robberies</td>
<td>18,618</td>
<td>14,044</td>
<td>75.4%</td>
</tr>
<tr>
<td>Drug trafficking</td>
<td>13,314</td>
<td>11,543</td>
<td>86.7%</td>
</tr>
<tr>
<td>Procuring (prostitution)</td>
<td>901</td>
<td>976</td>
<td>108.3%</td>
</tr>
<tr>
<td>Insulting and violence against government officials</td>
<td>21,535</td>
<td>10,670</td>
<td>49.5%</td>
</tr>
<tr>
<td>Auto larceny</td>
<td>35,033</td>
<td>22,879</td>
<td>65.3%</td>
</tr>
<tr>
<td>Burglaries</td>
<td>55,272</td>
<td>34,611</td>
<td>62.6%</td>
</tr>
<tr>
<td>Fire, explosives</td>
<td>2,906</td>
<td>1,699</td>
<td>58.5%</td>
</tr>
<tr>
<td>Vehicle theft</td>
<td>40,076</td>
<td>24,721</td>
<td>61.7%</td>
</tr>
<tr>
<td>Sexual assaults</td>
<td>10,943</td>
<td>8,132</td>
<td>74.3%</td>
</tr>
<tr>
<td>Other behaviours</td>
<td>5,186</td>
<td>2,637</td>
<td>50.8%</td>
</tr>
<tr>
<td>Foreigners</td>
<td>48,514</td>
<td>37,389</td>
<td>77.1%</td>
</tr>
<tr>
<td>False documents</td>
<td>9,368</td>
<td>4,249</td>
<td>45.4%</td>
</tr>
<tr>
<td>Other thefts</td>
<td>89,278</td>
<td>40,032</td>
<td>44.8%</td>
</tr>
<tr>
<td>Assault and battery</td>
<td>50,209</td>
<td>14,766</td>
<td>29.4%</td>
</tr>
<tr>
<td>Category</td>
<td>2008</td>
<td>2016</td>
<td>2018</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>--------</td>
<td>--------</td>
<td>--------</td>
</tr>
<tr>
<td>Shoplifting</td>
<td>55,654</td>
<td>11,082</td>
<td>19.9%</td>
</tr>
<tr>
<td></td>
<td>58,674</td>
<td>20,661</td>
<td>35.2%</td>
</tr>
<tr>
<td></td>
<td>52,095</td>
<td>16,952</td>
<td>32.5%</td>
</tr>
<tr>
<td>Weapons</td>
<td>12,117</td>
<td>5,928</td>
<td>48.9%</td>
</tr>
<tr>
<td></td>
<td>23,455</td>
<td>10,103</td>
<td>43.1%</td>
</tr>
<tr>
<td></td>
<td>168,864</td>
<td>42,035</td>
<td>24.9%</td>
</tr>
<tr>
<td>Destruction, damage</td>
<td>45,591</td>
<td>12,453</td>
<td>27.3%</td>
</tr>
<tr>
<td></td>
<td>74,115</td>
<td>29,319</td>
<td>39.6%</td>
</tr>
<tr>
<td></td>
<td>44,157</td>
<td>12,224</td>
<td>27.7%</td>
</tr>
<tr>
<td>Other trespass to persons</td>
<td>28,094</td>
<td>5,920</td>
<td>21.1%</td>
</tr>
<tr>
<td></td>
<td>65,066</td>
<td>20,511</td>
<td>31.5%</td>
</tr>
<tr>
<td></td>
<td>85,407</td>
<td>19,357</td>
<td>22.7%</td>
</tr>
<tr>
<td>Fraud, breach of trust</td>
<td>54,866</td>
<td>17,115</td>
<td>31.2%</td>
</tr>
<tr>
<td></td>
<td>63,123</td>
<td>21,916</td>
<td>34.7%</td>
</tr>
<tr>
<td></td>
<td>64,711</td>
<td>10,116</td>
<td>15.6%</td>
</tr>
<tr>
<td>Frauds, economic crime</td>
<td>40,353</td>
<td>6,636</td>
<td>16.4%</td>
</tr>
<tr>
<td></td>
<td>33,334</td>
<td>9,700</td>
<td>29.1%</td>
</tr>
<tr>
<td></td>
<td>34,705</td>
<td>4,822</td>
<td>13.9%</td>
</tr>
<tr>
<td>Other general policies</td>
<td>15,524</td>
<td>3,028</td>
<td>19.5%</td>
</tr>
<tr>
<td></td>
<td>6,190</td>
<td>926</td>
<td>15.0%</td>
</tr>
<tr>
<td></td>
<td>7,808</td>
<td>1,855</td>
<td>23.8%</td>
</tr>
<tr>
<td>Family, child</td>
<td>27,893</td>
<td>1,707</td>
<td>6.1%</td>
</tr>
<tr>
<td></td>
<td>43,121</td>
<td>4,176</td>
<td>9.7%</td>
</tr>
<tr>
<td></td>
<td>67,383</td>
<td>4,714</td>
<td>7.0%</td>
</tr>
<tr>
<td>Unpaid cheques</td>
<td>4,803</td>
<td>431</td>
<td>9.0%</td>
</tr>
<tr>
<td></td>
<td>3,135</td>
<td>457</td>
<td>14.6%</td>
</tr>
<tr>
<td></td>
<td>2,285</td>
<td>44</td>
<td>1.9%</td>
</tr>
<tr>
<td>Total</td>
<td>775,701</td>
<td>334,785</td>
<td>43.2%</td>
</tr>
<tr>
<td></td>
<td>1,172,393</td>
<td>577,816</td>
<td>49.3%</td>
</tr>
<tr>
<td></td>
<td>1,066,216</td>
<td>360,423</td>
<td>33.8%</td>
</tr>
<tr>
<td>Total without unpaid cheques</td>
<td>770,898</td>
<td>334,354</td>
<td>43.4%</td>
</tr>
<tr>
<td></td>
<td>1,169,258</td>
<td>577,359</td>
<td>49.4%</td>
</tr>
<tr>
<td></td>
<td>1,063,931</td>
<td>360,379</td>
<td>33.9%</td>
</tr>
</tbody>
</table>

**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, for 2016 as for the previous years, the general effect of the Act of 14 April 2011 which had been preceded by the decision of the Constitutional Council (30 July 2010) referred a priority preliminary ruling on the issue of the unconstitutionality (QPC) of the articles of the 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 rate of appeal in custody (the first lines in the table) the reduction in this rate is proportionately smaller. It is also worth remarking, and in compliance with legislative developments, that the decrease in custody, in absolute numbers and by proportion, primarily concerns offences relating to foreign nationals staying in the country and the use of drugs which respectively contribute 35% and 12% in the total drop between 2008 and 2016. In the case of foreign nationals' residence, the drop has been extended under the effect of its replacement by detention for verification of identity in 2011 (please see section 3.1).
1.4 Placements in prisons according to criminal category and estimates of placements in detention ("flow")


Scope: Penal institutions in Mainland France (1970-2000) and then for France and its Overseas territories.

<table>
<thead>
<tr>
<th>Period</th>
<th>Remand prisoners: immediate hearing</th>
<th>Remand prisoners: preparation of case for trial</th>
<th>Convicted prisoners</th>
<th>Of which imprisoned convicted prisoners placed in detention</th>
<th>Imprisonment for debt(*)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1970-1974</td>
<td>12,551</td>
<td>44,826</td>
<td>14,181</td>
<td>-</td>
<td>2,778</td>
<td>74,335</td>
</tr>
<tr>
<td>1975-1979</td>
<td>11,963</td>
<td>49,360</td>
<td>16,755</td>
<td>-</td>
<td>2,601</td>
<td>80,679</td>
</tr>
<tr>
<td>1980-1984</td>
<td>10,406</td>
<td>58,441</td>
<td>14,747</td>
<td>-</td>
<td>1,994</td>
<td>85,587</td>
</tr>
<tr>
<td>1985-1989</td>
<td>10,067</td>
<td>55,547</td>
<td>17,828</td>
<td>-</td>
<td>753</td>
<td>84,195</td>
</tr>
<tr>
<td>1990-1994</td>
<td>19,153</td>
<td>45,868</td>
<td>18,859</td>
<td>-</td>
<td>319</td>
<td>84,199</td>
</tr>
<tr>
<td>1995-1999</td>
<td>19,783</td>
<td>37,102</td>
<td>20,018</td>
<td>-</td>
<td>83</td>
<td>76,986</td>
</tr>
<tr>
<td>2000</td>
<td>19,419</td>
<td>28,583</td>
<td>17,192</td>
<td>-</td>
<td>57</td>
<td>65,251</td>
</tr>
</tbody>
</table>

Mainland France

<table>
<thead>
<tr>
<th>Period</th>
<th>Remand prisoners: immediate hearing</th>
<th>Remand prisoners: preparation of case for trial</th>
<th>Convicted prisoners</th>
<th>Of which imprisoned convicted prisoners placed in detention</th>
<th>Imprisonment for debt(*)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>20,539</td>
<td>30,424</td>
<td>17,742</td>
<td>n.d.</td>
<td>60</td>
<td>68,765</td>
</tr>
<tr>
<td>2001</td>
<td>21,477</td>
<td>24,994</td>
<td>20,802</td>
<td>n.d.</td>
<td>35</td>
<td>67,308</td>
</tr>
<tr>
<td>2002</td>
<td>27,078</td>
<td>31,332</td>
<td>23,080</td>
<td>n.d.</td>
<td>43</td>
<td>81,533</td>
</tr>
<tr>
<td>2003</td>
<td>28,616</td>
<td>30,732</td>
<td>22,538</td>
<td>n.d.</td>
<td>19</td>
<td>81,905</td>
</tr>
<tr>
<td>2004</td>
<td>27,755</td>
<td>30,836</td>
<td>26,108</td>
<td>n.d.</td>
<td>11</td>
<td>84,710</td>
</tr>
<tr>
<td>2005</td>
<td>29,951</td>
<td>30,997</td>
<td>24,588</td>
<td>n.d.</td>
<td>4</td>
<td>85,540</td>
</tr>
<tr>
<td>2006</td>
<td>27,596</td>
<td>29,156</td>
<td>29,828</td>
<td>24,650</td>
<td>14</td>
<td>86,594</td>
</tr>
<tr>
<td>2007</td>
<td>26,927</td>
<td>28,636</td>
<td>34,691</td>
<td>27,436</td>
<td>16</td>
<td>90,270</td>
</tr>
<tr>
<td>2008</td>
<td>24,231</td>
<td>27,884</td>
<td>36,909</td>
<td>27,535</td>
<td>30</td>
<td>89,054</td>
</tr>
<tr>
<td>2009</td>
<td>22,085</td>
<td>25,976</td>
<td>36,274</td>
<td>24,673</td>
<td>19</td>
<td>84,354</td>
</tr>
<tr>
<td>2010</td>
<td>21,310</td>
<td>26,095</td>
<td>35,237</td>
<td>21,718</td>
<td>83</td>
<td>82,725</td>
</tr>
<tr>
<td>2011</td>
<td>21,432</td>
<td>25,883</td>
<td>40,627</td>
<td>24,704</td>
<td>116</td>
<td>88,058</td>
</tr>
<tr>
<td>2012</td>
<td>21,133</td>
<td>25,543</td>
<td>44,259</td>
<td>26,038</td>
<td>47</td>
<td>90,982</td>
</tr>
<tr>
<td>2013</td>
<td>21,250</td>
<td>25,748</td>
<td>42,218</td>
<td>22,747</td>
<td>74</td>
<td>89,290</td>
</tr>
<tr>
<td>2014</td>
<td>46,707</td>
<td>43,898</td>
<td>24,847</td>
<td>60</td>
<td>90,665</td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

