



Contrôleur Général des Lieux de Privation de Liberté's Minimum Recommendations to Respect the Dignity and Fundamental Rights of People Deprived of Liberty

These recommendations summarize and organize the essence of the doctrine developed by the CGLPL since its creation in 2008, in a single document. They set out minimum basic measures to ensure that the dignity and fundamental rights of people deprived of liberty are respected.

These recommendations concern all places where individuals are deprived of their liberty based on an administrative or judicial decision, subject only to the reservations specified herein. They may not, under any circumstances, be invoked to justify the withdrawal of any measures more favourable to people deprived of liberty previously applied in a place or category of places of deprivation of liberty or to benefit a specific category of individuals.

On 12 December 2019, these recommendations were communicated to the French Keeper of the Seals, Minister of Justice, the Minister for Solidarity and Health, the Minister of Public Action and Accounts, and the Minister of the Interior. They were asked to submit their comments within two months of this date.

The CGLPL had not received any responses by the date these recommendations were published in the Journal Officiel de la République Française (Government gazette).

FOREWORD THE MOVE TOWARDS A RIGHT OF PROTECTION FOR PEOPLE DEPRIVED OF LIBERTY

Law No. 2007-1545 of 30 October 2007, establishing a Contrôleur Général des Lieux de Privation de Liberté (CGLPL) – Controller General of Places of Deprivation of Liberty - prompted a *de facto* examination and comparison of places previously falling within distinct areas: penal institutions, psychiatric hospitals, immigration detention centres, waiting areas, court cells, custody or detention facilities, juvenile detention centres and prisons for minors. In the eyes of this unique institution, these places, however different in nature and vocation, have many common features, in terms of issues raised, constraints faced, and solutions implemented.

The CGLPL is responsible for ensuring that the fundamental rights of people deprived of liberty are respected. With no list or definition available, it has needed to ask the question of how these specific rights should be defined. Providing a theoretical definition of what these rights cover is a challenging exercise. The CGLPL's experience – findings during location visits, testimonials received – nevertheless allows it to put forward the following tentative definition. Fundamental rights are those rights that, if violated, undermine people's physical or moral integrity, what makes them unique and what connects them to their loved ones or a community, i.e. their dignity, which is, by nature, equal for all human beings. The CGLPL recognizes the indignity engendered by the violation of these fundamental rights.

In the absence of a specific list, the CGLPL and the public authorities have drawn upon several sources – national and international, universal and specific, binding and soft law. From these, the CGLPL has

been able to produce a list of fundamental rights: in each of the places it visits, it ensures that these rights are respected and prevents any violations that could undermine them.

This list, which underlies these recommendations, includes the following categories:

1. Rights common to all human beings defined in national or international texts, whether binding or non-binding.

This category includes texts of both a universal and specific vocation. Among the first are the 1789 Declaration of the Rights of Man and of the Citizen, Universal Declaration of Human Rights adopted by the United Nations in 1948, and European Convention for the Protection of Human Rights and Fundamental Freedoms adopted by the Council of Europe in 1950. Among the second are the 1979 Convention on the Elimination of All Forms of Discrimination against Women, supplemented in 1995 by the Beijing Platform for Action, 1989 International Convention on the Rights of the Child, and 2006 Convention on the Rights of Persons with Disabilities.

These rights, such as the right to physical or mental integrity, access to healthcare, maintenance of family ties or right of expression, are not unique to people deprived of liberty, but must be safeguarded for such individuals: confinement may sometimes justify limits to their exercise, but these must be legal, necessary and proportionate.

2. Rights that people deprived of liberty must be able to exercise under conditions equivalent to those of free society (unless they have been expressly withdrawn or suspended by law or a decision made by a competent authority).

This category includes rights set out in the French Civil Code, Code on Relations between the Public and the Administration, Education Code, Social Action and Family Code, Public Health Code, Code for Entry and Residence of Foreigners and Right of Asylum, Electoral Code, and Consumer Code. They cover areas such as exercising parental authority, voting, and personal data protection.

Exercising these rights is, by nature, threatened by confinement, which can make it difficult or impossible. This possibility must therefore be effectively monitored.

3. Rights related to measures of deprivation of liberty, designed to apply only to individuals subjected to such measures. Their purpose is to define the legal framework, set limits or support them with guarantees.

Such rights generally come under national legislation, but can also be derived from international instruments, such as the *Standard Minimum Rules for the Treatment of Prisoners*, known as the *Nelson Mandela Rules* (UN), or *European Prison Rules* (Council of Europe).

These rights, which include the right to information, rights of appeal and limits to searches and the use of coercion, protect people deprived of liberty from abuses that could result from being subjected to such measures.

These categories of fundamental rights, as presented here, are not intended to limit any further study of this area. They do, however, allow the CGLPL to draw up an operational list of what its checks must cover.

As the law currently stands, people in incarceration – barely visible, barely heard, and barely listened to – are not, indeed, deprived of rights. These come under various legal disciplines: criminal law, legislation on foreign nationals, health law, administrative or judicial procedural law, to name but a few. Such individuals are not, however, the subject of a unified doctrine. The same is true of the authorities in charge of places of deprivation of liberty, who are subject to rules of all kinds but willingly recognize their need for guidance on the issue of fundamental rights. The courts, bound by the

classification imposed upon them by legal texts, lack vocation to develop a doctrine. Even the academic sector struggles to distinguish this as a subject of study.

During its first twelve years of existence, the CGLPL has sent successive governments thousands of observations “concerning the state, organization or functioning” of places visited or “the condition of people deprived of liberty” encountered therein. A host of recommendations “relating to facts or situations” have been reported in the context of testimonials received and broken down by location type, according to its procedural mechanisms.

Drawing upon this experience and dense *corpus*, it would now appear possible to establish an initial doctrine, which it will be up to the CGLPL, and others, to clarify and develop.

The principles and recommendations set out herein should not, of course, be regarded as sufficient or as a suggested model for a place of deprivation of liberty. These are minimum recommendations, applicable to all categories of places of deprivation of liberty. They aim to set out the guiding principles that, under rule of law, should inspire and govern the treatment of people deprived of liberty, along with the main rules for the proper organization of such places. In line with the CGLPL’s vocation, the end goal is to prevent violations or potential violations of these rights brought about by any confinement measures. They remain based on the fundamental freedoms and rights set out in international and national instruments, which should continue to be their source and inspiration.

These recommendations are most often in line with positive law; they sometimes go further and, occasionally, oppose it. In the latter case, they should naturally be analysed as an invitation for change.

There are, traditionally, two techniques for implementing public freedoms under rule of law. The first is repression (or a prohibition approach), which places people’s autonomy at the forefront, obliging them to respond only *a posteriori* to the way in which they exercise this autonomy. The second, and less liberal, is prevention (or an authorization approach), under which people’s actions are subject to prior authorization from the powers that be.

In an open environment, prohibition is generally predominant, and freedom is the rule. “*Everything which is not forbidden is allowed*”. In a closed environment, the opposite is true.

Thus, in a place of deprivation of liberty, access to rights and the exercise of a fundamental right requires organization. This is, to a large extent, the key prerequisite for their effectiveness. People deprived of liberty are “entirely” entrusted to an administrative authority. The procedure to guarantee rights for which, in an open environment, they would be solely responsible, thus needs to be translated for the authority in question.

GUIDING PRINCIPLES

Fundamental rights only truly exist where their effectiveness is guaranteed. In other words, a right is only truly guaranteed, exercised, or respected if all the conditions required for it to be exercised are also guaranteed. It is not simply a question of recognizing that a person deprived of liberty is entitled to a particular right. The administration must ensure its effectiveness, i.e. enable it to be implemented. Fundamental rights are, more broadly, based on a set of guiding principles, underpinned by three requirements. Firstly, protection to guarantee dignity and the exercise of fundamental rights for people deprived of liberty. The authority of administrations in charge of places of deprivation of liberty must be supervised in such a way as to impose limits and establish a method to this effect. Finally, these administrations must exercise their prerogatives in line with a principle of good faith.

- **Protecting people deprived of liberty to guarantee their dignity and fundamental rights**

Confinement makes people vulnerable since they lose a lot of autonomy when entrusted to an administrative authority.

The fundamental rights and freedoms of people deprived of liberty are therefore based, first and foremost, on **a principle of protection**. People deprived of liberty must be protected from any undermining of their dignity, integrity, or rights due to the risk of arbitrariness or attempts to promote order, security, or smooth administration within places of confinement.

Dignity is both the foundation and corollary of ensuring that people deprived of liberty can fully exercise their rights. Even when incarcerated, human beings are “*free and equal in dignity and rights*”¹. A right is only truly guaranteed if it can be exercised with respect for “*the inherent dignity of all members of the human family*”². The obligation to provide meals for people deprived of liberty not only requires them to be brought food but also cutlery, to allow them to feed themselves in a dignified manner. Dignity cannot be disassociated from these rights. Ensuring such respect must be a constant concern for the authorities and all those involved in places of deprivation of liberty.

Respecting people’s dignity must govern their treatment, living conditions, and accommodation, from arrival to departure, as well as during transport and transfer. This is an absolute rule, to which no exceptions can be allowed.

Confinement places people deprived of liberty at an increased risk of violence, committed by themselves or others. **The need to protect the physical and mental integrity** of people deprived of liberty is another principle that must constantly guide the actions of the administrations concerned. Their obligation in this respect is twofold: a negative obligation not to undermine the safety of people deprived of liberty, and a positive obligation to protect them against any risk of harm. They must equip themselves with the means of preventing causes and detecting effects, in order to stop them and prevent their recurrence.

Finally, pursuant to Articles 1, 4, and 66 of the 1789 Declaration of the Rights of Man and of the Citizen, any individual arrested, detained or incarcerated by virtue of a public decision must be able to have its legality and regularity examined by the judicial authorities. **Respecting the individual safety** of people deprived of liberty must guarantee them against any arbitrary risks of confinement. People deprived of liberty must have the means, de facto and de jure, of taking legal action, preparing their defence, and appearing before the judge, according to the principles of a fair trial.

¹ Article 1 of the 1948 Universal Declaration of Human Rights.

² Preamble to the 1948 Universal Declaration of Human Rights.

- **Supervising and monitoring the administration's actions**

In the context of their respective tasks, the authorities in charge of places of deprivation of liberty have many prerogatives, including coercive ones, which are, by nature, liable to undermine the dignity and rights of the individuals entrusted to them.

Staff working on these premises, whether officers, executives, or management, must pay constant attention to respecting a fair balance between exercising their authority and the dignity and rights of the individuals entrusted to them. This balance, which is always sensitive, must be structured around principles that enable all staff to understand the meaning, measurement, and purpose of their decisions and define a method to maintain it.

The principle of legality is the first of these principles, from which the public authority derives its legitimacy. Any actions taken in places of deprivation of liberty must be founded on a legal or regulatory basis, which is a citizen's only guarantee against the risk of arbitrariness. These rules themselves must be accessible, clear, and understandable.

Any decision, whether individual or collective, taken by an authority in charge of a place of deprivation of liberty must also respect **the principle of proportionality** and be suited to its designated objective. Even more so when such decisions have the direct or indirect effect of reducing the autonomy or freedom of individuals entrusted to it or further undermining their rights.

Finally, **the principle of necessity** requires administrations to be able to justify their decisions, which must be the only means of achieving their stated aim, or least "costly" in rights infringement terms.

The application of these principles implies individualizing the decisions made against people deprived of liberty. The reasons for any decision likely to aggravate the inherent hardship of confinement must thus be set out, highlighting the proportionality between the pursued purpose and nature of the restriction imposed. The authority in charge must also be able to justify that the aim in question could not be achieved through any less restrictive measures and state the steps taken to ensure this.

Administrations must have limits placed on their actions and be guided in their methods. When making decisions and taking action, the authorities responsible for places of deprivation of liberty must always **inform the individuals concerned**, give them the time and means to present their observations and clearly map out every step of the process for all those involved.

Transparent, comprehensive, and understandable information must be provided on any measures that, whether directly or indirectly, could lead to a change in the way people are cared for, reduce their autonomy or, *a fortiori*, remove or restrict any of their rights. Save for certain exemptions, such information should be given in advance. In addition to the proposed decision, it should set out its legal and factual grounds. This information should be accessible to the individuals in question, who must be able to refer to it as and when necessary.