All of France
<table>
<thead>
<tr>
<th>Year</th>
<th>Imprisoned of solvent persons for non-payment of certain fines (contrainte judiciaire)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>55,516</td>
</tr>
<tr>
<td>2017</td>
<td>55,320</td>
</tr>
</tbody>
</table>

(*) Imprisonment of solvent persons for non-payment of certain fines (contrainte judiciaire) as from 2005

**Note:** No data is yet available for 2015, due to the many modifications in prison data collection made over the course of that year (adoption of GENESIS management software in prisons and modification of the method for calculating numbers of prison entries). These changes also affected the method for counting placements in prisons, since data concerning convicted prisoners placed in detention and imprisonment for debt are no longer available (see below, 1.5).


For the 2014-2017 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 have not been updated for the last three years, this estimate of placements in detention enables, from 2006 to 2014 in this table, a series to be offered for those arrested and sentenced, placed in detention, that is, according to the methodology used, not having an adjustment of sentence *ab initio* or within 7 days following imprisonment (external placement or placement under electronic surveillance).

**Comment:** The gaps in the 2015-2017 series make it difficult to assess trends over the last three 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. Even though, from 2014 onwards, we only have the overall statistics for all remand prisoners, the long-term drop in placements in temporary detention in the context of committal proceedings seems to have arrived at a ceiling and those making their appearance in court immediately are also stabilising. The drop in "imprisoned" in police statistics has not been confirmed (but the definition is not the same). Finally, placements in detention of "remand prisoners" (in the context of committal proceedings or immediate appearance in court before final sentencing) are clearly the majority among those detained over the course of this period.

**References:** These series, as with all those from the prison statistics, have been reconstituted by Bruno Aubusson de Cavarlay (Cesdip/CNRS) for the earliest period, from printed sources. For more recent years – with the exception, as indicated, of figures from 2015 – they are now regularly distributed by the 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 and 2017, 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 by the Temporary Detention Surveillance Committee.

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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 terror 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 places 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.

**1.6 Distribution of Convicted Persons according to Duration of the Sentence being served (including adjusted sentencing without accommodation)**

Source: Quarterly Statistics of the Population dealt with in Penal Institutions, French Ministry of Justice, Prisons Administration Department, PMJ5.


The dates indicated represent the situation on 1 January of each year in question.

<table>
<thead>
<tr>
<th>Year</th>
<th>Duration of the sentence: number of prisoners</th>
<th>Percentage distribution</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Less than 1 year</td>
<td>1 to less than 3 years</td>
</tr>
<tr>
<td>1970</td>
<td>6,239</td>
<td>5,459</td>
</tr>
<tr>
<td>1980</td>
<td>7,210</td>
<td>5,169</td>
</tr>
<tr>
<td>1980</td>
<td>7,427</td>
<td>5,316</td>
</tr>
<tr>
<td>1990</td>
<td>6,992</td>
<td>5,913</td>
</tr>
<tr>
<td>2000</td>
<td>8,365</td>
<td>6,766</td>
</tr>
<tr>
<td>2010</td>
<td>17,445</td>
<td>14,174</td>
</tr>
<tr>
<td>2011</td>
<td>17,535</td>
<td>14,780</td>
</tr>
<tr>
<td>2012</td>
<td>20,641</td>
<td>17,226</td>
</tr>
<tr>
<td>2013</td>
<td>21,961</td>
<td>18,169</td>
</tr>
<tr>
<td>2014</td>
<td>22,213</td>
<td>18,288</td>
</tr>
<tr>
<td>2015</td>
<td>22,078</td>
<td>17,583</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Less than 1 year</th>
<th>Over 1 year to 2 years</th>
<th>Over 2 years to 5 years</th>
<th>5 or more years</th>
<th>All convicted prisoners</th>
<th>Less than 1 year</th>
<th>Over 1 year to 2 years</th>
<th>Over 2 years to 5 years</th>
<th>5 or more years</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>19,374</td>
<td>10,061</td>
<td>12,946</td>
<td>16,062</td>
<td>58,443</td>
<td>33.1%</td>
<td>17.2%</td>
<td>22.2%</td>
<td>17.2%</td>
</tr>
<tr>
<td>2017</td>
<td>17,524</td>
<td>11,692</td>
<td>10,502</td>
<td>13,357</td>
<td>59,298</td>
<td>36.3%</td>
<td>19.7%</td>
<td>17.7%</td>
<td>22.5%</td>
</tr>
<tr>
<td>2018</td>
<td>17,955</td>
<td>11,860</td>
<td>13,458</td>
<td>16,208</td>
<td>59,481</td>
<td>36.3%</td>
<td>19.9%</td>
<td>22.6%</td>
<td>27.2%</td>
</tr>
</tbody>
</table>

**Note:** This table was not updated in the 2016 edition as no quarterly statistics had been published by the DAP due to the above-mentioned change in statistics software. The document published in 2017 partly makes up for this lack by providing figures for the last two years, but adopts a slightly different calculation method. The reference periods for lengths of sentences have been partly modified, with significant effects on certain figures: for sentences of between one and five years, it makes it difficult to compare figures for 2016 and 2018 with those of previous years. This is...
why we have chosen to present them in a separate table, taking the new DAP criteria as reference. Lastly, the quarterly statistics updated for 2018 present different figures from the previous statistics for the years 2016 and 2017; it is these recalculated figures that we have reproduced here.

For the previous years, this analysis of convicted offenders includes those whose sentences were adjusted, without accommodation. On 1 January 2015, out of the 60,742 individuals sentenced to imprisonment, 12,689 were not detained, under adjusted sentences, and 2,659 were in day parole or placed in external accommodation. Therefore 45,394 of those sentenced were detained without adjustment of sentence: the analysis of this group by the quantum of sentence being carried out is not shown by this statistical source.

**Comment:** This table shows the trend reversing from 2000. During the last three decades of the 20th century, the growth in the number of prisoners serving long sentences was constant and marked. The proactive policy of developing the adjustment of short sentences (firstly less than one year and then less than two years) follows fresh growth in short sentencing demonstrated by the statistics on sentencing, whilst long sentences have stabilised at a high level. The reconciliation between counting movements and those in stock shows that the average 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 months in 2015; 9.7 and 9.9 months in 2016 and 2017 respectively) (DAP-PMJ5, 2014-2018).


### 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 – 118 on 1 December 2018 – has no great significance as the indicator varies a great deal according to type of institution: 91 for detention centres and detention centre wings, 75 for long-stay prisons and long-stay prison wings, 68 for institutions for young offenders, whilst for remand prisons and remand prison wings the average density was 142.

In addition, the average by type of institution includes variations within each category:

- of the 95 sentencing institutions, only 9 had a density higher than 100, including 2 detention centre wings in overseas territories and 6 open prisons (4) and centres for adjusted sentences (2) in Ile-de-France, plus the Marseille-Les Baumettes wing for adjusted sentences. This overcrowding concerned 582 detainees in Mainland France and 140 in Overseas France.

- of the 130 remand prisons and remand prison wings, 14 had a density lower than or equal to 100 and 113 had a density greater than 100, of which 50 had a density higher than 150. Four remand prisons and remand prison wings exceeded 200, i.e. a population of prisoners more than double the number of operational places (all four 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 of the number of prisoners (+3,742) and density is 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 confinement 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. At 1 January 2018, the vast majority were affected by this situation of overcrowding (94%); over a third (44%) of detainees in remand prisons or remand prison wings were in institutions where the density was greater than or equal to 150.


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 prison wings, prisoners.

<table>
<thead>
<tr>
<th>Remand prisons and remand prison wings on 01/01</th>
<th>Total</th>
<th>Density &gt; 100</th>
<th>Density &gt; 120</th>
<th>Density &gt; 150</th>
<th>Density &gt; 200</th>
<th>Number of operational places</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number</td>
<td>%</td>
<td>Number</td>
<td>Share of total</td>
<td>Number</td>
<td>Share of total</td>
<td>Number</td>
</tr>
<tr>
<td>2005</td>
<td>41,063</td>
<td>100</td>
<td>38,777 94%</td>
<td>27,907 68%</td>
<td>12,227 30%</td>
<td>3,014 7%</td>
</tr>
<tr>
<td>2006</td>
<td>40,910</td>
<td>100</td>
<td>36,785 90%</td>
<td>23,431 57%</td>
<td>10,303 25%</td>
<td>1,498 4%</td>
</tr>
<tr>
<td>2007</td>
<td>40,653</td>
<td>100</td>
<td>36,337 89%</td>
<td>27,156 67%</td>
<td>10,592 26%</td>
<td>1,769 4%</td>
</tr>
<tr>
<td>2008</td>
<td>42,860</td>
<td>100</td>
<td>40,123 94%</td>
<td>33,966 79%</td>
<td>13,273 31%</td>
<td>2,600 6%</td>
</tr>
<tr>
<td>2009</td>
<td>43,680</td>
<td>100</td>
<td>41,860 96%</td>
<td>35,793 82%</td>
<td>14,324 33%</td>
<td>1,782 4%</td>
</tr>
<tr>
<td>2010</td>
<td>41,401</td>
<td>100</td>
<td>37,321 90%</td>
<td>25,606 62%</td>
<td>8,550 21%</td>
<td>1,268 3%</td>
</tr>
<tr>
<td>2011</td>
<td>40,437</td>
<td>100</td>
<td>32,665 81%</td>
<td>27,137 67%</td>
<td>4,872 12%</td>
<td>549 1%</td>
</tr>
<tr>
<td>2012</td>
<td>43,929</td>
<td>100</td>
<td>38,850 88%</td>
<td>34,412 78%</td>
<td>9,550 22%</td>
<td>1,853 4%</td>
</tr>
<tr>
<td>2013</td>
<td>45,128</td>
<td>100</td>
<td>42,356 94%</td>
<td>35,369 78%</td>
<td>11,216 25%</td>
<td>2,241 5%</td>
</tr>
<tr>
<td>2014</td>
<td>45,580</td>
<td>100</td>
<td>41,579 91%</td>
<td>37,330 82%</td>
<td>16,279 36%</td>
<td>1,714 4%</td>
</tr>
<tr>
<td>2015</td>
<td>44,805</td>
<td>100</td>
<td>41,675 93%</td>
<td>33,915 76%</td>
<td>17,850 40%</td>
<td>1,092 2%</td>
</tr>
<tr>
<td>2016</td>
<td>47,152</td>
<td>100</td>
<td>30,609 65%</td>
<td>26,896 57%</td>
<td>23,667 50%</td>
<td>1,469 3%</td>
</tr>
<tr>
<td>2017</td>
<td>47,656</td>
<td>100</td>
<td>43,213 91%</td>
<td>38,626 81%</td>
<td>18,109 38%</td>
<td>1,321 3%</td>
</tr>
<tr>
<td>Year</td>
<td>Total</td>
<td>100%</td>
<td>1st Quartile</td>
<td>2nd Quartile</td>
<td>3rd Quartile</td>
<td>4th Quartile</td>
</tr>
<tr>
<td>------</td>
<td>-------</td>
<td>-------</td>
<td>--------------</td>
<td>--------------</td>
<td>--------------</td>
<td>--------------</td>
</tr>
<tr>
<td>2018</td>
<td>48,536</td>
<td>100%</td>
<td>45,843</td>
<td>39,751</td>
<td>21,478</td>
<td>1,212</td>
</tr>
</tbody>
</table>
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.

<table>
<thead>
<tr>
<th>Year</th>
<th>Hospitalisation at the request of a third party (HDT)</th>
<th>Hospitalisation by court order (HO) (Art. L.3213-1 and L.3213-2) since the Act of 5 July 2011</th>
<th>Psychiatric care for imminent danger</th>
<th>Hospitalisation by court order / ASPDRE according to Art. 122-1 of the CPP and Article L.3213-7 of the CSP</th>
<th>Hospitalisation by judicial court order according to Article 706-135 of the CPP</th>
<th>Provisional Committal Order</th>
<th>Hospitalisation according to Art. D.398 of the CPP (prisoners)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>1,638,929</td>
<td>756,120</td>
<td>56,477</td>
<td>22,929</td>
<td>19,145</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2007</td>
<td>2,167,195</td>
<td>910,127</td>
<td>59,844</td>
<td>31,629</td>
<td>26,689</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2008</td>
<td>2,298,410</td>
<td>1,000,859</td>
<td>75,409</td>
<td>6,705</td>
<td>13,214</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td>2,490,930</td>
<td>1,083,025</td>
<td>104,400</td>
<td>18,256</td>
<td>14,837</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>2,684,736</td>
<td>1,177,286</td>
<td>125,114</td>
<td>9,572</td>
<td>13,342</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2011</td>
<td>2,520,930</td>
<td>1,062,486</td>
<td>124,181</td>
<td>21,950</td>
<td>14,772</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td>2,108,552</td>
<td>964,889</td>
<td>261,119</td>
<td>145,635</td>
<td>20,982</td>
<td>58,655</td>
<td></td>
</tr>
<tr>
<td>2013</td>
<td>2,067,990</td>
<td>977,127</td>
<td>480,950</td>
<td>198,222</td>
<td>16,439</td>
<td>85,029</td>
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</tr>
<tr>
<td>2014</td>
<td>2,003,193</td>
<td>996,282</td>
<td>562,117</td>
<td>138,441</td>
<td>16,322</td>
<td>58,832</td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td>2,031,820</td>
<td>1,013,861</td>
<td>617,592</td>
<td>140,831</td>
<td>17,438</td>
<td>69,019</td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td>2,049,627</td>
<td>988,982</td>
<td>661,394</td>
<td>133,404</td>
<td>11,635</td>
<td>71,158</td>
<td></td>
</tr>
<tr>
<td>2017</td>
<td>2,025,844</td>
<td>987,589</td>
<td>672,237</td>
<td>145,262</td>
<td>17,302</td>
<td>78,786</td>
<td></td>
</tr>
</tbody>
</table>
**Number of patients according to type of measure**

<table>
<thead>
<tr>
<th>Year</th>
<th>HDT</th>
<th>ASPDT</th>
<th>Psychiatric care for imminent danger</th>
<th>HO</th>
<th>ASPDR</th>
<th>CPP</th>
<th>Provisional Committal Order</th>
<th>CPP</th>
<th>(prisoners)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>43,957</td>
<td>10,578</td>
<td>221</td>
<td>518</td>
<td>830</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2007</td>
<td>53,788</td>
<td>13,783</td>
<td>353</td>
<td>654</td>
<td>1,035</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2008</td>
<td>55,230</td>
<td>13,430</td>
<td>453</td>
<td>103</td>
<td>396</td>
<td>1,489</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td>62,155</td>
<td>15,570</td>
<td>589</td>
<td>38</td>
<td>371</td>
<td>1,883</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>63,752</td>
<td>15,451</td>
<td>707</td>
<td>68</td>
<td>370</td>
<td>2,028</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2011</td>
<td>63,345</td>
<td>14,967</td>
<td>764</td>
<td>194</td>
<td>289</td>
<td>2,070</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td>58,619</td>
<td>14,594</td>
<td>10,913</td>
<td>1,076</td>
<td>571</td>
<td>4,033</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2013</td>
<td>58,778</td>
<td>15,190</td>
<td>17,362</td>
<td>1,015</td>
<td>506</td>
<td>4,368</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2014</td>
<td>57,244</td>
<td>15,405</td>
<td>22,489</td>
<td>1,033</td>
<td>496</td>
<td>4,191</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td>59,662</td>
<td>16,781</td>
<td>30,182</td>
<td>1,056</td>
<td>627</td>
<td>5,546</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td>61,074</td>
<td>17,470</td>
<td>23,062</td>
<td>1,206</td>
<td>473</td>
<td>6,520</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2017</td>
<td>62,391</td>
<td>17,346</td>
<td>24,255</td>
<td>1,273</td>
<td>533</td>
<td>7,617</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Note:** This year, as in previous years, we have used the data published by the SAE (Annual Statistics of Health Facilities), an annual administrative survey carried out by the DREES among all health institutions, and which has included a specific section on psychiatry since 2006. This survey has the advantage of showing recent data (available every year on the previous year), and being relatively comprehensive. Nevertheless, it has several drawbacks that must be kept in mind: the recording of the number of days of hospitalisation by the SAE 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. Finally, recording of entries and adopted measures has been subject to several changes in definition and calculation method since 2010, which is why we have only shown the number of days and patients here.

The second limit relates to the redefinition of hospitalisation measures by the Law dated 5 July 2011, the institution of which especially created the category of hospitalisation for imminent danger, which added to hospitalisation on the request of a third party and hospitalisation on court order (which is today known as admission to psychiatric treatment on the request of a State representative, for a more detailed presentation of these sources, it will be worthwhile consulting the 2015 report and the references given at the end of this section.
see below). This new category-based classification has therefore made year-to-year comparison difficult.

Comment: Making its first appearance in 2011, numbers of days of "hospitalisation for imminent danger" continue to increase, cutting into the two pre-existing categories, hospitalisations on the request of a third party (HDT) and hospitalisations on court order (now known as "hospitalisations by decision of a State representative – HSPDRE). The first is slightly up while the second is slightly down. Hospitalisations of detainees are continuing the upward trend already noted for previous years.

Finally, SAE figures confirm the increase in the total number of days taken up in 2015 (3,927,020 days in 2018 and 3,916,200 in 2016, as against 3,775,187 in 2014). Although figures for 2016 are still below those for 2010 (4,057,542), the downward trend observed between 2010 and 2014 would appear to be easing off.

The total number of patients still seems to be increasing over the long term, from 82,376 in 2010 to 100,858 in 2014 and 113,415 in 2018 (slightly down compared with 2015, when there were 113,854 patients). 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 2016 (total number of days divided by 365) indicates, as in previous years, a little over 10,000 patients.

3. Immigration detention

3.1 Number of persons implicated in offences by the immigration department and number of custody measures


Note: The implementation of Act no. 2012-1560 dated 31 December 2012 relating to the detention for verification of the rights of residence was anticipated in 2012 with a sharp decrease in the number of persons accused and custody measures. From 2013, these can no longer simply concern illegal immigration.

Comment: The CGLPL’s 2009 report (pp. 263-267) described how the treatment of illegal immigrants was derived by stages from the criminal process. At first, the criminal process remained limited to the policing level with massive use of placing people in custody. In 2007-2008, this way of handling the problem was the basis for one out of seven placements in police custody. After the general decrease in police custody and then the application of the Act of 31 December 2012, following the Court of Cassation Order of 5 June, deeming that simple illegal immigration could not justify placing a person in custody, the restriction of liberty took the form of detention for administrative verifications (approximately 30,000 in 2013 according to a communiqué from the Minister of the Interior dated 31/01/2014). In 2015, police custody measures represented on this graph and indicated in Table 1.3 (7,262 out of 17,008 accused) are related to other violations of foreign nationals' immigration regulations. This rate of custody is close to that observed for all persons accused. These figures could not be updated for the following years because the police stats are unavailable (as already mentioned in section 1).
3.2 Implementation of measures for the deportation of foreign nationals (2003-2016)

Source: Annual Reports of the French Interministerial Committee for the Management of Immigration (CICI), Central Directorate of the French border police (DCPAF).
Scope: Mainland France