Prior, reciprocal discussion of such measures must be allowed between the individuals concerned, assisted by an advocate where applicable, and a representative of the administration. The individuals in question must be given the means and time to gain an awareness of all elements required to understand their situation, obtain legal advice, and make their observations known, in writing or orally.

Finally, the administration is responsible for guaranteeing the **traceability** of the decisions it makes, along with any observations, objections, or grounds for defence raised by the individuals concerned. This must be a faithful written record of the content of the discussions, signed by the parties at the end of the procedure. Should any of the individuals in question refuse to sign this document, their refusal must be recorded in writing, together with the reasons given. A copy should be kept for a predetermined period, of which the individuals concerned must be expressly informed. They should also be notified of the means at their disposal to challenge these decisions. Finally, a copy must also be given to all the individuals in question.

- The principle of good faith

Beyond the guiding principles, it is also important for the authorities – whoever they may be – to receive broader guidance in their work to monitor places and the practices and procedures implemented therein.

In a legally constituted state, freedom is the rule. Deprivation of liberty is therefore understood to be an exceptional state, which, as such, must not restrict the rights or freedoms of those subjected to it “*neither more than is fair nor more than is necessary*”. The authorities in charge of the places in which they are confined are thus placed under an obligation of good faith, in their decisions, practices, and procedures, which could be structured around the following principles.

The strict interpretation of restrictions principle prohibits authorities in charge of places of deprivation of liberty from placing restrictions on rights, other than those imposed directly and necessarily by the freedom-restricting measure they are implementing. Such restrictions must be necessary and adapted to their aims.

The coherence principle requires the authorities responsible for places of deprivation of liberty to establish confinement procedures and conditions in line with the purpose of the freedom-restricting measure. When patients are confined for treatment, the conditions under which their freedom is restricted must not be detrimental to the therapeutic aim. Similarly, in an educational institution, none of these measures should reduce access to education. All conditions within a place of deprivation of liberty must guarantee full adherence to the end goal, which, without constituting a subjective right of people deprived of liberty, must in any case remain the guiding thread for their pathway through the service.

Finally, **the transparency principle** requires places of deprivation of liberty to allow external individuals to access them, notably *via* checks carried out by an independent authority, but also through inspections, judicial authority, members of parliament, etc., as well as more targeted controls (health control services, labour inspections, certification bodies, etc.) identical to those implemented elsewhere in society. No barriers should be allowed to limit this transparency, unless strictly necessary for the purpose of the freedom-restricting measure, or to respect individuals’ rights.

Compliance with these principles must enable any individual subjected to freedom-restricting measures to challenge any decision imposed upon him or her before the competent authority. In places of confinement, assuming responsibility for people deprived of liberty usually takes the form of decisions. Any such decisions liable to infringe their rights must be able to be brought before a judge. Transparency should also guarantee that the authorities tasked with monitoring such establishments – judicial, administrative, or independent – are working effectively.

Reading rules

The minimum recommendations apply to all places of deprivation of liberty. Where any of these require further specification, this is provided in the form of a comment. Where a recommendation cannot be applied to one of these places, the comment is marked “not applicable”. The acronyms used refer, respectively, to penal institutions (PI), mental health institutions (MHI), immigration detention centres (IDC), juvenile detention centres (JDC), and police custody facilities (PCF).

1 INCLUDING RESPECT FOR HUMAN DIGNITY AND FUNDAMENTAL RIGHTS IN THE PLANNING AND ORGANIZATION OF PLACES OF DEPRIVATION OF LIBERTY

By their very nature, measures to deprive people of their freedom lead to a certain segregation of the individuals confined. Under rule of law, they must not, however, lead to complete exclusion from society, denial of their dignity, or undermining of their rights. The places in which they are confined must be built, laid out, and organized in such a way as to guarantee that these rights are effective, and the staff working on these sites must be given the means to safeguard them.

GENERAL PRINCIPLES

- 1) Respecting the dignity and fundamental rights of the people they accommodate must be fully integrated into the structure and organization of places of deprivation of liberty from the design phase onwards.
- 2) No confinement measures should be implemented in premises or a location unable to guarantee the dignity of the individuals confined there or the effective exercise of their fundamental rights

1.1 SUITABLE ORGANIZATION

- 3) An organization's functions cannot be limited to surveillance alone. It must also be able to ensure the effectiveness of the other responsibilities assigned to its staff and all those involved with it: informing, caring, educating, reintegrating.

| *MHI – Mental health institutions are care-focused rather than surveillance-focused.* |

- 4) These places of confinement must be built, laid out, and maintained in such a way as to preserve patients' dignity and guarantee them effective exercise of their fundamental rights.
- 5) Every organization must have the necessary resources to receive, accommodate, and care for people deprived of liberty, as well as to prepare for their departure. These resources must be adapted to their actual number, profile, and needs.
- 6) An organization must not impose permanent solitary confinement upon people deprived of liberty, whatever care regime they are under. It should provide them with the opportunity to frequent common areas or converse with other individuals accommodated there, as well as external visitors and contributors.

| *PCF – Not applicable* |

1.2 SEPARATION OF POPULATION CATEGORIES

- 7) Organizations must provide separate overnight accommodation for men and women. This separation does not exclude the possibility of providing mixed premises for collective activities or accommodating couples.
- 8) The confinement of children is never in their best interests.
- 9) Where confining a parent is likely to bring about the confinement of his or her child, all possible measures must be taken to avoid this. If a child is nevertheless kept with his or her confined parent,

he or she must not be considered deprived of liberty but, rather, benefit from a specific status and be handled accordingly.

PI - Accommodating infants with their detained mother requires specific arrangements and monitoring rules to ensure that the child's physical and mental integrity is protected, and well-being respected.

IDC - No foreign children should be detained due to their parents' irregular status. An alternative measure, such as home confinement, should be enforced when the removal measure concerns a family.

PCF – Not applicable

- 10) Children deprived of liberty must be separated from adults under conditions that guarantee their protection against any form of violence, whether physical or psychological. Such separation should only be opposed when in the child's best interests, particularly with a view to ensuring access to care, maintenance of family ties, or the right to education.
- 11) No separation measure may result in an infringement of the rights of the individuals concerned outside the scope of its defined aim.

1.3 TRAINING AND SUPERVISION OF PROFESSIONALS

- 12) Staff working in the locations in which people deprived of liberty are confined are the primary guarantors of their dignity and fundamental rights. They must be recruited, trained, supervised, and evaluated in the light of their assigned vocation.
- 13) Taking charge of children within places of confinement must always have an educational objective. This must be adapted to their needs and implemented by specially trained personnel. A qualification is required for youth workers.
- 14) Any staff member required to take charge of people deprived of liberty must receive special training on their status, rights, and specificities. This training should provide information on the specific authorities responsible for protecting these rights, including the CGLPL and Défenseur des Droits (Defender of Rights).
- 15) Authorities in charge of places of deprivation of liberty must take all measures to prevent any staff behaviour liable to undermine or infringe the dignity or fundamental rights of people deprived of liberty, and put an end to such behaviour without delay. They must respond immediately and appropriately should any staff members be found lacking in this respect.
- 16) Ethics committees or professional practice analysis and feedback bodies should be established to enable professionals to grasp and take on board the ethical principles guiding their actions and reconcile them with the practical difficulties they face.
- 17) Public authorities must ensure that staff have the working conditions required to fully meet their responsibilities with regard to the fundamental rights of people deprived of liberty.
- 18) They must also guarantee adequate staffing levels in all places of deprivation of liberty, determined based on the actual number of individuals accommodated. Staff working hours and shift organization must guarantee sufficient presence, availability, and vigilance, especially at night and on weekends.

JDC - Staff working in juvenile detention centres must be in immediate proximity to the children accommodated, including at night. Juvenile detention centres must retain educational and teaching staff during school holidays.

- 19) Staff safety must be guaranteed by violence prevention actions and safety devices that respect the dignity and rights of the individuals entrusted into their care. Officers should also receive violence prevention and management training.

- 20) Officers who become aware of any violation of the dignity or fundamental rights of people deprived of liberty should report this to their hierarchical authorities. Should such reporting prove impossible, or remain without effect, they must be able to take it to any other competent authority and benefit from an appropriate protection regime.
- 21) Staff working in places of deprivation of liberty must be given the possibility to discuss their experiences and practices with an independent professional, in a confidential, non-hierarchical setting.

1.4 MONITORING PLACES OF DEPRIVATION OF LIBERTY

- 22) Places of deprivation of liberty should be subject to regular inspections by the ministry responsible for them and be monitored by independent authorities or bodies, both national and international.
- 23) Inspection or monitoring visits to places of deprivation of liberty should aim to ensure that these organizations are administered in line with national and international standards, respecting the dignity and fundamental rights of the individuals confined there. All those involved in such visits must have been trained to this effect. They should be given free access to the premises, along with all administrative documents, and may speak with any individual they wish to see, or who expresses the desire to see them, freely and in complete confidentiality. A report should be compiled on each of these visits.
- 24) All the services, duties, and activities implemented within a place of deprivation of liberty should be subject to standards and certification, along with all the ordinary inspections and checks.

2 RECEIVING, INFORMING AND GUIDING PEOPLE ENTERING A PLACE OF DEPRIVATION OF LIBERTY

The decision to deprive someone of their liberty is liable to undermine their most fundamental rights. Rigorous formalities must thus be respected. These create rights in themselves, which must be effectively exercised. The first is the right to challenge the measure before the judicial authorities, guardians of individual freedom.

A confinement measure represents a point of rupture, which is often unexpected and risky, creating situations of vulnerability. In line with their respective vocations and prerogatives, all departments working within places of confinement must safeguard the reception and protection of incoming individuals and guarantee them access to the care and remedies their situation requires.

GENERAL PRINCIPLES

- 25) Nobody may be deprived of their liberty unless such a decision has been made by the competent public authority, under judicial supervision. Reception staff must verify this decision and the identity of the individual presented to them upon their arrival.

MHI - Voluntary patients admitted to mental health institutions must not be deprived of their freedom to come and go or prevented from leaving the service.

- 26) A pre-defined reception and care procedure should be implemented, upon arrival, for all individuals deprived of freedom. All departments involved in places of deprivation of liberty must cooperate to ensure that such individuals are protected, informed, and guided, with due respect for their dignity, rights, and background.

2.1 RECEPTION PROCEDURE

- 27) Upon arrival, people deprived of liberty must be given an explanation, in a language and terms they understand, of:
- 28) the nature and address of the place they are entering;
- 29) the *de facto* and *de jure* grounds for their confinement and the authority that has made this decision;
- 30) the available remedies to challenge the measure imposed upon them, along with the associated time limits and procedures.

If people deprived of liberty are not in a position to understand this information, it must be given to them again as soon as they are able to grasp its meaning, and in time for them to exercise the associated rights.

PI - Prior communication of some of this information during sentencing by the court does not exempt the penal institution from reiterating it when receiving an inmate. People deprived of liberty must receive information on the practical avenues of recourse available to them in time for them to exercise these rights.

- 31) The holders of parental authority and, where appropriate, the judicial youth protection service tasked with monitoring a minor in free society must immediately be notified that he or she has entered a place of confinement. The information provided to them must include the nature and address of the place in question, the *de facto* and *de jure* grounds of confinement, the authority that has made this decision, and the available avenues of recourse.

32) All places of confinement should have a register in which to keep information relating to the identity of people deprived of liberty, along with the freedom-restricting measures to which they have been subjected. Such data must be kept and processed confidentially. It may only be communicated to the individual concerned, his or her lawyer, and, where appropriate, his or her legal representative. It may also be accessed by the judicial authority and other organizations or authorities specifically designated by law, in the context of the missions assigned to them. Within these administrations, such access should only be granted to those individuals who require it to carry out their duties.

IDC - The contents of this register are communicated to the associations responsible for providing legal information to individuals placed in immigration detention.