<table>
<thead>
<tr>
<th>Year</th>
<th>Measures</th>
<th>ITF</th>
<th>APRF</th>
<th>OQTF</th>
<th>APRF + OQTF</th>
<th>Deportation order</th>
<th>Readmission</th>
<th>Forcible deportations (sub-total)</th>
<th>Voluntary returns (aided)</th>
<th>Total deportations</th>
</tr>
</thead>
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<td>2003</td>
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<td>49,017</td>
<td>-</td>
<td>49,017</td>
<td>385</td>
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<tr>
<td></td>
<td>executed</td>
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<td>9,352</td>
<td>-</td>
<td>9,352</td>
<td>242</td>
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<tr>
<td></td>
<td>% enforcement</td>
<td>32.1%</td>
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<td>-</td>
<td>19.1%</td>
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<td>-</td>
<td>64,221</td>
<td>292</td>
<td>69,602</td>
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<td>-</td>
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<td>-</td>
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<td>-</td>
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<td>-</td>
<td>24.2%</td>
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<td>-</td>
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<td>292</td>
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<td>-</td>
<td>16,616</td>
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<td>-</td>
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<td>76.4%</td>
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<td>17.8%</td>
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<td>% enforcement</td>
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<td>22.5%</td>
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<td>70.9%</td>
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</tr>
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<td>12.2%</td>
<td>19.1%</td>
<td>92.1%</td>
<td>22.2%</td>
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</tr>
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<td></td>
<td>% enforcement</td>
<td>71.4%</td>
<td>28.8%</td>
<td>13.8%</td>
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<td>77.4%</td>
<td>23.3%</td>
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<td>18.9%</td>
<td>87.2%</td>
<td>24.4%</td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

107 ITF: banishment from French territory (interdiction du territoire français, principal or additional measure pronounced by criminal courts)
108 APRF: prefectural order to take back to the border (arrêté préfectoral de reconduite à la frontière)
109 OQTF: order to leave French territory (ordre de quitter le territoire français, administrative measure)
<table>
<thead>
<tr>
<th>Year</th>
<th>pronounced</th>
<th>executed</th>
<th>% enforcement</th>
</tr>
</thead>
<tbody>
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<td>1,043</td>
<td>66.1%</td>
</tr>
<tr>
<td></td>
<td>365</td>
<td>850</td>
<td>205.5%</td>
</tr>
<tr>
<td></td>
<td>82,441</td>
<td>18,434</td>
<td>22.4%</td>
</tr>
<tr>
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<td>82,806</td>
<td>19,184</td>
<td>23.2%</td>
</tr>
<tr>
<td></td>
<td>186</td>
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<td>83.3%</td>
</tr>
<tr>
<td></td>
<td>6,204</td>
<td>6,319</td>
<td>29.5%</td>
</tr>
<tr>
<td></td>
<td>90,774</td>
<td>26,801</td>
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</tr>
<tr>
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<td>10,021</td>
<td>36,822</td>
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</tr>
<tr>
<td>2013</td>
<td>n.d.</td>
<td>n.d.</td>
<td>66.1%</td>
</tr>
<tr>
<td></td>
<td>6,287</td>
<td>97,397</td>
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</tr>
<tr>
<td></td>
<td>4,328</td>
<td>31,409</td>
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</tr>
<tr>
<td></td>
<td>27.8%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2014</td>
<td>n.d.</td>
<td>n.d.</td>
<td>66.1%</td>
</tr>
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<td>6,178</td>
<td>96,229</td>
<td>205.5%</td>
</tr>
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<td></td>
<td>96,229</td>
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</tr>
<tr>
<td></td>
<td>2,930</td>
<td>30,536</td>
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<td></td>
<td>28.7%</td>
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<td></td>
</tr>
<tr>
<td>2015</td>
<td>n.d.</td>
<td>n.d.</td>
<td>66.1%</td>
</tr>
<tr>
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<td>7,135</td>
<td>88,991</td>
<td>205.5%</td>
</tr>
<tr>
<td></td>
<td>88,991</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3,093</td>
<td>32,689</td>
<td></td>
</tr>
<tr>
<td></td>
<td>33.3%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td>n.d.</td>
<td>n.d.</td>
<td>66.1%</td>
</tr>
<tr>
<td></td>
<td>8,279</td>
<td>92,076</td>
<td>205.5%</td>
</tr>
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<td>92,076</td>
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<td></td>
<td>2,627</td>
<td>24,707</td>
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</tr>
<tr>
<td></td>
<td>24%</td>
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</tr>
<tr>
<td></td>
<td>205.5%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: The measures implemented during one year may have been pronounced during an earlier year. This explains the enforcement rate of 205.5% for APRFs in 2012.

This table has been drawn up from CICI reports for 2003 to 2016. Their official presentation emphasises the rates of enforcement of deportation measures and any changes in them. From the 4th report for 2006, this information was included in the general context of a policy of recording numbers in relation to deportations. The total number of deportations indicated in the annual report for 2006 (23,831) therefore includes, in addition to 22,412 measures of various types pronounced and executed, 1,419 voluntary returns. Then these "voluntary returns" were counted as being "aided returns", and the annual report was not very clear on the contents of this section. This method of counting, for 2008 and the following years, showed a "result" meeting the objective of 30,000 deportations. For these years, the table shown here contains an additional column ("forced deportations", which is in bold), which excludes voluntary or aided returns.

At a press conference (31 January 2014), the 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 three latest reports drafted under the provisions of Article L.111-10 of the Code for Entry and Residence of Foreigners and Right of Asylum (2012, 2013, 2014 and 2015-2016 reports, published in April 2014, April 2015, April 2016 and April 2017 respectively) now make this distinction. For 2012 it was therefore identified that out of the 19,184 APRF and OQTF implemented, 4,954 cases related to "aided returns". This resulted in 21,847 "forced returns" being counted for 2012 instead of 26,801 as in the above table for the forced deportations column. According to this presentation, "forced returns" decreased significantly between 2009 (17,422) and 2010 (16,197) contrary to that previously shown (above table) and therefore growth for 2011 is lower (19,328). For 2014, the records also included "forced returns" and "aided returns" under forced deportations, ending up with the figure of 21,489.

It should be noted that the 12th report published in 2016 includes updated figures for 2015 regarding immigration detention (see next section) but only presents incomplete series for the same year regarding deportations (the total number of deportation measures pronounced is still unknown). The 13th report published in 2017 makes up for this shortcoming, but presents different and evidently recalculated figures for the previous years, without it being clear what the reason or principle for this new counting method are.

Finally, and like the year before, the 13th report showing the figures for 2016 no longer differentiates the deportation measures according to the type of measure (OQTF, APRF, ITF or
deportation order), and instead shows a general presentation that only differentiates between "unaided" and "aided" deportations. Only readmission measures and aided voluntary returns are still shown separately.

**Comment:** For the years for which figures are available, the absolute level of APRFs and OQTFs enforced (15,684 in 2013) seems not to have sustainably exceeded 16,000 a year and the enforcement rate varies according to the greater or lesser number of measures pronounced. Although the overall number of deportation measures carried out has slightly increased over the last ten years or so, it appears to have stabilised at around 25 to 27% of deportations pronounced. This relatively low stable rate is largely due to structural barriers (material and administrative alike) that have long hampered implementation of forced deportations.


### 3.3 Detention centres for illegal immigrants (Mainland France). Theoretical capacity, number of committals, average duration of detention, outcome of detention

Source: CICI annual reports, Senate (in italics, please see note).

**Scope:** Mainland France

<table>
<thead>
<tr>
<th>Year</th>
<th>Theoretical capacity</th>
<th>Number of committals</th>
<th>Accompanying minors committed to CRAs</th>
<th>Average occupancy rate</th>
<th>Average duration of detention (in days)</th>
<th>Prisoners removed, excluding voluntary returns</th>
<th>% removals/committals</th>
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<td>25,131</td>
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<td></td>
<td></td>
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<td>775 28,155</td>
<td>64%</td>
<td>5.6</td>
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</tr>
<tr>
<td>2004</td>
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<td>944 30,043</td>
<td>73%</td>
<td>8.5</td>
<td></td>
<td></td>
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</tr>
<tr>
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<td>1,016 29,257</td>
<td>83%</td>
<td>10.2</td>
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</tr>
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<td>1,691 35,246</td>
<td>76%</td>
<td>10.5</td>
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<td>43%</td>
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<td>1,515 34,592</td>
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<td>40%</td>
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<td>1,566 27,401</td>
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<td>36%</td>
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<td>1,726 24,544</td>
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<td></td>
<td>40%</td>
</tr>
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<td>1,672 23,394</td>
<td>98 50.5%</td>
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<td>47%</td>
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<tr>
<td>Year</td>
<td>Total</td>
<td>Onshore</td>
<td>Offshore</td>
<td>Proportion</td>
<td>Average Stay</td>
<td>Rate</td>
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<tr>
<td>2013</td>
<td>1,571</td>
<td>24,176</td>
<td>41</td>
<td>48.3%</td>
<td>11.9</td>
<td>41%</td>
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</tr>
<tr>
<td>2014</td>
<td>1,571</td>
<td>25,018</td>
<td>42</td>
<td>52.7%</td>
<td>12.1</td>
<td>-</td>
<td></td>
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<tr>
<td>2015</td>
<td>1,554</td>
<td>26,267</td>
<td>112</td>
<td>54.1%</td>
<td>11.6</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td>1,552</td>
<td>22,753</td>
<td>172</td>
<td>49.2%</td>
<td>12.2</td>
<td>-</td>
<td></td>
</tr>
</tbody>
</table>

**Note:** the annual reports of the CICI from 2003 to 2016 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 and holding 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 sent back, excluding voluntary returns. The proportion compared with number of committals can therefore be calculated (last column). The 7th CICI report, published in March 2011, provided the proportion for 2009 (page 77). The following report gave a rate of 42% for CRAs possessing interservice deportation centres (pôle interservices éloignement) and 37% for the rest, but no overall rate. The items set out in the last column of the table for 2010-2013 are from an informational report from the Senate on CRAs (No. 775 dated 23/07/2014). This report also sets out the number of placements in 2013. These figures nevertheless remain linked to sporadic assessments of detention, and have unfortunately not been updated for 2014 and 2016.

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 edition (27,699 placements) became that for French Overseas Départements.

**Comment:** The CICI annual reports do not show how the average rate of occupation is defined and assessed. By applying this rate to capacity, an estimate of the average numbers of persons present in CRAs should be obtained. However this estimate is unreliable as the capacity may have been given for a fixed date (it would not then be the average capacity for the year). Another estimate of numbers would be possible from this table as placements correspond to entries and average duration of stays has been supplied. A lower estimate is arrived at. For 2016, calculating the occupancy rate gives an average total number of 763 prisoners, and a calculation by average stay in detention gives a total number of 761 prisoners. These two methods of calculation show an increase in these prisoner numbers from 2003 (496 or 432 depending upon the method of estimating) to 2007 (1,285/1,014) and then a drop to 2011 (811/585). The same calculation showed an uncertain result for 2013 (754/795, the first indicating a fall and the second a rise); both figures rose for 2015 but 2016 data show a drop irrespective of the calculation method chosen, corresponding to the fall in number of placements in detention.

Appendix 1

Map of institutions and départements inspected in 2018

Insert the map entitled "CARTE_dptmts visités en 2018_SIG" here.
Appendix 2

List of institutions visited in 2018

Penal institutions

- Bapaume detention centre
- Tarascon detention centre
- Avignon prison
- Condé-sur-Sarthe prison
- Gradignan prison
- Laon prison
- Lorient-Ploemeur prison
- Maubeuge prison
- Moulins-Yzeure prison
- Rémire-Montjoly prison
- Marseille prison for minors
- Meyzieu prison for minors
- Quievrechain prison for minors
- Angers remand prison
- Besançon remand prison
- Béthune remand prison
- Caen remand prison
- Châlons-en-Champagne remand prison
- Fleury-Mérogis remand prison
- Le Mans remand prison
- Mende remand prison
- Arles remand prison

Healthcare institutions

- Mental health association of the 13th arrondissement – ASPM13 (René Angelergues polyclinic in Paris and L’Eau vive Hospital in Soisy-sur-Seine)
- Blain psychiatric hospital
- André Rosemon hospital in Cayenne
- Henri Mondor teaching hospital in Créteil
- Lannemezan hospital
- Buëch-Durance hospital in Laragne-Montéglin
- Regional teaching hospital in Lille
- Valvert hospital in Marseille
- Annecy Genevois hospital in Metz-Tessy
- Ravenel hospital in Mirecourt
- Pyrenees hospital in Pau
- Plaisir hospital
- L’Estran hospital in Pontorson
- Sainte-Marie hospital in Privas
- Les Murets hospital in La Queue-en-Brie
- Rouffach hospital
- Saint-Nazaire hospital
- Alpes-Isère hospital in Saint-Egrève
- Saint-Etienne teaching hospital
- Uzès psychiatric hospital
- La Manche Bon Sauveur Foundation healthcare institution in Saint Lô
- Psychiatric infirmary of the Paris Police Headquarters
- Marseille specially-equipped hospitalisation unit
- L’Hôtel-Dieu medical jurisprudence unit in Paris


Juvenile detention centres

- Allonnes juvenile detention centre
- Sainte-Gauburge juvenile detention
- Cambrai juvenile detention centre
- La Chapelle Saint-Mesmin juvenile detention centre
- La Jubiadière juvenile detention centre
- Moissannes juvenile detention centre
- Saint-Jean-la-Bussière juvenile detention centre
- Sinard juvenile detention centre
- Tonnay juvenile detention centre

Detention centres and facilities for illegal immigrants, waiting areas

- Rochambeau detention centre for illegal immigrants
- Lyon detention centre for illegal immigrants
- Le Mesnil-Amelot 2 and 3 detention centre for illegal immigrants
- Sète detention centre for illegal immigrants
- Modane detention facility for illegal immigrants
- Saint-Georges-de-l'Oyapock detention facility for illegal immigrants
- Lille waiting area
- Mérignac waiting area
- Nantes waiting area
- Roissy waiting area

Custody and customs detention facilities


Gendarmerie brigades: Bapaume, Annonay, L'Aigle, Besançon (investigations unit), Blain, Bormes les Mimosas, Castelnaudary, Cholet, La Croix Valmer, Guigneville sur Essonne, Milly-la-Forêt, Mirecourt, Pont-Aven, Port-Louis, Rosporden, Rouffach, and Uzès

Customs: internal surveillance service of Avignon, external surveillance services of Marseille and Tarbes, investigating customs department of Saint-Herblain.

Court cells and jails

Courts of first instance in civil and criminal matters in Angers, Bordeaux, Colmar, Créteil, Laon, Tarbes and Pau (with the Court of Appeal).

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110 The detention facility for illegal immigrants and border police facilities in Modane were inspected together and subject to a joint report. This inspection is counted in the CGLPL's statistics as an inspection of a police custody facility (see page 196 herein).

111 The detention facility for illegal immigrants and border police facilities in Saint-Georges-de-l'Oyapock were inspected together and subject to a joint report. This inspection is counted in the CGLPL's statistics as an inspection of a police custody facility (see page 196 herein).
Appendix 3

Summary table of the CGLPL’s principal recommendations for the year 2018\textsuperscript{112}

(see table on following pages)