33) As soon as the measure is instigated, people deprived of liberty must be able to notify the individual(s) of their choice, or have them notified. They should nominate someone to be contacted in the event of an emergency, along with a trusted individual to assist them in their procedures and the handling of their case. The administration must consult this trusted individual should the person deprived of liberty be unable to make their views known. This individual must be informed that he/she has been nominated to this effect and accept this nomination. If they so wish, foreign nationals may notify their consular authorities, or have them notified.

PCF - Should the police custody measure follow a period spent in a sobering-up room, the police authorities should deliver information to the person deprived of liberty in two stages. Information on the right to have a friend or relative notified should be provided as soon as he or she is placed in the sobering-up room. Information on the right to defence should be given when he or she is remanded in custody after leaving the sobering-up room.

34) All individuals arriving at a place of deprivation of liberty should be informed of the confinement regime to which they are being subjected, their rights, and how the establishment is organized. All places of confinement should have an introductory booklet or rules of procedure, issued and explained to each individual upon arrival. This should include information on the way they operate, the day-to-day rules and processes for making requests to the establishment and hierarchical or supervisory authorities. This information must be communicated in a language and in terms that the individual in question can understand and issued in a format that they can keep.

2.2 TAKING CHARGE OF AN INDIVIDUAL

35) The conditions in which people deprived of liberty are transported to or from their place of confinement must guarantee their dignity and safety. If means of restraint are used during these journeys, they must be removed once the individual in question has arrived within a closed space. Transport and transfer arrangements should avoid exposing the individuals in question to the public gaze.

36) Upon arrival, people deprived of their liberty should have their personal effects checked. A precise inventory should be drawn up, with their approval, before any prohibited items are removed. A copy of this inventory must be given to the individual in question. The original must be kept in their file, to serve as evidence in the event of any future dispute.

PCF - This recommendation applies to custody with the exception of any items likely to be seized by the judicial authorities in the course of an investigation.

37) Any measures requiring the removal of personal effects must be individual, necessary, and proportionate to the need to protect people's safety and maintain order within the institution concerned. Any items removed should be kept in a safe place.

PI - The penal institution must publish a list of the specific items it prohibits. This should be accessible to everyone and must not give rise to any discrimination.

| *PCF - This recommendation applies to custody with the exception of any items likely to be seized by the judicial authorities in the course of an investigation.* |

- 38)** Medical examinations should always be offered at the time the measure is initiated. They must be possible at any time, on request, or in an emergency, within the place of deprivation of liberty, in a medical or hospital setting. People deprived of liberty who are undergoing treatment or benefiting from special health care must be able to continue with this.

| *JDC - A medical examination must be carried out if requested by the minor or holder of parental authority, either jointly or separately.* |

- 39)** As soon as the measure is initiated, information must be collected on the individual being confined, their situation and needs, to ensure that they are suitably handled. To this end, all the relevant details on factors such as their age, state of health, the language they speak, and their financial situation must be collected.

2.3 MATERIAL CONDITIONS FOR SHORT-TERM OR TRANSITIONAL STAYS

- 40)** The material conditions in which people deprived of liberty are received, wait, or stay must always allow them to sit or lie down, rest, and eat in a dignified manner. All individuals detained overnight must be able to rest in satisfactory conditions as regards hygiene, space, and comfort.

- 41)** People deprived of liberty must always have access to toilet facilities, in conditions that respect their dignity and privacy. They should be offered basic hygiene products suited to their age, gender, and state of health. People deprived of liberty should be able to access a shower, in particular before a hearing or interview, or after an overnight stay, and be provided with the necessary toiletries.

- 42)** People deprived of liberty must be able to signal their need for assistance from staff at any time.

| *PCF - Police authorities must ensure constant human surveillance of individuals in custody, who must be able to interact with staff at any time, day or night.* |

- 43)** Staff must adapt their monitoring and management to the situation and the individual in question. Particular attention must be paid to the risk of suicide. Such attention implies the need for a non-intrusive, professional, and caring human presence, rather than being limited to increased surveillance measures or the use of additional means of restraint. The risk of suicide must not be prevented by any measures that undermine the dignity of the individual in question.

2.4 CONSIDERING AN INDIVIDUAL'S PREVIOUS SITUATION

- 44)** Unless the individual in question raises an objection, the competent authorities should ensure the continuity of any medical, social, or economic support they were receiving before being confined. Any situation requiring immediate intervention must be brought to the attention of the competent authorities or departments.

- 45)** Unless the court decides otherwise, subjecting an individual to confinement should not impede them from accessing or exercising any social, civic, or civil rights. People deprived of liberty must receive all useful information to enable them to safeguard or enforce their rights (social, civil, family), and should be assisted with any procedures rendered difficult by their confinement.

| *PCF - Not applicable to an expedited investigation.* |

- 46)** The authorities in charge of places of deprivation of liberty must take an individual's enrolment in any educational curriculum into account and allow them to continue their course.

| *JDC - Any establishments accommodating minors must be organized to ensure that their compulsory education can continue.* |

2.5 CONSIDERING SITUATIONS OF VULNERABILITY

- 47) People deprived of liberty must not be discriminated against based on their origin, gender, age, physical appearance, economic situation, surname, place of residence, state of health, loss of autonomy, disability, morals, sexual orientation, gender identity, political opinions, ability to speak in a language other than French, religion, criminal record or administrative situation.
- 48) Particular attention must be paid to the specific needs of people with disabilities or care requirements, to ensure that they are taken charge of and accommodated appropriately. Establishments must be suitably set up to accommodate these individuals and allow them to access all facilities in their personal living space and collective areas. People with disabilities or care requirements must receive specific assistance, particularly with hygiene and keeping their living spaces and laundry clean.
- 49) Lack of resources must not lead to people deprived of liberty being denied the right to be accommodated in conditions that respect their dignity and fundamental rights.
- 50) People deprived of liberty who do not have sufficient resources to guarantee dignified living conditions must be promptly identified by those responsible for the place of deprivation of liberty. They must be provided, free of charge, with clothing, personal hygiene and cleaning products and means of maintaining contact with the outside world. Lack of resources alone must not be a reason to prevent the individuals in question from fully exercising their autonomy, whether in taking care of themselves or in terms of culture and entertainment.
- 51) The administration, possibly working with social services, associations and charities, must use any means it can to improve the conditions of people deprived of liberty (access to paid employment, provision of cash aid, scholarships, donated clothing, etc.).

2.6 REFERRAL

- 52) At the end of the reception procedure, people deprived of liberty must be referred to a place or department suited to their situation, state of health, and prospects for departure, along with the aim of their freedom-restricting measure. The chosen place of confinement, or particular set-up therein, must, in any event, guarantee the dignity of the individual in question and effective exercise of their fundamental rights.
- 53) This referral must be in the exclusive interests of the individual in question. Its purpose must not be to meet the administration's organizational constraints. Its practical arrangements must enable the most appropriate way of taking charge of the individual to be identified.
- 54) Any referral procedure must give the individual in question and, where appropriate, their legal representatives, the opportunity to express their observations and desires. People deprived of liberty must be able to request a change of location or set-up at any time.

| PI - During a referral or change of assignment procedure, inmates must be provided with comprehensive, up-to-date information on their destination. |

3 PROTECTING PEOPLE DEPRIVED OF LIBERTY AGAINST ANY UNDERMINING OF THEIR PHYSICAL OR MENTAL INTEGRITY

All confinement measures bring with them a risk of violence. Confinement itself can be experienced as violence by individuals subjected to it. They will not always submit to it without resistance. Places of deprivation of liberty are closed spaces in which violence can be discreet or even hidden – from outsiders and staff alike.

The authorities in charge of places of confinement are responsible for ensuring that all individuals entrusted to them are protected from any form of violence. As such, they must not infringe upon an individual's physical or mental integrity or allow anything to undermine it. They must take all possible measures to prevent and put an end to violence, without running the risk of using it themselves. If the use of force is necessary, this must be proportionate and controlled, i.e. without any kind of violence.

GENERAL PRINCIPLES

- 55) The authorities in charge of places of deprivation of liberty must guarantee those entrusted to them protection against any form of violence. To this end, they must take all possible measures to prevent and put an end to it, respecting the dignity and fundamental rights of the individuals concerned.
- 56) They must not fail to respond to any act of violence that occurs within the place for which they are responsible.

3.1 REPORTING VIOLENCE

- 57) As part of their reception procedure, places of deprivation of liberty should establish the necessary measures to detect any act of violence committed against the individual entering their premises, whether before or during their arrival. These measures must be the subject of explicit procedures, set out in the introductory documentation. The holders of parental responsibility, along with the mandating authority, must be informed of any suspicion of violence against a minor deprived of liberty.
- 58) Medical and healthcare staff should look out for any signs of violence or mistreatment suffered by people deprived of liberty, particularly during their arrival or any segregation measures. Should they have any suspicions, the caregiver or doctor must record the information collected and report the situation to the competent authorities, in accordance with the provisions of the French Public Health Code and Code of Criminal Procedure.
- 59) People deprived of liberty must, at any time, be able to alert staff to any violence they suffer or witness. Where there are no staff in the immediate vicinity, call or alert devices must allow for an immediate response, including at night.
- 60) A medical examination should be carried out on any injuries or wounds, or regarding any complaint expressed by an individual deprived of liberty as the result of violence he or she claims to have suffered. A medical certificate must be issued as soon as possible. The original should be given to the individual in question and a copy kept in his or her file. A copy of the medical certificate must also be given to the holders of parental authority unless any legal proceedings prevent this.

- 61) Should any signs of violence be verified, this certificate must take the form of a medico-legal certificate valid as forensic evidence. It must include a comprehensive description of the medical findings and a transcript of the statements made by the individual in question. Any total incapacity for work resulting from such findings must be confirmed on this certificate.
- 62) Professionals working in places of deprivation of liberty should pay increased attention to any individuals in a vulnerable situation, as defined in paragraph 2.5, in view of the risks of physical or mental violence to which they may be subjected. To this end, they should be provided with training in managing violence.
- 63) Any member of staff working in a place of deprivation of liberty who, in the course of their duties, acquires de facto knowledge of violence committed against any individuals therein must report this to the State Prosecutor without delay.
- 64) Confined individuals must be able to report any behaviour infringing upon physical or mental integrity, whether suffered or witnessed, to a confidential hearing body and benefit from an appropriate protection regime should they so wish.

3.2 FOLLOWING UP ON REPORTED VIOLENCE

- 65) Authorities in charge of places of deprivation of liberty must take all necessary and proportionate measures to prevent and immediately put an end to any behaviour infringing or liable to infringe upon the physical or mental integrity of the individuals confined therein.
- 66) Any findings concerning infringements of the physical or mental integrity of people deprived of liberty must be investigated diligently by the management of the establishment in which they are accommodated. Suspicions of violence must be examined to establish the reality of the facts. There must be an appropriate response should any staff members be found lacking in this respect. Individuals committing violence must also be taken charge of from a prevention perspective.
- 67) All complaints or testimonials relating to acts of violence must be systematically collected. They should be followed up and processed as part of an independent and impartial investigation or procedure. Any measures necessary to preserve the evidence of such acts, including CCTV images, must be taken immediately. Individuals reporting violence must benefit from a suitable protection regime.
- 68) The way information relating to violence is collected and kept must allow for a retrospective analysis of the situations, behaviours, and practices giving rise to it, so that they can be addressed.
- 69) All victims of violence must be informed of their rights and means of taking action in response to their situation. They must be able to lodge a complaint and seek redress if they so wish and, in any event, access help and support. They must be kept informed of how their complaint or report is being handled and receive appropriate protection.
- 70) If a minor deprived of liberty is the victim of violence, the mandating authority must be notified. The holders of parental authority must also be informed unless any legal proceedings prevent this.

4 MEETING THE BASIC NEEDS OF PEOPLE DEPRIVED OF LIBERTY AND RESPECTING THEIR DIGNITY IN DAY-TO-DAY ACTIONS

Deprivation of liberty always jeopardizes people's dignity, turning their day-to-day lives upside down. It distances them from their loved ones and takes them away from their usual environment and activities. It creates constraints that can prevent them from receiving necessary care or having specific needs met in a timely fashion. All confinement measures render people dependant – at least partially – on staff within the place in which they are accommodated.