\textsuperscript{112} The following recommendations are from this report, the opinions and thematic reports published by the CGLPL in 2018. They are in no way exclusive of other recommendations set out by the CGLPL in its inspection reports, opinions and recommendations during 2018, the contents of which are accessible on the institution’s website www.cglpl.fr.
<table>
<thead>
<tr>
<th>Place concerned</th>
<th>Topic</th>
<th>Sub-topic</th>
<th>Recommendation</th>
<th>Chapter</th>
</tr>
</thead>
<tbody>
<tr>
<td>All places of deprivation of liberty</td>
<td>Confidentiality of communication with the CGLPL/reprisals</td>
<td></td>
<td>The CGLPL underscores the principle that correspondence sent to it should remain strictly confidential. Any attempt to obtain a copy or find out the contents thereof is liable to violate this principle. Anyone must have the possibility of freely reaching out to its services without fearing subsequent punishment, criticism or any deterioration in their detention conditions.</td>
<td>4</td>
</tr>
<tr>
<td><strong>Penal institutions</strong></td>
<td>Minors</td>
<td>Accommodation conditions</td>
<td>The material conditions under which minors are cared for must be improved, better monitored and better assessed, and be subject to special inspections if we are to provide an appropriate educational context.</td>
<td>1</td>
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<tr>
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<td></td>
<td>Role of families</td>
<td>All institutions that take in minors should assess the role that families play in their care, and develop a plan for increasing their role in formal and concerted fashion.</td>
<td>1</td>
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<tr>
<td></td>
<td></td>
<td>Discipline</td>
<td>The CGLPL reasserts that the disciplinary measures applied to minors should have an educational objective and must do nothing to hinder maintenance of family ties, education or children’s physical and psychological development. This being so, confinement in punishment wings must be a truly exceptional sanction.</td>
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<td></td>
<td>Unaccompanied minors</td>
<td>The CGLPL recommends that the public authorities carry out an evaluation of problems connected with treatment of unaccompanied foreign minors, and take all useful measures to provide them with the protection required in the context of France’s international commitments.</td>
<td>1</td>
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<td></td>
<td>Searches</td>
<td>Scrutiny of grounds</td>
<td>Reasons given for deciding on carrying out body searches are vague and catch-all, reports to the public prosecutor’s office are sketchy, and checks on the office’s part non-existent. The CGLPL recommends that instructions be given to public prosecutors’ offices to carry out such checks.</td>
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<td>Records</td>
<td>The CGLPL asks that, in accordance with the law, the records of searches carried out pursuant to Art. 57, Para. 2, Prison Act of 24 November 2009, be systematically sent to the Public Prosecutor's Office and come under the effective scrutiny of the judicial authority.</td>
<td>3</td>
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<td></td>
<td>Procedures</td>
<td>The CGLPL urges greater vigilance on the part of institution directors over respect of the professional techniques deployed. Full-body searches conducted by one officer must be the rule. Regarding imprisoned minors, the CGLPL considers that special vigilance should be paid to respect of this principle, in keeping with the right to dignity of the young offenders.</td>
<td>4</td>
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<td>Millimetre wave scanner</td>
<td>The rule according to which anybody refusing a body search is scanned results in any inmate who goes to the visiting room being compelled to submit to a measure of some kind that violates their privacy. Therefore, given the apparatus’ level of performance, rules on use of MWSs should be specified, and limited by a principle of necessity and proportionality to the risk.</td>
<td>1</td>
</tr>
<tr>
<td><strong>Penal institutions</strong></td>
<td>Respect regime (opinion)</td>
<td>Detention centres</td>
<td>As they focus on reintegration, such centres have long applied an open-door principle or differentiated regimes (open and closed sectors). By implementing a respect system, a number of institutions have done away with the open-door regime. Juxtaposition of only two systems – closed and open in respect –</td>
<td>2</td>
</tr>
<tr>
<td><strong>Penal institutions</strong></td>
<td><strong>Dependent elderly people (opinion)</strong></td>
<td><strong>Punishment wing</strong></td>
<td><strong>Nursing staff</strong></td>
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<tr>
<td><strong>Staff and supervision</strong></td>
<td>Contributions to a closed-door trend in long-term detention centres. The respect system should not be a pretext for doing away with the open-door system, but should be regarded as a supplementary regime.</td>
<td>The experiments observed made it clear that the respect system self-produces order in remand prisons. It should be extended to all remand prisons as their basic regime, making placement in a closed-door system a duly justified exception (investigation requirements, serious disciplinary incidents, etc.).</td>
<td>The terms of the &quot;contract&quot; should be reconsidered to take into account the reality of the facility and individuals concerned.</td>
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<tr>
<td><strong>Activities</strong></td>
<td>The prison authority must develop activities, under the respect regime and for the attention of the whole of the prison population.</td>
<td>Without there being a need to refer to the notion of points, which is akin to treating prisoners like children, and makes officers feel uncomfortable and as if they are being patronising, simply having staff working within living units, in a form similar to community policing of a particular area, must make it possible to supervise behaviour, prevent violence and maintain a peaceful atmosphere – irrespective of the category of institution in question. Any failure to follow the rules that is likely to have detrimental effects must lead to specific comments being recorded in an adversarial manner. Staff training, standardisation of practices demonstrated by teamwork and affirmation of the supervisory role are all important in this regard.</td>
<td>It is clear that the respect regime must be better defined and harmonised, and staff trained in applying it. At a time when such methods are becoming more widespread nationwide, they are not sufficiently supervised by the central authorities.</td>
<td></td>
</tr>
<tr>
<td><strong>Searches</strong></td>
<td>Instructions given by the prison authorities must clarify the correct procedures during searches on dependent and disabled individuals. Furthermore, within institutions, warders responsible for carrying out searches must be able to refer to a person of authority, trained in this respect, so as to determine how to act appropriately in each case, and perhaps even the opportunity for such a measure.</td>
<td>Assessments of unfitness for detention by the physician must be performed with account taken of the individual's health and the environment available. Regular visits to detention by the nursing staff must make such an assessment possible.</td>
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<tr>
<td><strong>Accommodation conditions</strong></td>
<td>Individuals whose health condition requires it must be accommodated in a cell meeting the standards concerning people with reduced mobility and systematically transported in appropriate vehicles.</td>
<td>Decisions to place dependent elderly people in the punishment wing must be prohibited. Alternative options to such placement, such as confinement in the cell for people with reduced mobility, must be adopted instead.</td>
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</tr>
<tr>
<td>Penal institutions</td>
<td>Use of means of restraint</td>
<td>Home help</td>
<td>Alternatives to incarceration</td>
<td>Suspended and adjusted sentences</td>
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<td></td>
<td>The CGLPL recommends using means of restraint that are strictly proportionate to the risk presented by the detainees and allowing for their dignity to be respected during external movements for medical reasons.</td>
<td>As soon as the dependence of a detainee has been acknowledged, assistance by a local home help provider must be secured to enable effective care and dignified detention conditions. Assistance by a fellow detainee, on a voluntary basis, or an auxiliary, of dependent detainees should not be considered sufficient to meet the requirement to safeguard integrity and respect their dignity.</td>
<td>With regard to disabled detainees and detainees over 70 years of age, the CGLPL recommends that the Public Prosecutor or Judge responsible for the enforcement of sentences endeavour by any means to ensure that the sentence is carried out in an open environment.</td>
<td>Individuals who are likely to benefit from an adjusted or suspended sentence for medical reasons must be systematically identified. This must include prison staff as well as healthcare professionals and lawyers. The medical staff must also, whenever they deem it necessary, hand medical certificates directly to the detainee or, with the latter's agreement, to his/her family or counsel.</td>
</tr>
<tr>
<td>Penal institutions</td>
<td>Mattresses on the ground</td>
<td>Statistics</td>
<td>Prison overcrowding (thematic report)</td>
<td>Role of judges</td>
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<td>An action plan aimed at curtailing the use of additional mattresses must be rolled out without delay given the inadmissible aggravation in detention conditions this results in for the individuals and the consequences that seriously undermine their prospects of reintegration.</td>
<td>The calculation of places and capacity of penal institutions must be revised and updated in a regulatory type of standard. This standard must factor in the recommendations of the bodies of the Council of Europe. No other criterion than operational capacity should be taken into consideration to calculate an institution's occupancy rate. The penal institution must equip itself with more precise statistical tools for measuring prison overcrowding and individual cell rates. The individual cell rate and number of additional mattresses must be recorded each day by the institution, in light of the specific characteristics of each of the latter, not least the number and type of cells (individual, double or multiple). The notion of density should be explored further in remand prisons, in a bid to find out what surface area each individual has and to measure overcrowding. The monthly statistics should indicate, per institution, the number of vacant places, and calculate the difference between operational capacity, minus the vacant places, and the number of detainees.</td>
<td>Delivery of a policy to reduce the prison population cannot be seriously envisaged without precise knowledge of the situation regarding overcrowding and the enforcement of sentences. The Prison Administration Department must, once again, be able to produce, using the GENESIS software, statistics on the composition of the prison population in each institution. Staff shortages and the resulting &quot;degraded&quot; operating mode adversely affect the detention conditions which are further compounded by prison overcrowding. If the positions specified in the staff organisation charts within institutions cannot be filled, the authorities must define the criteria for job cuts and for prohibiting certain cuts – especially those that end up reducing access to visiting rooms, medical treatment and activities. Judges who pronounce prison sentences must be attentive to the detention conditions in the remand prisons within their jurisdiction. Judges have a responsibility to be familiar with the places of detention and the context specific to the institutions within their jurisdiction. To that end, they must particularly inspect the places of detention in practice and rely on the sentence enforcement committees to set up meaningful policies for tackling overcrowding, by stepping up information exchanges on available local data and by developing appropriate management tools.</td>
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<tr>
<td>Penal institutions</td>
<td>Sentencing scale</td>
<td>It is time to take the necessary steps to put an end to the excessive use of prison sentences; to readjust the scope for prison sentences in application of the principle of the necessity of sentences, particularly by replacing prison sentences handed down for certain offences with other sentences, and by rolling out decriminalisation measures.</td>
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<td>Short sentences</td>
<td>The public authorities must question the purpose of short prison terms, which often cause significant upheaval in the life of a convicted person without allowing him/her to benefit from any aid in prison due to the shortness of his/her stay.</td>
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<td></td>
<td>Public policy</td>
<td>Overcrowding must cease to be considered as primarily a prison-related issue. Tackling prison overcrowding must become a fully-fledged public policy, to which specific, long-term resources must be allocated.</td>
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<td></td>
<td>Prison regulation mechanism</td>
<td>A national prison regulation mechanism must be introduced through legislative channels, backed up by local restrictive protocols in which a range of stakeholders are involved under the supervision of the judicial authorities. It shall aim at preventing any institution from exceeding a 100% occupancy rate.</td>
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<td></td>
<td>Maintaining family ties (telephone)</td>
<td>The CGLPL reiterates the recommendation it issued in the opinion dated 10 January 2011 on telephone use in facilities where people are deprived of their liberty: &quot;international communication, particularly for foreign prisoners (who often have no other means of contact with their family), must be permitted under the same conditions as national communication. The required formalities must not represent a barrier: in this instance again, proof (relationship, home address, etc.) by any means (passport, correspondence envelopes, etc.) must prevail, especially when it comes to nationals of distant countries. Calling hours must take into account time differences. Without this flexibility, the right to call family and friends remains a dead letter.&quot;</td>
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<td></td>
<td>Personal property</td>
<td>The CGLPL recommends that the compensation amount for property lost by a detainee during a transfer equal the replacement value without application of a wear coefficient, for it is unrealistic to apply an internal administrative appeal to a measure that has been appraised at the same authority's discretion, and to process compensation for modest stakes as an administrative dispute.</td>
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<td></td>
<td>Indigent persons</td>
<td>The CGLPL asks that Article D.347-1 of the Code of Criminal Procedure be amended in that it excludes detainees who receive study grants from the benefit of</td>
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<tr>
<td>Healthcare institutions</td>
<td>Escorted leave</td>
<td>The Chief Inspector reiterates the recommendation it set out in its 2017 Annual Report, according to which the prison authorities must allocate sufficient resources to these fundamental missions to ensure that the rights of detainees are respected. Moreover, it appears judicious for the gendarmerie and police forces to be able to reinforce prison administration staff numbers where there are shortages, by extending the scope for reinforcement stipulated in Article D.57 of the Code of Criminal Procedure.</td>
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<td>Preventive detention</td>
<td>The CGLPL asks the Government to publish an overview of convictions providing that the person, at the end of his/her sentence, may be subject to a reconsideration of his/her situation possibly in view of preventive detention.</td>
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<td>Voluntary patients</td>
<td>It requests that, whatever happens, no voluntary patient be placed in a closed unit.</td>
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<tr>
<td>Continuity of care between intra- and extra-hospital settings</td>
<td>In the context of current thought on organisation of psychiatry, the CGLPL recommends that guidelines be provided to improve continuity of treatment between intra- and extra-hospital settings.</td>
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<tr>
<td>Physicians</td>
<td>Capacity to practise</td>
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<tr>
<td>Accommodation conditions</td>
<td>Control</td>
<td></td>
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<tr>
<td>Wearing of pyjamas</td>
<td>The CGLPL points out that compulsory wearing of pyjamas cannot be the result of a general measure but only of a medical decision, i.e. an individualised and regularly reviewed decision taken personally by a physician after examining a patient.</td>
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<tr>
<td>Daily life</td>
<td>Comfort locks</td>
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<tr>
<td>Sexuality</td>
<td>The CGLPL cannot set rules on what should be allowed and what forbidden with regard to sexuality. It can only recommend that the subject not be regarded as taboo and that, in each institution, the ethics committee give thought to and define prohibitions in view of the local situation, choose the necessary measures for protection of patients, and provide staff with a reassuring framework for intervention.</td>
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<tr>
<td>Patients' rights</td>
<td>Emergency services</td>
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</tbody>
</table>

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<table>
<thead>
<tr>
<th>Department</th>
<th>Liberty and custody judge</th>
<th>Solitary confinement and restraint</th>
<th>Hospitalised children</th>
<th>Healthcare institutions</th>
<th>Detention centres for illegal immigrants</th>
</tr>
</thead>
<tbody>
<tr>
<td>For this to happen, as they have the necessary medical and legal expertise, it is up to psychiatry departments to keep a watch on “upstream” treatment conditions for patients they take in and implement suitable measures on exchange of information, training and even assistance.</td>
<td>The CGLPL requests the legislature to extend judges’ competence to other decisions of deprivation of liberty and measures adversely affecting psychiatric patients: placement in units for difficult patients, and placement in seclusion or under restraint, which are now the subject of “decisions”.</td>
<td>It is unacceptable that, two years after their adoption, the legal provisions on management of seclusion and restraint in mental health institutions and reduction of recourse to such practices are still seen as optional rules, applied in formal fashion at best with no impact on the practices themselves. The Minister of Health should implement a proactive policy of supervision and training in order to ensure their application.</td>
<td>The public authorities and responsible authorities must endeavour to improve coordination between the diverse social, medical-social, educational, health and judicial services working with children; the public authorities must also make sure that any child in need of care can be accommodated in a suitable institution, which is close enough to his or her home to guarantee the maintenance of family ties.</td>
<td>The CGLPL reiterates that custodial staff should assess required levels of security measures on a case-by-case basis in order to best maintain the fundamental rights of hospitalised detainees. The presence of security forces in a consultation or treatment room should be exceptional and, in all cases, have the agreement of the physician concerned.</td>
<td>Increasing the duration of detention is a measure as onerous as it is pointless. The duration of detention prior to enactment of the law – 45 days – was already needlessly long as the average duration is only about twelve and a half days. Most deportations take place in the first few days; if they take longer it is usually because countries of return refuse to deliver consular laissez-passer. No obligation to harmonise European practices requires an increase in the detention period, which has been set at a maximum of six months – a maximum, not a goal to achieve! The maximum period of 32 days of detention, as was provided for before the Act of 16 June 2011 bearing on immigration, integration and nationality was already quite long enough. Given the argument of effectiveness put forward to justify doubling the administrative detention period and extension of detention in order to check</td>
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<tr>
<td>Detention centres for illegal immigrants</td>
<td>Interpreter services</td>
<td>Interpreters’ services are not only needed to provide information on rights and life in detention, but also to ensure all-round delivery of welcome booklets written in appropriate languages.</td>
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<tr>
<td>Released detainees (access to transport and accommodation)</td>
<td>Measures must be taken to ensure that people set free on national soil following a stay in a CRA have immediate access to public transport and accommodation adapted to their needs.</td>
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<tr>
<td>Forced deportations</td>
<td>Monetary allowances for indigent individuals</td>
<td>The Government must adopt the measures required to ensure that no deportee is left in the destination country without having at least enough money to pay for a day’s food, a night’s lodging and the transport necessary to get to their place of refuge.</td>
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<tr>
<td>Staff</td>
<td>Recruitment and training</td>
<td>Measures of all kinds (attractiveness, status, training, supervision, location, etc.) must be taken to ensure staff stability in juvenile detention centres.</td>
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</tr>
<tr>
<td>Accommodation conditions</td>
<td>Renovation and maintenance</td>
<td>Material conditions of accommodation in juvenile detention centres should form the subject of a ministerial inspection programme, and the necessary measures (renovation work, maintenance, standards, technical checks, etc.) must be taken to ensure that the education of children placed in them is carried out in an environment suitable for such purpose.</td>
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<td>Order of 2 February 1945</td>
<td>Coordination between the different types of care provision</td>
<td>The CGLPL requests that the announced review of the Ordinance of 2 February 1945 bearing on juvenile offenders provide an opportunity to introduce consistency and continuity into the pathways of minors confined to places of residence.</td>
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<td>Courts</td>
<td>Protection of unaccompanied minors</td>
<td>The CGLPL recommends that legal means combined with the necessary measures in terms of public policies be introduced to ensure the protection of unaccompanied minors.</td>
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<td></td>
<td>Security measures</td>
<td>Glass-enclosed docks</td>
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<td>Consequently, the CGLPL recommends total abolition of glass docks in courtrooms, and, at most, installation – on a case-by-case basis and only for the most dangerous situations – of removable protections or docks designed to ensure respect of the rights of defence.</td>
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<td>Use of handcuffs</td>
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<td>The CGLPL therefore reiterates that movement of handcuffed individuals should in all cases be the subject of reflection carried out under the aegis of First Presidents, with a view to finding a balance between security requirements and detainees’ dignity.</td>
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<td>Accommodation conditions</td>
<td>The CGLPL recommends that material conditions for reception of people deprived of liberty be upgraded overall. In order for this to happen, a ministerial plan for work to be undertaken will have to be drawn up (hygiene, lighting, heating, toilets, etc.) and each court should be asked to formalise local reception conditions (movement, food, surveillance, right to go out into the open air, traceability, etc.) as well as keep a record of jail cell use. There should be more inspections by first presidents.</td>
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<td>Custody</td>
<td>Provision of blankets and toiletry kits</td>
<td>The toiletry kits (for men and women) and wool blankets, either single-use or washed after each use, distributed in some police stations should be made systematically available.</td>
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<td>facilities</td>
<td>Rights of defence</td>
<td>Summary of rights</td>
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<td>The summary document on rights must be given to individuals held in police custody, as provided for by law. Lawyers are asked to make sure that this measure is carried out and to initiate any actions required to see that it is complied with.</td>
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Appendix 4

Inspectors and staff employed in 2018

Chief Inspector:
Adeline Hazan, judge

Secretary General:
André Ferragne, Chief Inspector of the French armed forces

Assistants:
Franky Benoist, administrative manager
Nathalie Brucker, executive assistant (until 31 December 2018)
Nathalie Leroy, executive assistant (until 28 March 2018)
Brigitte Bodeau, executive assistant (from 5 November 2018)
Juliette Munsch, executive assistant (from 22 October 2018)

Permanent inspectors:
Adidi Arnould, Director of the Judicial Youth Protection Service
Chantal Baysse, Director of Prison Rehabilitation and Probation services
Alexandre Bouquet, Director of prison services (from 1 March 2018)
Luc Chouchkaieff, public health medical inspector
Céline Delbauffe, lawyer
Thierry Landais, Director of prison services
Muriel Lechat, Chief Superintendent of the French National Police Force
Anne Lecourbe, President of the judiciary of administrative courts
Cécile Legrand, judge
Philippe Nadal, Chief Superintendent of the French National Police Force
Danielle Piquion, judge
Vianney Sevaistre, civil administrator
Bonnie Tickridge, nurse and executive in the associations sector
Cédric de Torcy, former director of a humanitarian association
Fabienne Viton, Director of prison services
External inspectors

Julien Attui, former administrator at the Secretariat of the European Committee for the Prevention of Torture (CPT)
Ludovic Bacq, former prison commandant (until 15 July 2018)
Christine Basset, lawyer
Hélène Baron, former attaché of the prison services (from 1 July 2018)
Dominique Bataillard, psychiatrist, hospital practitioner
Dominique Bigot, former hospital director (until 1 July 2018)
Betty Brahmy, psychiatrist, former hospital practitioner
Edith Chazelle, former employee of a humanitarian organisation (from 1 September 2018)
Michel Clémot, former general of the gendarmerie
Marie-Agnès Credoz, former judge
Pierre Duflot, former interregional director for prison services (until 30 November 2018)
Isabelle Fouchard, research officer at the CNRS in comparative law
Jean-Christophe Hanché, photographer
Hubert Isnard, former medical inspector (until 1 July 2018)
Michel Jouannot, former vice-president of an association (until 14 June 2018)
Gérard Kauffmann, former chief inspector of the French armed forces
Agnès Lafay, former judge (from 1 September 2018)
Pierre Levené, former executive director of the foundation Caritas France (from 1 September 2018)
Gérard Laurençin, psychiatrist, former hospital practitioner
Philippe Lescène, lawyer
Dominique Lodwick, former director of the judicial youth protection service (until 30 November 2018)
Bertrand Lory, former attaché to the City of Paris
Pierre-Henry Maccioni, former prefect (from 1 October 2018)
Annick Morel, general inspector for social affairs
Dominique Peton-Klein, former public health chief physician
Bénédicte Piana, former judge
Bruno Rémond, former chief auditor at the Court of Auditors
Dominique Secouet, former manager of the Baumettes prison multimedia resource centre
Jean-Louis Senon, university professor, psychiatry and clinical criminology lecturer and hospital practitioner (until 1 July 2018)
Koman Sinayoko, former director for prison rehabilitation and probation services (since 1 June 2018)
Akram Tahboub, former prison training manager (until 1 July 2018)
Departments and centre in charge of referred cases

**Legal Affairs Director:**
Jeanne Bastard, judge

**Inspector - responsible for the Scientific Committee:**
Agathe Logeart, journalist

**Financial and administrative director:**
Christine Dubois, Chief Attaché of Government departments

**Inspector – responsible for communications:**
Yanne Pouliquen, former employee of an association for access to legal rights

**Archivist in charge of monitoring opinions:**
Agnès Mouzé, attaché of Government departments

**Inspector - responsible for international affairs**
Anne-Sophie Bonnet, former representative on the International Red Cross Committee

**Inspectors responsible for case referrals:**
Benoïte Beaury
Kévin Chausson
Sara-Dorothee Guérin-Brunet
Maud Hoestlandt
Mari Goiocoechea
Lucie Montoy, deputy director of legal affairs
Estelle Royer

In addition, in 2018, the CGLPL hosted, for professional training or on fixed-term employment contracts (CDD):

Mathilde Bachelet (law student)
Anna Blanchot (law student)
Amélie Ben Gadi (law student)
Claire Gacon (trainee administration attaché)
Julia Lanton (graduate of University of Paris 1)
Galadrielle Marchais (law student)
Veridiana Mathieu (Sciences Po Paris graduate)
Maria-Francesca Nappi (law student)
Marie Pantalone, (trainee director for prison rehabilitation and probation services)
Lou Peythieu (student at University of Paris 2)
Ines Rispal (student at Sciences Po Paris)
Zélie Robert (judicial trainee)
Camille Roy (student at University of Paris 2)
Appendix 5

Reference texts

Resolution adopted by the General Assembly of the United Nations on 18 December 2002

The General Assembly […]

1. Adopts the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment contained in the annex to the present resolution, and requests the Secretary-General to open it for signature, ratification and accession at United Nations Headquarters in New York from 1 January 2003;

2. Calls upon all States that have signed, ratified or acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to sign and ratify or accede to the Optional Protocol.

Optional Protocol to the Convention of the United Nations against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Part IV

National Preventive Mechanisms

Article 17

Each State Party shall maintain, designate or establish at the latest one year after the entry into force of the present Protocol or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level. Mechanisms established by decentralised units may be designated as national preventive mechanisms for the purposes of the present Protocol, where they are in conformity with its provisions.

Article 18

1. The States Parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel.

2. The States Parties shall take the necessary measures to ensure that the experts of the national preventive mechanism have the required capabilities and professional knowledge. They shall strive for a gender balance and the adequate representation of ethnic and minority groups in the country.

3. The States Parties undertake to make available the necessary resources for the functioning of the national preventive mechanisms.
4. When establishing national preventive mechanisms, States Parties shall give due consideration to the Principles relating to the status of national institutions for the promotion and protection of human rights.

Article 19
The national preventive mechanisms shall be granted at least the following powers:

a) To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in Article 4, with a view to strengthening where necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;

b) To make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;

c) To submit proposals and observations concerning existing or draft legislation.

Article 20
In order to enable the national preventive mechanisms to fulfil their mandate, the States Parties to the present Protocol undertake to grant them:

a) Access to all information concerning the number of persons deprived of their liberty in places of detention as defined in Article 4, as well as the number of places and their location;

b) Access to all information referring to the treatment of those persons as well as their conditions of detention;

c) Access to all places of detention and their installations and facilities;

d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator where deemed necessary, as well as with any other person who the national preventive mechanism believes may furnish relevant information;

e) The liberty to choose the places they want to visit and the persons they want to interview;

f) The right to have contacts with the Subcommittee on Prevention, to send it information and to meet with it.

Article 21
1. No authority or official shall order, apply, permit or tolerate any sanction against any person or organisation for having communicated to the national preventive mechanism any information, whether true or false and no such person or organisation shall be otherwise prejudiced in any way.

2. Confidential information collected by the national preventive mechanism shall be privileged. No personal data shall be published without the express consent of the person concerned.

Article 22
The competent authorities of the State Party concerned shall examine the recommendations of the national preventive mechanism and enter into a dialogue with it on possible implementation measures.

Article 23
The States Parties to the present Protocol undertake to publish and disseminate the annual reports of the national preventive mechanisms.