The public authority implementing such measures must, therefore, guarantee that their dignity and fundamental rights are respected, at all times and in all places, when carrying out the most routine acts and meeting the most basic needs. To this end, it is responsible for defining, organizing, and implementing the appropriate means to ensure this is the case.

GENERAL PRINCIPLES

71) No matter where they are, or what confinement measures are being applied, people deprived of liberty must retain an intangible set of rights and freedoms guaranteeing that their dignity is respected, and basic needs met.

72) Confinement measures must not be carried out in any place or room that does not comply with the recommendations set out in this chapter. If any substitute location cannot guarantee compliance with these rules, the measure must be lifted.

PCF - Should there be a lack of sufficient or suitable space to accommodate individuals in custody under conditions consistent with these recommendations, the competent authorities must transfer the individuals in question to a place that guarantees their dignity and fundamental rights, or lift the measure.

73) The way places of deprivation of liberty take charge of the individuals entrusted to them, and the material conditions they provide, must be tailored to each individual's age, state of health, and any disabilities.

4.1 BASIC NEEDS

74) In all locations, people deprived of liberty must have access to spaces – both indoor and outdoor – where they are free to move around and come and go. They must be provided with adequate personal space.

PCF – Not applicable

75) People deprived of liberty have the right to rest, especially at night. They must be able to be accommodated in a quiet environment, allowing them to sleep and enjoy uninterrupted rest.

76) People deprived of liberty must be able to voice a need or make a request at any time. Where there are no staff nearby, a call device must be set up, enabling them to obtain the necessary assistance within a useful and reasonable timeframe, including at night.

JDC - At any time, day or night, minors within a juvenile detention centre must be able to speak directly to a member of staff, who should be in close proximity.

77) People deprived of liberty have the right to wear their own personal clothing. Their friends or relatives must be allowed to bring this in for them, and the administration must provide clothes, free of charge, to those who need them. Smart clothing must be made available for special

occasions, particularly should they be required to appear before the judicial authorities. Aside from work clothes, they should not be forced to wear a uniform or any inappropriate clothing.

PCF - The police authorities must guarantee individuals in custody appropriate personal hygiene and clothing to appear before the judicial authorities in a dignified manner. A trusted individual must be allowed to bring them clothing for this purpose.

MHI - Individuals must not be forced to always wear pyjamas.

- 78) Respecting people's right to privacy means prohibiting the use of permanent surveillance measures, including the constant use of CCTV in cells, bedrooms, and lavatories.
- 79) People deprived of liberty must be allowed and encouraged to be autonomous. This should not, however, exempt the administration from its protection obligations, under which it must provide them with all the necessary assistance, particularly in material and sanitary terms.

4.2 ACCOMMODATION

- 80) The material conditions in which individuals are accommodated must not undermine their physical or mental integrity, nor their dignity. To this end, all places where they stay, work, or circulate must meet safety, hygiene, comfort, and accessibility standards.
- 81) Places of deprivation of liberty must guarantee individual accommodation. Exceptions may be made to this principle upon request, provided this is deemed in line with their interests and situation. In this case, the space in question must be proportionate to the number of individuals accommodated. Accommodation for minors deprived of liberty must always be individual unless this is not deemed to be in the child's best interests.

PCF - When collective cells are used, these must be proportionate to the number of individuals accommodated.

- 82) The number of individuals accommodated in a place of deprivation of liberty must never exceed the maximum capacity at which the establishment can guarantee respect for their dignity. The use of makeshift bedding does not guarantee respect for the dignity of people deprived of liberty and must therefore be prohibited.
- 83) All premises, whether individual or collective, must be suitably set up for their allocated purpose.

PCF - Custody facilities must be equipped with areas for individuals in custody to eat meals outside of their cells.

- 84) All places of deprivation of liberty must have space, natural and artificial lighting, heating, and ventilation that meet the usual standards for residential or working premises, taking into account the actual conditions of confinement.
- 85) People deprived of liberty must be accommodated in premises with windows allowing for a direct view of wider spaces.

PCF - Not applicable

- 86) People accommodated in places of deprivation of liberty must be allowed privacy, particularly when using sanitation facilities. Sanitation facilities must be separated from the rest of the room by an actual partition and not visible to staff. If collective showers are installed, these must be made up of individual enclosed booths.
- 87) All people deprived of liberty must have a bed suited to their physical characteristics and state of health. Bedding should be changed regularly. Accommodation must be equipped with furniture that allows occupants to sit down, use a table, and store their belongings. People deprived of liberty must live in a day-to-day environment that allows and encourages them to interact with others.

4.3 HYGIENE

88) Places of deprivation of liberty must be kept in a good state of repair, maintenance, and hygiene. They must be clean at the time people deprived of liberty are admitted to them, even if only accommodating them temporarily. Such individuals should be able to report a service or maintenance problem at any time, which must be followed up. No individual should remain confined to a room that does not comply with these recommendations.

89) People deprived of liberty must always have access to toilet facilities, in conditions that guarantee them dignity and privacy.

90) People deprived of liberty must have the means of taking care of their personal hygiene and state of dress. To this end, accommodation managers should provide them with hygiene products suited to their gender, as well as laundry facilities. They should be allowed free access to sanitary facilities, showers, and washbasins. If this is not possible, such access should be provided on a daily basis, without them being obliged to wait.

| *PCF - People in custody must be informed of the possibility of accessing sanitary facilities at any time, upon request. Toiletries for men and women must always be available, without restriction.* |

91) Individuals deprived of liberty must be able to look after their appearance. This should not be limited to the requirements of basic hygiene alone. They should be provided with services for this purpose.

92) Where accommodation managers do not take charge of cleaning and general upkeep of the premises, they should provide the necessary hygiene and cleaning products to this effect. Special attention must be paid to waste management: the number and capacity of waste bins must be appropriate for the number of people accommodated and should be emptied at least daily.

| *PCF – Upkeep of the premises is always handled by the responsible authority.* |

4.4 CATERING

93) Individuals deprived of liberty must be able to benefit from a varied diet, suited to their age, health, physical condition, religion, and culture. Three daily meals should be provided, at regular intervals and usual times. Arrangements must be made to provide food for any individuals absent from the establishment at a usual mealtime.

| *PI - Inmates must have the means of preparing and storing their meals autonomously. They must be able to choose from a variety of products, the prices of which are aligned with those of the penal institution's nearest supermarket. No limits should be placed on quantity and delivery times must be as short as possible.* |

94) Food must be prepared and served hygienically, in line with health standards and nutritional guidelines. A sufficient quantity should be provided, at an appropriate temperature.

| *MHI - Patients on psychiatric wards in general or university hospitals must be able to benefit from a diet suited to their age, state of health, and length of stay. This diet should be different from the meals provided to patients hospitalized for physical health reasons.* |

95) People deprived of liberty must always have access to safe drinking water, with no limits on the quantity and in conditions that respect their dignity.

4.5 OUTDOOR ACCESS

- 96) All people deprived of liberty must have daily access to outdoor spaces to get fresh air, walk, relax, enjoy a natural environment, and benefit from physical activity. Outdoor spaces must provide a view of the sky, shelter from the weather, seating, and sanitation facilities. There must be space and facilities for physical exercise.

| *PCF – All individuals in police custody must have access to an open-air space several times a day, shielded from the gaze of third parties, with shelter and seating.* |

- 97) The conditions for accessing outdoor spaces must allow individuals to meet and interact within them, respecting everyone's safety and security.

| *PCF – Not applicable* |

5 ENABLING PEOPLE DEPRIVED OF LIBERTY TO EXPRESS THEMSELVES, PARTICIPATE IN SOCIAL LIFE AND ENGAGE IN ACTIVITIES

Once they have entered a place of confinement, people deprived of liberty have long days to fill. They must occupy themselves and find their place within the establishment. Although confinement locations are places of separation, the way they are organized, and the facilities they provide, must allow people to meet and interact with each other in shared spaces, living areas or activity rooms. The individuals therein must still be given free time and spaces in which to entertain themselves, engage in physical, educational, or cultural activities, and to work.

GENERAL PRINCIPLES

- 98) The authorities should encourage people deprived of liberty not to isolate themselves. To this end, they must ensure that such individuals can express themselves and interact with others, on a daily basis, through motivating activities – individual, collective, and mixed.

| PCF – Not applicable

5.1 INDIVIDUAL AND COLLECTIVE CHANNELS OF EXPRESSION

- 99) People deprived of liberty must be able to address any requests, questions, or complaints to the appropriate individuals or departments. The host organization must assist all individuals, including those who are illiterate, non-verbal, or non-French speaking, with making requests, and provide means of formulating them and sending them to the appropriate recipients.
- 100) Requests, questions, or complaints from people deprived of liberty must be examined diligently and receive an appropriate, comprehensive, and intelligible response within a reasonable timeframe. Should they fail to receive a response, the individual in question must be able to appeal to a hierarchical body. Should any request be refused, an explanation must be provided, with reasons given, where appropriate, enabling an appeal to be made to a hierarchical, supervisory, or judicial authority. Notification of such a refusal should, where appropriate, include the time limits and procedure for making an appeal.
- 101) Administrations in charge of places of deprivation of liberty must have the means of identifying and monitoring each person individually, ensuring that there are no specific psychological or medical risks and guaranteeing their safety and understanding of their situation.
- 102) Requests and complaints must be traceable, enabling recurrent difficulties to be identified and practices analysed, in order to implement corrective measures.
- 103) An internal mediation mechanism must be made available to individuals deprived of liberty. Information on how this is implemented should be included in the documentation issued to them upon arrival and displayed on posters in languages they understand. The use of this mediation mechanism should be systematically considered in the event of any dispute between people deprived of liberty and the services responsible for them.

5.2 EDUCATION AND TRAINING

- 104) Adults deprived of liberty should be provided with enough education and vocational training, at all levels, especially when accommodated for long stays. Such provision must also be tailored to those individuals who risk being excluded from such activities due to their specific situation or state of health.

PI - Education and vocational training must be systematically provided in penal institutions. Such establishments should draw upon the necessary means to organize examinations.

PCF – Not applicable

105) Children and young people deprived of liberty have the right to education. To this end, any place of deprivation of liberty accommodating children or young people must employ professional staff, along with the appropriate means, to provide them with an education suited to their state of health, individual needs, and confinement duration. Such arrangements should, at the very least, be in line with those required by ordinary law. This can be organized within the place of deprivation of liberty or at an external location. Arrangements for organizing examinations should be made as and when necessary.

IDC – Not applicable

PCF - Not applicable.

106) Individuals with literacy problems should be identified and systematically offered specific teaching.

IDC – Not applicable

PCF – Not applicable

107) The vocational training offered should be varied and suited to the individuals accommodated, with priority given to training that promotes access to employment or prepares people for their departure. It must be delivered in conditions that allow individuals to continue their training once their confinement measure has ended. Training that allows individuals to obtain qualifications should be promoted and, where appropriate, the necessary arrangements made to organize examinations and validate the knowledge acquired. The diploma or certificate obtained should not specify the place in which the training was carried out.

PCF – Not applicable

5.3 WORK

108) Work carried out by people deprived of liberty must not be compulsory or punitive in nature. It should be reserved for individuals of the appropriate age and state of health. Such individuals should be given the necessary means of taking up new employment or continuing their previous line of work, in order to prepare for their departure, receive a salary, and regain personal balance.

PI – a) The authorities in charge of penal institutions must adopt a dynamic approach to seeking partnerships to ensure adequate, well-suited employment opportunities for their inmates. Adapted positions should be offered to people with disabilities. The work offering and facilities must be suited to the number of people deprived of liberty accommodated within the penal institution and allow for mixing.

b) The general principles of employment law, particularly as regards welfare and remuneration, must be applied to penal institutions.

c) All inmates should be able to freely apply for a work offer. Candidates must be selected without discrimination, based on previously defined criteria. Should an employment relationship be terminated, notice and reasons must be given to the individual in question, who must be able to challenge this decision.

d) Hours worked must be recorded and confirmed by both parties to ensure fair, scalable remuneration, allowing individuals to meet the requirements of daily life and prepare for their departure. Workers should be able to use these freely, subject only to any legal enforcement proceedings and distribution on nominative accounts.

e) Workers deprived of liberty must benefit from regulated working hours, scheduled in advance, allowing for sufficient daily and weekly rest. The organization of work

must not prevent them from accessing other activities, whether educational or recreational, attending medical appointments, or meeting their loved ones.

f) All work should be organized in accordance with the applicable health and safety standards. These rules must be formalized and brought to the attention of all inmates.