**Act no. 2007-1545 dated 30 October 2007**

O/R: JUSX0758488L - Consolidated version as on 20 January 2017

**Article 1**

Amended by Act no. 2017-55 dated 20 January 2017 - Art. 43

The Chief Inspector of places of deprivation of liberty, an independent government agency, is hereby made responsible, subject to the prerogatives granted by law to judicial or quasi-judicial bodies, for inspecting the conditions of management and transfer of persons in custody, so as to ensure that their fundamental rights are respected. For the same purpose, he supervises the exercise by the administration of deportation measures against foreign nationals up until the hand-over to the recipient State authorities.

**Article 2**

Amended by Act no. 2017-55 dated 20 January 2017 - Art. 43

The Chief Inspector of places of deprivation of liberty shall be appointed because of his expertise and professional knowledge by decree of the President of the Republic for a period of six years. This term may not be renewed.

He may not be prosecuted, investigated, arrested, detained or tried in respect of opinions expressed or action performed in the performance of his duties.

His appointment may not be terminated before the end of his office except in the case of resignation or inability to perform his duties.

The Chief Inspector of places of deprivation of liberty exercises his functions on a full-time basis. Said functions are incompatible with any elected office.

**Article 3**

Amended the following provisions:

Amends the Electoral Code - Art. L194-1 (V)
Amends the Electoral Code - Art. L230-1 (V)
Amends the Electoral Code - Art. L340 (V)

**Article 4**

The Chief Inspector of places of deprivation of liberty shall be assisted by inspectors that he recruits because of their expertise in the areas related to his task.

The duties of inspectors are incompatible with the performance of activities related to the establishments inspected.

In the performance of their tasks, the inspectors are under the exclusive authority of the Chief Inspector of places of deprivation of liberty.

**Article 5**
The Chief Inspector of places of deprivation of liberty, his collaborators and the inspectors assisting him are bound by professional secrecy regarding the facts, action and information of which they have knowledge because of their duties, subject to the information required for drawing up reports, recommendations and opinions as provided in Articles 10 and 11.

They shall ensure that no information allowing persons subject to the inspection to be identified is included in the documents published under the authority of the Chief Inspector of places of deprivation of liberty and in his public statements.

**Article 6**

Amended by Act no. 2014-528 dated 26 May 2014 - Art. 2

Any natural person, and any legal person whose stated object is the respect of fundamental rights, may bring to the knowledge of the Chief Inspector of places of deprivation of liberty any facts or situations that may fall within his remit.

Matters shall be referred to the Chief Inspector of places of deprivation of liberty by the Prime Minister, members of the Government, members of Parliament, representatives at the European Parliament elected in France and the Defender of Rights. He may also take up matters on his own initiative.

**Article 6-1**

Created by Act no. 2014-528 dated 26 May 2014 - Art. 3

Where a natural person or legal entity brings facts or situations to the attention of the Chief Inspector of places of deprivation of liberty, they shall state, having set out names and addresses, the grounds, as they see it, for an infringement or risk of infringement of fundamental rights of persons deprived of their liberty.

Where the facts or the situation brought to his attention fall within his jurisdiction, the Chief Inspector of places of deprivation of liberty may carry out inspections, where necessary, on-site.

When these inspections have been completed and having received the observations of all interested parties, the Chief Inspector of places of deprivation of liberty may make recommendations in relation to the facts or situations in question to the person responsible for the place of deprivation of liberty. These observations and recommendations may be made public without prejudice to the provisions of Article 5.

**Article 7**

Amended the following provisions:

Amends Act no. 73-6 dated 3 January 1973 – Art. 6 (Ab)
Amends Act no. 2000-494 dated 6 June 2000 – Art. 4 (VT)

**Article 8**

Amended by Act no. 2014-528 dated 26 May 2014 - Art. 3

The Chief inspector of places of deprivation of liberty may, at any time, within the Republic of France, visit any site where people are kept in custody by the decision of a public authority, and any healthcare facility authorised to admit patients hospitalised without their consent pursuant to Article L. 3222-1 of the Public Health Code.

**Article 8-1**
The authorities responsible for the custodial establishment may only object to the checks on-site provided for under Article 6-1 or visits provided for under Article 8 for serious, compelling reasons connected with national defence, public security, natural disasters or serious disturbance within the site visited, subject to providing the Chief Inspector of places of deprivation of liberty with justification for their objection. They shall then suggest a deferment. As soon as the exceptional circumstances causing the deferment have come to an end, they shall inform the Chief Inspector of places of deprivation of liberty of the fact.

The Chief Inspector of places of deprivation of liberty shall obtain from the authorities responsible for the custodial establishment any information or document necessary for the performance of his task. At the visits, he may interview any person whose contribution he considers necessary, under conditions ensuring the confidentiality of the conversation.

The secret nature of any information and documents requested by the Chief Inspector of places of deprivation of liberty may not be raised as an objection to him, except if their disclosure is likely to jeopardise national defence secrecy, State security, the secrecy of investigations and examinations or professional secrecy applicable to the lawyer-client relationship.

Statements relating to conditions under which a person is or has been detained, on any grounds whatsoever, in police stations, gendarmeries or customs shall be provided to the Chief Inspector of places of deprivation of liberty, except where they relate to personal hearings.

The Chief Inspector of places of deprivation of liberty may delegate the powers mentioned in the first four paragraphs of this Article to the inspectors.

Information covered by medical confidentiality may be disclosed, with the agreement of the person concerned, to inspectors having the professional capacity of doctors. However, information covered by medical confidentiality may be disclosed to them without the consent of the person concerned where it relates to deprivation, abuse and physical violence, whether sexual or physical committed against a minor or a person not able to protect themselves because of their age or physical or mental incapacity.

**Article 8-2**

No penalty may be ordered and no prejudice may result solely because of links established with the Chief Inspector of places of deprivation of liberty or from information or documents provided to him in carrying out his work. This provision will not be a hindrance to possible application of Article 226-10 of the Criminal Code.

**Article 9**

At the end of each visit, the Chief Inspector of places of deprivation of liberty shall inform the ministers concerned of his observations regarding, in particular, the state, organisation and operation of the site visited, and also the condition of the persons in custody, taking into account developments in the situation since his inspection. Except for cases where the Chief Inspector of places of deprivation of liberty gives dispensation, ministers are to make observations in response within the time limit provided, which may not be less than one month. These comments in response shall then be attached to the visit report drawn up by the Chief inspector.

If he observes a serious infringement of the fundamental rights of a person in custody, the Chief Inspector of places of deprivation of liberty shall promptly notify the competent authorities of his
observations, shall give them a period within which to respond and, at the end of this period, shall
determine whether the infringement notified has ceased. If he deems necessary, he shall then publish
the contents of his observations and the responses received.

If the Chief inspector becomes aware of facts suggesting the existence of a criminal offence, he shall
promptly bring these to the attention of the Public Prosecutor, in accordance with Article 40 of the
CPP.

The Chief inspector shall promptly bring to the attention of the authorities or persons having
disciplinary powers any facts that might lead to disciplinary proceedings.

The Public Prosecutor and the authorities or persons invested with disciplinary powers shall inform
the Chief Inspector of places of deprivation of liberty of the action taken in relation to his procedures.

Article 9-1
Created by Act no. 2014-528 dated 26 May 2014 - Art. 8

Where requests for information, documents or comments made on the basis of Articles 6-1, 8-1 and 9
are not acted upon, the Chief Inspector of places of deprivation of liberty may serve notice on the
parties concerned to respond within a time limit which he shall set.

Article 10
Amended by Act no. 2014-528 dated 26 May 2014 - Art. 6

Within his field of competence, the Chief Inspector of places of deprivation of liberty shall issue
opinions, make recommendations to the public authorities and propose to the Government any
amendment to applicable legislative and regulatory provisions.

After having informed the authorities responsible, he may publish these opinions, recommendations
or proposals, as well as any observations made by these authorities.

Article 10-1
Created by Act no. 2014-528 dated 26 May 2014 - Art. 7

The Chief Inspector of places of deprivation of liberty may send to authorities having responsibility,
opinions on construction, restructuring or rehabilitation proposals relating to any place of deprivation
of liberty.

Article 11 (repealed)
Repealed by Act no. 2017-55 dated 20 January 2017 - Art. 43

Article 12

The Chief Inspector of places of deprivation of liberty shall cooperate with the competent
international bodies.

Article 13 (repealed)
Amended by Act no. 2008-1425 dated 27 December 2008 - Art. 152
Repealed by Act no. 2017-55 dated 20 January 2017 - Art. 43

Article 13-1
Obstructing the Chief Inspector of places of deprivation of liberty in the course of his/her duties is punishable by a fine of €15,000:

1° By hindering the progress of checks on-site provided for under Article 6-1 and visits provided for under Article 8;

2° Or refusing to provide information or documents necessary to the checks on-site provided for under Article 6-1 or visits provided for under Article 8, by hiding or making the said information or documents disappear or altering their content;

3° Or taking measures to obstruct, by threat or illegal action, relations that any person might have with the Chief Inspector of places of deprivation of liberty in application of this Act;

4° Or ordering a penalty against a person solely because of links established with the Chief Inspector of places of deprivation of liberty or information or documents relating to the performance of his/her duty which this person may have provided.

**Article 14**

The conditions of application of this law, including those under which the inspectors mentioned in Article 4 are called to participate in the task of the Chief Inspector of places of deprivation of liberty, are stated by decree in the Council of State (Conseil d'État).

**Article 15**

Amended the following provisions:
Amends the Code for Entry and Residence of Foreigners and Right of Asylum (Code de l'entrée et du séjour des étrangers et du droit d'asile) - Art. L111-10 (M)

**Article 16**

This Act is applicable in Mayotte, the Wallis and Futuna Islands, the French Southern and Antarctic Lands, French Polynesia and New Caledonia.

***

(1) Preparatory work: Act no. 2007-1545.
French Senate: Bill no. 371 (2006-2007);
Report by Mr Jean-Jacques Hyest, on behalf of the Legislation Commission, no. 414 (2006-2007);
French National Assembly: Bill, adopted by the Senate, no. 114;
Report by Mr Philippe Goujon, on behalf of the Legislation Commission, no. 162;
Discussion and adoption on 25 September 2007 (Adopted text no. 27).
French Senate: Bill no. 471 (2006-2007);
Report by Mr Jean-Jacques Hyest, on behalf of the Legislation Commission, no. 26 (2007-2008);
Discussion and adoption on 18 October 2007 (Adopted text no. 10, 2007-2008).
Appendix 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 Contrôleur générale des lieux de privation de libertés

CS 70048

75921 Paris cedex 19

The centres in charge of referred cases deal with the substance of letters sent directly to the CGLPL by persons deprived of liberty and their close relations 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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