JDC – Not applicable

PCF – Not applicable

5.4 OTHER ACTIVITIES

109) People deprived of liberty must be offered a range of therapeutic, educational, recreational, sporting, artistic and cultural activities, the number and diversity of which must increase in line with the duration of the confinement measure. These activities must be tailored to different profiles, according to people’s physical capacities, state of health, interests, culture, and languages spoken. Anyone who wishes to do so must be able to benefit from them.

PCF – Not applicable

110) People deprived of liberty must be consulted and associated with the choice of activities offered to them.

PCF – Not applicable

111) Every place of deprivation of liberty must offer a varied and suitable choice of reading materials for the individuals accommodated, in languages they understand. A properly stocked library must be accessible to everyone, without prior authorization. In particular, it should include the necessary texts for confined individuals to gain knowledge and understanding of the legal systems to which they are subjected, and rights to which they are entitled.

PCF – Not applicable

6 ENSURING THAT PEOPLE DEPRIVED OF LIBERTY CAN ACCESS HEALTHCARE ON PARITY WITH THAT OF THE GENERAL POPULATION

Any situation of confinement is liable to affect the physical and mental health of the individuals subjected to it. The conditions under which such individuals are given access to healthcare are therefore of paramount importance. Access to healthcare for people deprived of liberty must be organized by all the departments concerned, jointly and in a concerted manner, in line with their respective vocations and duties. The ministries in question must have the means of assessing these populations' general state of health, to ensure that optimal measures are implemented. Effective access to healthcare also requires a relationship of trust to be established between the caregiver and confined individual. The environment must enable this relationship to be established and maintained. This requires appropriate material conditions, guaranteeing medical secrecy and confidential care, as well as enough time to be allocated to it. At all times and in all places, caregivers must have, and take, the time to engage with their patients.

GENERAL PRINCIPLES

- 112)** People confined within a place of deprivation of liberty must always have access to healthcare, on parity with that provided to the general population. This principle must apply unreservedly, irrespective of the legal basis of the measure of deprivation of liberty, pathology in question, or disability affecting the patient.

IDC - Should a detainee need to be hospitalized and be unable to exercise his or her rights in this respect, the immigration detention measure must be lifted.

- 113)** Healthcare accessibility should not be the responsibility of care staff alone. It must be organized structurally by the administration in charge of the place of confinement, along with the health service. The administration must also ensure that partnerships are established to guarantee people deprived of liberty confinement and care conditions compatible with their physical and mental health.

- 114)** The public authority must ensure that individuals deprived of liberty can access healthcare without discrimination, taking into account their age and culture. An interpreting service must be systematically offered to any individuals who need or request it.

PI - If an inmate does not have insurance or personal funds to cover the costs of his or her care, it is up to the institution's administration to provide the means of financing the outstanding amount, in line with its integration responsibilities.

- 115)** Hospitalization must not be allowed to undermine any of the rights or prerogatives attached to the status under which people are deprived of liberty.

- 116)** Consent to care must be sought, recorded, and respected for all patients capable of discernment, even if under 18, including in the event of a hunger strike. Caregivers and medical staff should always record any observations made by patients deprived of liberty regarding their care.

- 117)** The holders of parental authority must retain all related rights and duties in the case of healthcare given to a minor deprived of liberty. Consent to care must be sought from the holders of parental authority upon the minor's arrival and renewed in the event of a non-usual medical procedure. Save for any legal exceptions, they must be immediately informed should the minor need to be hospitalized. If the consent given by holders of parental authority is subject to any

restrictions liable to conflict with the child’s best interests, the mandating authority must be immediately informed, including in non-urgent cases.

- 118) Healthcare and medical staff working in places of deprivation of liberty must carry out their tasks completely independently, in line with the ethical principles and rules of their profession. No caregiver working in a place of deprivation of liberty may act as an expert for any individual confined therein.
- 119) A formalized policy and specific procedures for detecting, preventing, and managing the risk of suicide must be established.

6.1 PREVENTION AND ADAPTATION OF MATERIAL CONDITIONS

- 120) Beyond simply dispensing treatment, health services in places of confinement should also be entrusted with responsibility for social and preventive medicine. This includes hygiene, guarding against communicable infections, addiction support, and preventing suicides and violence. They should contribute to setting up health education initiatives, particularly for minors deprived of liberty.

| *PCF – Not applicable* |

- 121) As part of their preventive responsibilities, healthcare providers must be fully aware of the conditions in which people deprived of liberty are accommodated and cared for, including any individuals in a particularly vulnerable situation. To this end, they must be able to freely access their living spaces and pay particular attention to their care and hygiene conditions. Should a caregiver identify any shortcomings, or potential shortcomings, he or she must inform the authority in charge of the place in question, which must take them into account. Should they fail to do so, the medical staff must refer the matter to the competent authorities.
- 122) Should caregivers feel that an individual’s physical or mental health is incompatible with the conditions in which they are being cared for, they must inform the competent authorities immediately. If the individual in question is under 18, they should also notify the mandating authority and holders of parental responsibility. In the event of any risk to an individual’s physical or mental integrity, all necessary means must be implemented to prevent infringement. The individual in question and, where appropriate, their legal representatives, must be informed of any procedures to which they could have recourse for this purpose.

| *IDC - The immigration detention measure must be lifted should there be any risk of infringing upon a detainee’s physical or mental integrity.* |

- 123) In the event of medically-attested lasting or definitive incompatibility between the state of an individual’s physical or mental health and his or her confinement or care conditions, the measure of deprivation of liberty must be terminated as soon as possible, either temporarily or permanently.

| *IDC - The immigration detention measure must immediately be lifted in the event of incompatibility between the state of a detainee’s physical or mental health and his or her confinement conditions.* |

6.2 ACCESS TO CARE

- 124) All places of confinement must have sufficient medical and nursing staff, commensurate with the number and state of health of the patients accommodated therein. Epidemiological studies should be conducted regularly to enable optimal identification of needs. Such establishments should be able to adjust the number of caregivers to any increases in patient numbers or deterioration in their state of health.

| *PCF – Not applicable* |

- 125) Places of deprivation of liberty with their own permanent healthcare department should ensure that its premises, facilities, equipment, and partnerships are suited to the population accommodated therein and of comparable quality to outside provision. The same accessibility standards must be met.
- 126) If their state of health so requires, any individual deprived of liberty must have access to a caregiver at any time, without delay. This includes any situations where a third-party makes this need known for them and at night or on weekends and public holidays. Such provision may be on-site, through direct interaction, or in hospital.
- 127) This access to care applies to both physical and mental health and includes specialized and paramedical provision. To this end, places of deprivation of liberty should seek to facilitate the intervention of specialists within their premises. Where this is not possible, people deprived of liberty must be able to leave the institution to receive the necessary care as soon as possible. Arrangements for remote consultation can be set up. Care must not be deferred or cancelled due to security or organizational constraints alone.
- 128) Regular psychological or psychiatric care should be provided to any people deprived of liberty who feel they need it, with the assistance of an interpreter where necessary.
- | *PCF – Not applicable* |
- 129) People deprived of liberty admitted to a healthcare facility must have the means of notifying their relatives. If the person in question is unconscious, the administration must notify their trusted individual or emergency contact as soon as possible. In the event of hospitalization of a minor or adult under guardianship, their legal representatives must be notified under the conditions and subject to the exceptions provided for in ordinary law.
- 130) People deprived of liberty must be guaranteed continuity of care upon arrival in a place of confinement, in the event of a change of establishment and upon departure.

6.3 MEDICAL SECRECY AND CONFIDENTIALITY OF CARE

- 131) The legal and ethical provisions relating to professional secrecy must be applied to the care of people deprived of liberty, including minors. Consultations should not take place in the presence of non-medical staff. Surveillance of consultations held outside places of deprivation of liberty may be considered in exceptional cases. This decision must be based on an individual assessment of the patient's behaviour, personality, and state of health. This assessment must be repeated for each consultation. Any decision to use special surveillance or care arrangements must be set down in writing, with reasons given, and made with the doctor's express consent. Such decisions must be limited to what is strictly necessary and organized in the least intrusive way possible.
- 132) Medical procedures involving the examination of private parts may not take place in the presence of non-medical staff.
- 133) Mothers should give birth outside the place of deprivation of liberty. Except for a single third party freely chosen by the mother under the rules of ordinary law, no non-medical staff may be present. The use of means of coercion must be prohibited. If a child is born in a place of deprivation of liberty, the nature of the establishment must not appear on his or her civil registry documents.
- 134) Medical secrecy should not impede successful cooperation between medical departments and the authorities in charge of the place of confinement in protecting people deprived of liberty or preparing for their departure. In this context, any information sharing must be formalized and recorded.
- 135) Consultations must take place in premises set up to guarantee confidentiality of care.

136) People deprived of liberty must be provided with the necessary means of contacting health services, guaranteeing them confidentiality, and putting them through to the appropriate department promptly. Written and oral information must be provided on this procedure, suited to the population in residence.

| *PCF – Not applicable* |

137) Medical treatment should be managed, recorded, and distributed under the sole responsibility of the health departments involved. They must ensure that their patients can seek and receive such treatment in conditions that respect their dignity, bodily integrity, and confidentiality as regards their state of health.

| *PCF - The authorities responsible for short stay premises must look after each individual's medication, making it available to him or her at the time it is to be taken, in accordance with his or her medical prescription.* |

138) Records containing medical data must be kept in such a way as to ensure their confidentiality vis-à-vis third parties. Digitally-recorded medical data must be stored in an automated system suitable for hosting health data.

139) Under ordinary law, patients deprived of liberty must have access to the data contained in their medical records. It is the institutions' responsibility to ensure that such access is effective and confidential.

| *PCF - Any medical certificates issued during custody must be given to the patient in question.* |

6.4 END OF LIFE AND DEATH OF PEOPLE DEPRIVED OF LIBERTY

140) People deprived of liberty who reach the end of their lives, or whose condition is life-threatening, must have the right to die free and, wherever they are, be accompanied by their loved ones. To this end, they must have the legal and material means of exercising this right. Managers of places of deprivation of liberty are responsible for ensuring that they are received and cared for by a suitable institution, where they can receive the care their condition requires.

141) The judicial authority must be immediately informed of any death of a person deprived of liberty.

142) In the event of the death of a person deprived of liberty, his or her relatives and, where appropriate, trusted individual or emergency contact must be immediately informed. They must be received by the manager of the place in question. Unless any opposition was expressed by the deceased before his or her death, they must receive any information they request in order to find out the cause of death, honour the memory of the deceased and ensure their rights are respected. They must, finally, be able to visit the deceased's living spaces and place of death and meet with those who were present at the time of his or her death, or who spent time with the deceased.

143) The body of any individual who dies in a place of deprivation of liberty must be treated with respect, dignity, and decency.

144) The managers of places of deprivation of liberty must take immediate responsibility for reporting any deaths that occur within their institution. Only the address of the place of deprivation of liberty should be included on the death certificate, without reference to the nature of the establishment.

145) The desires expressed by people deprived of liberty before their death, through any means, must be recorded and respected, particularly as regards the destination of their personal effects, organization of their funeral, and organ donation. If the deceased does not have any relatives or friends able or prepared to do so, the administration must fund and organize their funeral, in line with their desires.

7 ENCOURAGING PEOPLE DEPRIVED OF LIBERTY TO MAINTAIN FAMILY TIES AND RELATIONS WITH THE OUTSIDE WORLD

Throughout the freedom-restricting measure, individuals in confinement must be able and encouraged to maintain links with the outside world. This eases the shock of being confined, promotes personal balance and continuity, and prepares people to return to their communities. The authorities in charge of places of confinement, along with the individuals working therein, must, therefore, ensure that these links are maintained and that new ones can be built throughout the duration of the measure in question.

The walls surrounding places of deprivation of liberty are only impassable for those confined within them. They are not designed to prevent other citizens from accessing these locations and seeing what happens, who lives and works there.

GENERAL PRINCIPLES

- 146)** People deprived of liberty must be given all necessary means of maintaining their family, social and friendly ties.

| *PCF – Not applicable* |

- 147)** To facilitate exchanges between free and closed society, and promote continuity in their lives, people deprived of liberty should be accommodated in establishments close to their habitual place of residence or the place in which they plan to rejoin society. Exceptions to this principle may only be made based on an individual assessment of their expected benefits.

| *PCF – Not applicable* |

- 148)** Places of deprivation of liberty should be integrated into a local, social, and economic community. The competent authorities must ensure that they are accessible, establishing the necessary means of transport and infrastructure for this purpose. They should develop effective, sustainable partnerships to guarantee access to public services, individual assistance structures, and support with reintegration and job seeking, as well as legal access.

| *PCF – Not applicable* |

7.1 INFORMING LOVED ONES

- 149)** In the event of an emergency, the authorities in charge of places of confinement must notify the emergency contact or trusted individual nominated by the person deprived of liberty, under the conditions set out in recommendation 30.

- 150)** Legal representatives of minors or protected adults deprived of liberty must be given the necessary information to identify their contact people within the place of deprivation of liberty, along with their contact details. They should be kept abreast of developments in their care throughout the duration of the measure in question.

7.2 VISITING AND EXIT RIGHTS

- 151)** People deprived of liberty must be allowed to receive regular visits, particularly from close friends and relatives. Should proof of a close link be required, this may be provided through any means.

| *PCF – Not applicable* |

152) Visits should be of a reasonable duration and frequency, suited to the duration of the freedom-restricting measure in question. They must be organized based on procedures established in advance. People deprived of liberty should be offered ways of compensating for the rarity of visits by individuals living far away or unable to travel. The exercise of this right may only be restricted on medical or legal grounds, or to protect the physical or moral integrity of the individual in question.

| *PCF – Not applicable* |

153) The conditions in which people receive their visitors must be satisfactory in terms of dignity, cleanliness, and privacy, with suitable spaces set up to welcome families. These places must be appropriate for the time people spend there. Visitor checks must only be carried out on legal grounds and constraints limited to what is strictly necessary and proportionate to the aim pursued. Any use of surveillance measures must respect the privacy of families and the confined individual.

| *PCF – Not applicable* |

154) The authorities must have arrangements in place to provide visitors to people deprived of liberty with useful information. Points covered should include the way visits are organized, the particular set-up for the individual in question, and how they can make any comments, observations or complaints.

| *PCF – Not applicable* |

155) The administration must allow people deprived of liberty to be informed, through any means, of any serious illnesses, births, hospitalizations, or deaths involving their relatives or those close to them. To this end, it must permit or enable the individual concerned to enter into contact with his or her relatives, through a means and in a place that allows for privacy. If this is not possible, it must notify the individual concerned in appropriate and respectful conditions. Provision should be made to enable people deprived of liberty to temporarily leave their place of confinement, possibly accompanied, to attend important events in their family life.

7.3 ACCESS TO WRITTEN CORRESPONDENCE AND TELEPHONES

156) People deprived of liberty must be free to maintain correspondence with external individuals in the language of their choice.

| *PCF – Not applicable* |

157) Authorities in charge of places of deprivation of liberty must provide people deprived of liberty with any means of building or maintaining their family, friendly or social ties, including through new technology. Individuals in particularly vulnerable situations must also be given all necessary means of communicating with their loved ones. Such individuals include people who do not speak French, are hearing impaired, or have literacy problems.

| *PCF – Not applicable* |

158) A public letter-writing service must also be accessible to people deprived of liberty.

| *PCF – Not applicable* |

159) People deprived of liberty must be able to maintain correspondence with external authorities (judicial authority, elected officials, the CGLPL, Defender of Rights, Committee for the Prevention of Torture, Committee on the Rights of the Child, etc.), as well as with their advisors. The circuit used must guarantee confidentiality and ensure that all correspondence reaches its intended recipient. Explicit information must be provided on the procedure for sending correspondence by post. Such information should be explained orally and also available in writing, in a language, and terms that they understand.

PI - Within penal institutions, only the specific mail department (vaguemestre) is authorized to receive and distribute correspondence between inmates and their lawyers and any external authorities and must guarantee its confidentiality.

PCF - This recommendation applies to police custody facilities, with the exception of correspondence with elected officials.

160) People deprived of liberty must be guaranteed telephone access at any time, under satisfactory conditions of discretion or confidentiality. Telephone access arrangements must take into account school hours, regular working hours, and the periods during which their loved ones can be called.

IDC - Detainees must have access to their personal telephones, with no reservations.

PCF – Not applicable

161) Should their personal telephones or devices be removed from them, people deprived of liberty must be able to access any personal data saved or stored therein.

JDC - The arrangements for allowing minors in juvenile detention centres access to their personal telephones must be defined and organized from an educational perspective.

MHI - Personal telephones or devices may only be removed from people involuntarily hospitalized for psychiatric treatment if this decision is made by their doctor. This decision must be specific to the patient, based on his or her clinical condition. It must always be open to dispute or appeal.

PCF – Not applicable

162) Minimal cover for communication costs or access to a free or inexpensive telephone service should be offered to any individual who requires this or lacks financial resources.

PCF – Not applicable

7.4 MAINTAINING LINKS WITH CIVIL SOCIETY

163) Managers of places of deprivation of liberty should allow their residents regular exchanges with associations capable of providing them with assistance. Such associations should have suitable premises or means of communication and sufficient time for involvement. Arrangements for the involvement of their members must be defined in agreement with them, to ensure that this collaboration runs smoothly.

PCF – Not applicable

164) Places of deprivation of liberty must be regularly visited by individuals involved in civil and economic society, elected officials, and journalists. Access to places of deprivation of liberty must also be granted to researchers, academics, or students who require it for their research.

PCF - This recommendation applies to police custody under conditions compatible with the investigations in progress.

7.5 INTERNET ACCESS

165) Internet access is a means of facilitating the exercise of many fundamental rights and must be provided to people deprived of liberty. Their access to online facilities necessary for the use of public and education services must not be restricted.

PCF – Not applicable

7.6 ACCESS TO INFORMATION

166) People deprived of liberty must have free access to information and publications, regardless of their medium. Places of deprivation of liberty that usually or regularly receive non-French speakers must provide access to information in the foreign languages spoken.

| *PCF – Not applicable* |

167) People deprived of liberty must have free access to television and radio.

| *PCF – Not applicable* |

8 ENSURING THAT PEOPLE DEPRIVED OF LIBERTY CAN EFFECTIVELY EXERCISE THEIR RIGHTS OF DEFENCE AND CIVIL, CIVIC AND SOCIAL RIGHTS

People who are deprived of liberty, for whatever reason, remain rights-bearing citizens. Firstly, they have the right to defend themselves and challenge the decisions that have deprived them of their liberty before a judge. The authorities in charge of places of confinement must guarantee them effective exercise of these rights. More broadly, they continue to possess all the civil, civic, and social rights that transcend the measure to which they have been subjected. Such rights may, nevertheless, be jeopardized by their confinement conditions. The authorities responsible for places of deprivation of liberty must, therefore, ensure that the necessary organization is in place to enable every individual deprived of liberty to effectively exercise all rights of which they have not been deprived by law or by a judge.

GENERAL PRINCIPLES

168) Deprivation of liberty does not, in itself, deprive individuals subjected to it of their status as rights-bearing citizens. It must never be allowed to restrict them from effectively exercising any of the prerogatives or obligations arising from this status. People deprived of liberty have rights to the law, the effectiveness of which must be guaranteed by the authorities in charge of places of confinement.

8.1 ACCESS TO LAW

169) All places of confinement must guarantee that every individual accommodated therein, for whatever duration, is able to access the law.

170) All people deprived of liberty must benefit from effective legal aid, judicial assistance, and support in seeking the intervention of a lawyer, including in the context of non-judicial proceedings. The means of accessing this support must be established and widely disseminated. The possibilities for accessing legal aid and advice must be expressly presented to people deprived of liberty, in a language, and terms that they understand.

171) People deprived of liberty, along with their legal representatives, must have access to comprehensive legal information, including notes and circulars, relating to the establishment in which they are confined and measure to which they have been subjected. Such information should be up-to-date and easily accessible. If a person deprived of liberty is being supported by a lawyer, this lawyer must be able to access all texts of any kind that may apply to his or her client.

172) People deprived of liberty must have access to all judicial files to which they are a party, either directly or through their lawyer. Support must be systematically offered to minors in this respect. The individuals concerned, along with their legal advisors, must have access to all documents relevant to their defence, or to make an appeal, within a useful timeframe for such proceedings. They must be provided with a suitable place, along with the time and means necessary, to examine the file or documents in question, including any digital information.

173) People deprived of liberty must be able to speak with their lawyers as often as is necessary, by any means of communication, or face to face, under conditions guaranteeing the confidentiality of these conversations. The same applies to any interactions with associations offering legal advice and assistance.

174) Confinement must not deny people deprived of liberty the right to appear before a judge and present their arguments and defence in person. The judge in question must be physically present, and this right should be exercised in a direct and personal manner, with no screen or separation device in place. Video conferencing should only be used for procedural hearings or cases in which it is the only means of adhering to the reasonable deadline for completing the proceedings. Subject to the express agreement of the individual in question, it should not be allowed to affect the public or confidential character of the hearing, or the confidentiality of interactions between the lawyer and his or her client.

MHI - Hearings on involuntary hospitalization measures for psychiatric treatment must be held in a dedicated place within the mental health institution. The use of video conferencing must be prohibited.

PCF - Individuals in custody may be presented to the judicial authorities via video conferencing only in cases where a physical handover would severely infringe upon their basic rights and freedoms.

175) Guarantees must be put in place to ensure that people deprived of liberty are able to appeal and express their grievances safely and confidentially, whenever they so wish. If the individual in question is a minor or protected adult, his or her legal representatives must be able to make appeals or express grievances on his or her behalf, under the same safety and confidentiality conditions.

176) The formal requirements for making an appeal must be suited to the constraints imposed by the place of confinement and reduced as far as possible.

177) Any actions taken, or procedures initiated by people deprived of liberty to have their rights recognized or infringement thereof sanctioned must not be allowed to negatively affect their care.

178) Foreign nationals deprived of liberty have the right to apply for asylum. The authorities in charge of places of deprivation of liberty must guarantee them effective exercise of this right, at any time.

8.2 THE RIGHT TO PRIVACY

179) People deprived of liberty have the right to privacy and personal space within their accommodation. Any use of surveillance measures must respect their dignity and privacy.

180) The authorities in charge of places of deprivation of liberty must guarantee the confidentiality of information concerning their residents' presence.

181) As part of their private lives, people deprived of liberty retain their sexual freedom, subject only to the limits of ordinary law. The fact that a person is deprived of liberty does not, in itself, imply that he or she is unable to give informed consent to any form of sexual activity. The authorities in charge of places of deprivation of liberty are responsible for ensuring that this freedom can be exercised, respecting the consent and privacy of the individuals in question. They must have access to means of protection and contraception should they so wish.

182) People deprived of liberty have the right to confidentiality concerning their state of health. No surveillance measures, including the use of a CCTV system, should be allowed to infringe this right.

183) People deprived of liberty retain the image rights provided for by ordinary law. Any photographs or audio-visual recordings of minors deprived of liberty must be authorized in advance by the holders of parental authority.

PI - Inmates retain their image rights. Any refusal on the institution administration's part regarding dissemination of an inmate's image must be subject to a justified decision notified to the inmate, which may be appealed.

MHI - Particular attention must be paid to the informed nature of patients' consent under the implementation conditions provided for in ordinary law. If their ability to consent is in any doubt, their trusted individual must be called upon.

- 184)** The confidentiality of all correspondence between people deprived of their liberty and their loved ones must be respected.

PI - Only the specific mail department (vaguemestre) is authorized to receive, distribute, and check mail. Checks should only be carried out in exceptional circumstances, when necessary and proportionate for purposes of maintaining security and order. Any information thus discovered may only be used for the specific aims of the check in question.

PCF – Not applicable

- 185)** People deprived of liberty must be able to communicate confidentially with any banking institution with which they have an account

8.3 EXERCISING CITIZENSHIP

- 186)** Unless the judicial authorities have ruled otherwise, people deprived of liberty retain the rights and duties inherent to their status as citizens. Administrations in charge of places of confinement must guarantee them effective exercise of these rights, by any means.

- 187)** Confinement alone must not deprive individuals of exercising their right to vote. The preference should be for them to leave the place of confinement for this purpose. Voting by correspondence, proxy, or any other means should be made possible in exceptional cases. Authorities responsible for places of deprivation of liberty should encourage their residents to exercise their right to vote by circulating any information concerning upcoming elections and how to participate in them.

- 188)** Authorities in charge of places of deprivation of liberty accommodating minors must ensure that they can participate in Defence and Citizenship Day and are registered on the electoral roll.

- 189)** Any tax-paying people deprived of liberty must be able to fulfil these tax-related obligations within the deadlines prescribed by the tax authorities, including online. Services should be available to assist them with this.

- 190)** Any administrative documents for identity or immigration purposes relating to an individual deprived of liberty must be drawn up, obtained, or renewed within the required timeframes. To this end, the holders of such documents must be continually informed of any procedures to be followed. If, for any reason, they are unable to make the necessary arrangements to renew their documents, the relevant departments must do so on their behalf.

8.4 EXERCISING PARENTAL AUTHORITY

- 191)** Unless a legal decision has stipulated to the contrary, all parents deprived of liberty must retain all rights and duties pertaining to the exercise of parental authority and be able to exercise them. They should be given all relevant information enabling them to exercise full parental authority, without constraint or limitation, including information relating to the child's health, education, and care.

IDC - An alternative measure, such as home confinement, should be favoured when the removal procedure concerns an individual with parental authority over a child resident in France.

- 192)** Unless prevented by a legal decision based on protecting their best interests, children retain the right to maintain personal relations with parents deprived of liberty. In the same way, children deprived of liberty retain the right to maintain relations with their parents, whether free or

otherwise. The authorities in charge of places of confinement must implement all means of enabling them to fully exercise this right.

- 193)** Visits and conversations between parents and children must be facilitated, taking the children’s school timetable into account. These meetings must take place in suitable human and material conditions and protect the children’s well-being.

8.5 PERSONAL DATA PROTECTION

- 194)** People deprived of liberty have personal data protection rights, in accordance with the principles set out in the regulation on the protection of natural persons with regard to the processing of personal data and on the free movement of such data. As such, they must be informed of any data collected of which they are the subject, its intended purpose and retention period. They must also be informed of their right of access and how this right can be exercised.

MHI - Patients placed in involuntary treatment, or liable to be so by decision of the institution’s manager, must be informed of the inclusion of this measure in the personal data processing file for monitoring individuals in involuntary psychiatric care, and the possible consequences of such registration.

PCF - Individuals in custody must be informed of the registration in any file by virtue of the custody measure, along with the possible avenues of appeal and deletion.

- 195)** Any department collecting confidential data on people deprived of liberty must only collect and store data strictly and obviously related to the original reason for collection. This data may only be communicated to those who need to know it, under the terms set out in Recommendation 29.

- 196)** Under these personal data protection rights, people deprived of liberty have the possibility of accessing any data concerning them, including medical data, in a paper or paperless format. People deprived of liberty must be given access to any video surveillance image in which they appear.

8.6 WELFARE RIGHTS

- 197)** The welfare and economic situation of people deprived of liberty must be regularly examined. Unless an exception has been provided by law, their confinement must not lead to any interruption in their benefits entitlement or welfare provisions.

- 198)** Benefits access for people deprived of liberty must be regularly examined. The necessary steps should be taken to enable them to access all measures, aid, and rights for which they are eligible. The administration must ensure that they are able to establish or renew all the necessary documentation to exercise these rights.

8.7 OWNERSHIP AND CONSUMER RIGHTS

- 199)** People deprived of liberty continue to own all their belongings and all effects with which they were admitted, including any items that have been removed from them. The authorities in charge of places of confinement are responsible for keeping them safely and returning them at the end of or, where appropriate, during the measure. They must also ensure they are sent on to any new place of confinement to which the individual in question is transferred. If such property is not returned in its original condition, the owner must have a means of obtaining compensation.

- 200)** The inventory of personal effects drawn up upon arrival, pursuant to Recommendation 33, must be regularly updated during the measure.

- 201)** People deprived of liberty are free to spend their money as they see fit, solely within the limits determined by legal provisions or court decisions. They must be kept informed of the state of their bank account and any transactions carried out therein.

202) People deprived of liberty must be able to purchase goods and products from an offering suited to the conditions of their stay.

203) All individuals who purchase goods when in places of deprivation of liberty must be able to exercise all the rights they acquire under contract and consumer law. They must always be provided with the necessary means to this end, including proof of ownership or purchase, either during or at the end of the confinement measure.

8.8 FREEDOM OF EXPRESSION

204) People deprived of liberty retain their rights to freedom of opinion and expression. Their exercise of these rights is only subject to the limits imposed by ordinary law. Their freedom of expression comprises the right to criticize, including with regard to the public service responsible for administering places of confinement.

205) Collective expression alone cannot be deemed a risk of unrest justifying prohibition on principle. Recourse to forms of collective expression should be organized.

| *PCF – Not applicable* |

8.9 FREEDOM OF CONSCIENCE

206) People deprived of liberty are free to practise the religion of their choice or not to practise any religion. It is up to those responsible for places of confinement to ensure that religious practices can be freely followed and exercised without constraint.

207) People deprived of liberty are free to follow the individual practices and rites of each form of worship. A place and means dedicated to collective practice must also be made available to them.

208) People deprived of liberty must never be denied the right to speak to and meet a qualified representative of a religion.

209) Minors deprived of liberty are entitled to freedom of thought, conscience, and religion. The authorities in charge of places of deprivation of liberty must respect legal representatives' right to guide their child in exercising this freedom.

9 LIMITING CHECKS AND CONSTRAINTS IN ADDITION TO DEPRIVATION OF LIBERTY

The authorities in charge of places of confinement must guarantee the security of all individuals accessing such establishments or accommodated or working therein. With this in mind, they may resort to checks and constraints that aggravate the already onerous restrictions created by the freedom-restricting measure itself. The use of such measures does not, however, constitute a systematic response to transgressive behaviour, much less a systematic response to general risks. Many factors can be leveraged to limit the risk of incidents and resulting use of checks and constraints. These include the conditions in which people are received and accommodated within such establishments, the place accorded to people deprived of liberty and their loved ones, the way requests and complaints are handled, and the management of teams, along with their specific skills. A balance must always be maintained between guaranteeing security and respecting the fundamental rights of people deprived of liberty.

GENERAL PRINCIPLES

- 210)** The authorities must ensure that public order is respected within the places of confinement for which they are responsible. Measures implemented to this end, including surveillance, must achieve their aim with no more restrictions than are justified or necessary to guarantee everyone's safety and security, order within the establishment, and the requirements of community life.
- 211)** The dignity, security, and fundamental rights of people deprived of liberty must, first and foremost, be guaranteed through prevention. Within this framework, the authorities should record any incidents, along with their context, to allow for further analysis and prevent them from recurring.
- 212)** No checks, means of restraint or segregation or, more generally, restrictions liable to aggravate the burdens of confinement, should be imposed on people deprived of liberty unless there are legal grounds to do so. In such an event, there should be a regulatory framework in place to define their purposes and mode of implementation.
- 213)** No disciplinary sanctions may be imposed unless there are explicit legal grounds, which must be interpreted restrictively.

PI – a) In the context of disciplinary proceedings, the authorities in charge of penal institutions must ensure the effectiveness of these rights in accordance with the recommendations of paragraph 8.1.

b) Inmates and their lawyers must be given the necessary time to prepare their defence and access any relevant exhibits, including video surveillance images.

c) Any disciplinary sanctions must be open to effective appeal, which may put an end to them, deprive them of legal effects, and, where appropriate, award compensation.

- 214)** The use of checks, means of restraint, or segregation for purposes other than those assigned to them by law and regulations should be prohibited. The authorities in charge of places of deprivation of liberty must ensure that such measures are not used to overcome organizational deficiencies and shortcomings in the care of individuals confined therein.
- 215)** Should the competent authority decide to use any checks, means of restraint, or segregation, it must record this decision in writing, setting out the reasoning behind it, and submit this written

record to the individuals in question. They must be informed of the available avenues to appeal or challenge this decision, in a language and terms that they understand. Their observations must be gathered and recorded. The actual duration of these measures must be recorded. The holders of parental authority or legal representatives of the individuals in question must be informed.

- 216) Decisions to use any checks, means of restraint, or segregation must be necessary in view of their defined aims and proportionate to the specific risks identified on an individual basis. They must be time-limited and implemented gradually. The way they are implemented in practical terms must always preserve the dignity and fundamental rights of the individuals in question.
- 217) Any restrictions, checks, means of restraint, or segregation are potentially prejudicial to the individuals in question and must be open to appeal.
- 218) Only specifically trained staff should be authorized to use force or implement any checks, means of restraint, or segregation. The terms of implementation should be defined in appropriate professional practice guides or notes.

MHI – Physical control of patients may only be carried out by care staff in a mental health institution.

- 219) Should the state of health of an individual deprived of liberty require the use of checks, means of restraint, or segregation, the measure must be specifically tailored to the individual in question and taken by a doctor after examining him or her. These decisions must be subject to regular reassessment and only continued for as long as is strictly necessary. They must always be open to dispute or appeal.

9.1 SEARCHES AND OTHER CHECKS

- 220) Checks refer to any practices implemented to search for illegal, prohibited, or dangerous objects, substances, or products on individuals deprived of liberty, among their belongings or in their accommodation. Goods, substances, or products may only be prohibited if using or possessing them could potentially infringe upon the safety, health or hygiene of the place of confinement or requirements for community life.
- 221) Checks should only be used where necessary and proportionate according to the general principles set out in this chapter. The way they are implemented in practice must guarantee respect for all property belonging to the individuals in question.
- 222) Strip searches may not be performed unless there are explicit legal grounds to do so, which must be interpreted restrictively.

PI - a) Searches must only be used as a last resort, in the absence of other less degrading means of achieving the desired result, and only where necessary to protect people's safety and security and prevent criminal offences.

b) Strip searches should only be used in exceptional cases, with a particularly strict application of the principles of necessity and proportionality.

c) Strip searches should only be carried out by specially designated, qualified personnel of the same gender as the individual being searched. The premises in which they are performed must guarantee respect for privacy and an appropriate level of hygiene and comfort. The individual being searched should be able to choose never to be completely naked, with checks carried out alternatively on garments from the top and then the bottom half of their body.

d) Strip searching minors should be prohibited unless there is a particularly marked risk of infringing the bodily integrity of individuals present in the institution. In this case, the children's judge must be informed.

MHI - Strip searches are prohibited within mental health institutions.

IDC - Strip searches are prohibited within immigration detention centres.

JDC - Strip searches are prohibited within juvenile detention centres.

PCF - Strip searches are authorized for the purposes of the investigation only and cannot be carried out solely for security reasons.

- 223)** Any decisions to check an individual's premises must be justified as necessary in accordance with the general principles set out in this chapter. Their implementation should never cause any damage to or destruction of property belonging to people deprived of liberty.
- 224)** Property belonging to people deprived of liberty can only be definitively removed from them if this measure is provided by law. Any property removed temporarily must be kept safely with a view to returning it. Any property removed, whether definitively or temporarily, must be registered.
- 225)** Consideration must be taken of situations where individuals may be vulnerable in view of their age, gender identity, disability, or pathology, and the use of checks significantly reduced as a consequence.

9.2 MEANS OF RESTRAINT AND THE USE OF FORCE

- 226)** Means of restraint are defined as any means, whether mechanical or chemical, that impede an individual's freedom to move or express themselves. Recourse to means of restraint should be implemented in accordance with the general principles set out in this chapter. This should not, under any circumstances, lead to any infringement of the dignity or bodily integrity of the individuals in question.
- 227)** Within a place of deprivation of liberty, or closed premises under surveillance, means of restraint may only be used to prevent acts of violence, directed at the self or others. Such recourse should be a last resort, after de-escalation techniques have proved unsuccessful and where there are no other means of achieving the desired result.
- 228)** Outside a place of deprivation of liberty, means of restraint may only be used to prevent a duly assessed risk of escape or infringement of bodily integrity. Such means, and their methods of implementation, should not cause pain or discomfort in the event of prolonged use. People deprived of liberty must not be handcuffed behind their backs during transportation.
- 229)** Any recourse to means of restraint must be subject to regular reassessment which, as far as possible, should not be performed solely by the authority that made the original decision. A multidisciplinary solution should be sought, or a higher authority called upon.
- 230)** Staff working in places of deprivation of liberty may only use force to prevent or stop violence, in progress or imminent, or avoid a serious disturbance of public order. The use of force must be necessary and proportionate, in accordance with the general principles set out in this chapter, and should exclude any form of violence.
- 231)** Should force be used against a minor, the holders of parental responsibility must be immediately notified, along with the judicial authority.

9.3 SEGREGATION AND SOLITARY CONFINEMENT MEASURES

- 232)** The use of segregation or solitary confinement measures within places of deprivation of liberty poses a risk of serious harm to the physical and mental integrity of the individuals concerned. Such measures must therefore only be used to protect those present in the institution or the segregated individual. Should an individual with a mental disorder need to be segregated for his or her own protection, such segregation may only continue for the time needed to organize medical care.

JDC - Segregation measures are strictly prohibited within juvenile detention centres. The recommendations of this paragraph 9.3 do not, therefore, apply to these establishments.

- 233)** Segregation should not be used for disciplinary purposes, unless in accordance with a legal provision, which should be interpreted restrictively.
- 234)** Any recourse to segregation or solitary confinement measures must be necessary and proportionate, according to the general principles set out in this chapter.
- 235)** Any segregation measures, including by medical decision, must be open to appeal before a competent authority, under conditions and within a timeframe that guarantee the right to defence and principles of a fair trial. Such an appeal must be effective in putting an end to any unjustified measures, depriving them of legal effect, and, where appropriate, awarding compensation.
- 236)** Any segregation measures must be implemented in premises suited to their purpose, under accommodation and care conditions in line with Chapter 4 of these Recommendations. If, for any reason, segregated individuals are unable to take care of themselves or their immediate environment, the administration is responsible for ensuring suitable arrangements are made to this effect.

PI - Disciplinary quarters must be suitably set up to take charge of individuals in premises that comply with all recommendations in this paragraph 9.3, including recommendations 233 to 242.

- 237)** Any contact restrictions resulting from the segregation measure must be strictly necessary in the light of its pursued aim. Such a measure should never prohibit the individual in question from entering into contact with his or her loved ones.
- 238)** Individuals subjected to segregation measures should be allowed to meet with other people deprived of liberty, people responsible for them, or third parties, as often as possible.
- 239)** Segregation measures should not systematically prevent people deprived of liberty from engaging in educational, therapeutic, recreational, artistic, or cultural activities. No segregation measures imposed upon minors should be allowed to interrupt their access to education, nor prevent their parents from exercising the prerogatives linked to their parental authority.
- 240)** Access to healthcare must be possible, at any time, either within the place of segregation, medical department of the confinement institution, or a hospital setting, at the patients' request or should their state of health so require.
- 241)** A medical examination must be carried out at the beginning of any segregation measure. The health staff must ensure that such a measure does not lead to any disruption in access to healthcare or the organization of its continuity. Any segregation measure must be immediately lifted should medical opinion deem it incompatible with an individual's state of health.
- 242)** Healthcare providers must reassess the health of any individuals subjected to segregation measures, at a set frequency suited to their personal situation and the measures in question.
- 243)** Caregivers must always be given access to places of segregation, to gain awareness of their patients' accommodation conditions. If they have not been able to see them, they must make enquiries to this effect, so that these conditions can be taken into account. Should they identify any necessary modifications, they should make these recommendations to the authority in charge of the place in question.
- 244)** Consultations and examinations must be conducted in a manner that respects the patient's privacy. Caregivers and their patients must be able to see and talk to each other without being seen or heard by non-medical staff.

PI - Medical examinations carried out in disciplinary rooms must not take place through bars.

- 245)** Any segregation measures must end as soon as the reasons that initially justified them no longer apply.

10 PREPARING FOR AND SUPPORTING THE RETURN OF PEOPLE DEPRIVED OF LIBERTY TO THE COMMUNITY

All confinement measures have a planned end, for which preparations must be made. Places of confinement must create conditions that ease the transition of people deprived of liberty into society, preparing them for reintegration. To this end, they should implement procedures that allow people deprived of liberty to anticipate and prepare for their departure, acquiring or regaining the necessary autonomy to face up to this in optimal conditions. Such individuals' return to liberty should not lead to any interruptions in the aid or services from which they have been able to benefit during their confinement. It is up to the authorities responsible for places of deprivation of liberty to ensure the continuity of these educational, social, medical, or other provisions.

GENERAL PRINCIPLES

- 246)** No measure of deprivation of liberty should be perpetual.
- 247)** All individuals deprived of liberty should regain their freedom as soon as the reasons for their confinement no longer apply or the measure has come to an end.

IDC - Any detention must be as brief as possible, only maintained for as long as the removal measure is in progress, and carried out with all due diligence. No immigration detention measures should be implemented or continued if these conditions have not been met.

PCF - The extension of a police custody measure cannot be justified by police and court organization reasons alone.

10.1 PROGRESSIVE OR TEMPORARY DEPARTURE

- 248)** Places of deprivation of liberty must establish procedures to assist their residents in preparing for the end of their confinement measures, in conditions suited to their vocation and residents' situations and prospects. These should include temporary and progressive departure mechanisms designed, in particular, to promote liaison with external bodies and the maintenance of family ties.
- 249)** In the run-up to an individual's departure, the administrations in question should encourage him or her to use such assistance and preparation procedures in good time and according to his or her situation. They should provide written and oral information to this effect, suited to its intended audience. Services should be put in place for any individuals wishing to receive support in preparing for their departure. Should they be refused such support, this refusal should be recorded in writing, with reasons given, and open to appeal.

PCF – Not applicable

10.2 ADMINISTRATIVE FORMALITIES AND RELATIONS WITH EXTERNAL BODIES

- 250)** The authorities in charge of places of deprivation of liberty must foster relations with all institutions, bodies, or services supporting people deprived of liberty in preparing for their departure, and after their return to the community. The sustainability of these relations should be secured through signed agreements or partnerships authorizing staff from these external organizations to work with confined individuals.

- 251)** From the beginning of their confinement measures, people deprived of liberty should be encouraged to develop and maintain relationships with any external individuals or organizations likely to support them in preparing for their departure.
- 252)** Minors deprived of liberty must be able to maintain their relationships with the youth workers who worked with them in free society, along with any services involved in their situation. Such relations must be guaranteed both during and after the confinement measure.
- 253)** Any welfare or healthcare cover from which people deprived of liberty have benefited should be continued upon their departure. People deprived of liberty must be able to obtain their medical records, prescriptions, and any medications required to continue their treatment until their next medical appointment. Where appropriate, healthcare facilities should be contacted to guarantee such continuity; otherwise, their contact information should be provided to the individual in question.
- 254)** The authorities in charge of places of deprivation of liberty must ensure that any training or teaching in progress can be continued, allowing examinations to be taken or acquired knowledge and skills to be validated.

PCF - The authorities must take school timetables into account when implementing scheduled custody for minors.

10.3 PERSONAL EFFECTS AND ADMINISTRATIVE DOCUMENTS

- 255)** The authorities in charge of places of confinement must return all identity documents to people deprived of liberty upon their departure.

IDC - The French authorities should not hand over any documents likely to negatively affect individuals subject to removal to the foreign authorities in their destination country.

- 256)** Upon their departure, confined individuals and, where appropriate, their legal representatives, must obtain all documents attesting to their rights and professional, educational, social, financial, and judicial situations.

PI - The authorities in charge of penal institutions must ensure that any diplomas obtained by people deprived of liberty during incarceration are awarded, through any means, including after their release or transfer.

- 257)** Personal effects belonging to people deprived of liberty, including any items removed from them, must be returned upon their release, in accordance with the inventory drawn up. They must also be given proof of purchase of any goods bought during their confinement measure, along with means of transporting such goods where appropriate.

- 258)** Financial compensation must be provided for any personal effects lost, stolen, or damaged while being kept by the authority in charge of the place of confinement. Upon their departure, individuals must be given information on the procedures for making any claims to this effect.

10.4 RETURN TO FREEDOM

- 259)** The authorities in charge of places of confinement must ensure that people deprived of liberty have the means of ensuring their short-term subsistence, accommodation, and material or financial resources upon their departure. The same principle must apply to all individuals leaving mainland France or a French territory, whether voluntarily or not.

- 260)** Minors must not be left alone upon their departure from a place of deprivation of liberty. The authorities in charge of places of deprivation of liberty must ensure that they are handed over to the holders of parental authority or service to which they have been entrusted through a court decision.

Paris, 9 December 2019

Adeline Hazan
*Controller General
of Places of Deprivation of Liberty*

CONTENTS

Foreword The move towards a right of protection for	1
people deprived of liberty	1
Guiding Principles	5
1 Including respect for human dignity and fundamental rights in the planning and organization of places of deprivation of liberty	9
General Principles	9
1.1 Suitable organization	9
1.2 Separation of population categories	9
1.3 Training and supervision of professionals	10
1.4 Monitoring places of deprivation of liberty	11
2 Receiving, informing and guiding people entering a place of deprivation of liberty	13
General Principles	13
2.1 Reception procedure	13
2.2 Taking charge of an individual	14
2.3 Material conditions for short-term or transitional stays	15
2.4 Considering an individual's previous situation	15
2.5 Considering situations of vulnerability	16
2.6 Referral	16
3 Protecting people deprived of liberty against any undermining of their physical or mental integrity	17
General Principles	17
3.1 Reporting violence	17
3.2 Following up on reported violence	18
4 Meeting the basic needs of people deprived of liberty and respecting their dignity in day-to-day actions	19
General Principles	19
4.1 Basic needs	19
4.2 Accommodation	20
4.3 Hygiene	21
4.4 Catering	21
4.5 Outdoor access	22

5	Enabling people deprived of liberty to express themselves, participate in social life and engage in activities.....	23
	General Principles.....	23
5.1	Individual and collective channels of expression	23
5.2	Education and training.....	23
5.3	Work	24
5.4	Other activities	25
6	Ensuring that people deprived of liberty can access healthcare on parity with that of the general population	27
	General Principles.....	27
6.1	Prevention and adaptation of material conditions	28
6.2	Access to care	28
6.3	Medical secrecy and confidentiality of care.....	29
6.4	End of life and death of people deprived of liberty	30
7	Encouraging people deprived of liberty to maintain family ties and relations with the outside world.....	31
	General Principles.....	31
7.1	Informing loved ones.....	31
7.2	Visiting and exit rights	31
7.3	Access to written correspondence and telephones.....	32
7.4	Maintaining links with civil society.....	33
7.5	Internet access.....	33
7.6	Access to information.....	34
8	Ensuring that people deprived of liberty can effectively exercise their RIGHTS OF DEFENCE AND civil, civic and social rights	35
	General Principles.....	35
8.1	Access to law	35
8.2	The right to privacy.....	36
8.3	Exercising citizenship	37
8.4	Exercising parental authority.....	37
8.5	Personal data protection	38
8.6	Welfare rights	38
8.7	Ownership and consumer rights	38
8.8	Freedom of expression	39
8.9	Freedom of conscience.....	39
9	Limiting checks and constraints in addition to deprivation of liberty	41

General Principles.....	41
9.1 Searches and other checks	42
9.2 Means of restraint and the use of force.....	43
9.3 Segregation and solitary confinement measures.....	43
10 Preparing for and supporting the return of people deprived of liberty to the community	45
General Principles.....	45
10.1 Progressive or temporary departure.....	45
10.2 Administrative formalities and relations with external bodies.....	45
10.3 Personal effects and administrative documents.....	46
10.4 Return to freedom.....	46
Contents	49