Le Contrôleur Général des Lieux de Privation de Liberté

2019 Annual Report

Contents

Glossary

AP	Prison Administration
APT	Association for the Prevention of Torture (Association pour la prévention de la torture)
ARS	Regional Health Agency (Agence régionale de santé)
ASE	Child welfare (Aide sociale à l'enfance)
ASPDRE	Committal for psychiatric treatment at the request of a representative of the State (Admission en soins psychiatriques à la demande d'un représentant de l'État, formerly HO)
ASPDT	Committal for psychiatric treatment at the request of a third party (Admission en soins psychiatriques à la demande d'un tiers, formerly HDT)
ATA	Temporary waiting allowance (Allocation temporaire d'attente)
ATIH	Technical Agency for Information on Hospitalisation (Agence technique de l'information sur l'hospitalisation)
CATTP	Part-time therapeutic activity centre (Centre d'activité thérapeutique à temps partiel)
CCNE	National Ethics Advisory Council (Conseil national consultatif d'éthique)
CD	Long-term detention centre (Centre de détention)
CDSP	Departmental Commission for Psychiatric Care (Commission départementale des soins psychiatriques)
CDU	User Committee (Commission des usagers)
CEDH	European Convention on/Court of Human Rights (Convention/Cour européenne des droits de l'homme)
CEF	Juvenile detention centre (Centre éducatif fermé)
CESEDA	Code for Entry and Residence of Foreigners and Right of Asylum (Code de l'entrée et du séjour des étrangers et du droit d'asile)
CGLPL	Chief Inspector of Places of Deprivation of Liberty (Contrôleur général des lieux de privation de liberté)
CH	Hospital (Centre hospitalier)
CHS	Psychiatric hospital (Centre hospitalier spécialisé)
CHU	University hospital (Centre hospitalier universitaire)
CICI	Interministerial Committee on Immigration Control (Comité interministériel de contrôle de l'immigration)
CLSI	Local IT security correspondent (Correspondant local de sécurité informatique)
CME	Public health institution medical committee (Commission médicale d'établissement)
CMP	Mental health centre (Centre médico-psychologique)
CNCDH	National Consultative Commission on Human Rights (Commission nationale consultative des droits de l'homme)
CNE	National Assessment Centre (Centre national d'évaluation)
CNI	National identity document (Carte nationale d'identité)
CNOM	National Order of Doctors (Conseil national de l'Ordre des médecins)
CP	Prison complex, with sections incorporating different kinds of prison regimes (Centre pénitentiaire)
CPIP	Prison Rehabilitation and Probation Counsellor (Conseiller pénitentiaire d'insertion et de probation)
CPP	Code of Criminal Procedure (Code de procédure pénale)
CproU	Emergency protection cell (Cellule de protection d'urgence)
CPT	European Committee for the Prevention of Torture (Council of Europe)
CPU	Single multidisciplinary committee (Commission pluridisciplinaire unique)
CRA	Detention centre for illegal immigrants (Centre de rétention administrative)

CSAPA	Specialised addiction treatment support and prevention centre (Centre de soin, d'accompagnement et de prévention en addictology)
CSL	Open prison (Centre de semi-liberté)
CSP	Public Health Code (Code de la santé publique)
DACG	Criminal Matters and Pardons Directorate (Direction des affaires criminelles et des grâces)
DAP	Prison Administration Department (Direction de l'administration pénitentiaire)
DCPAF	Border Police Central Directorate (Direction centrale de la police aux frontières)
DCSP	Public Security Central Directorate (Direction centrale de la sécurité publique)
DDD	Defender of Rights (Défenseur des droits)
DGGN	General Directorate of the French national gendarmerie (Direction générale de la gendarmerie nationale)
DGOS	General Directorate for Healthcare Provision (Direction générale de l'offre de soins)
DGS	General Directorate for Health (Direction générale de la santé)
DISP	Interregional Directorate for Prison Services (Direction interrégionale des services pénitentiaires)
DPIP	Prison Rehabilitation and Probation Department (Direction pénitentiaire d'insertion et de probation)
DPJJ	Directorate for Judicial Youth Protection (Direction de la protection judiciaire de la jeunesse)
DSPIP	Directorate for Prison Rehabilitation and Probation Services (Direction des services pénitentiaires d'insertion et de probation)
ENAP	French National School for Prison Administration (École nationale de l'administration pénitentiaire)
ENM	French National School for the Judiciary (École nationale de la magistrature)
ENPJJ	French National Academy for Youth Protection and Juvenile Justice (Ecole nationale de la protection judiciaire de la jeunesse)
EPM	Prison for minors (Établissement pénitentiaire pour mineurs)
EPSNF	National public health institution at the remand prison of Fresnes (Établissement public de santé national de Fresnes)
ERIS	Regional Response and Security Team (Equipe régionale d'intervention et de sécurité)
ESAT	Work centre for disabled persons (Etablissement et service d'aide par le travail)
GAV	Police custody (Garde à vue)
GENESIS	French national management of prisoners for individual monitoring and safety (Gestion nationale des personnes écrouées pour le suivi individualisé et la sécurité, software)
HAS	French National Authority for Health (Haute autorité de santé)
IGA (AAI)	Independent government agency (Autorité administrative indépendante)
IGAS	Inspectorate-General of Social Affairs (Inspection générale des affaires sociales)
IGJ	Inspectorate-General of Justice (Inspection générale de la justice)
IGSJ	Inspectorate-General of Judicial Services (Inspection générale des services judiciaires)
IPA	Advanced Practice Nurse (Infirmier de pratique avancée)
ITF	Prohibition to enter French territory (Interdiction du territoire français)
ITT	Temporary interruption of work (Interruption temporaire de travail)
JLD	Liberty and Custody Judge (Juge des libertés et de la detention)
LRA	Detention facility for illegal immigrants (Local de rétention administrative)
MA	Remand prison (Maison d'arrêt)
MAF	Women's remand prison (Maison d'arrêt "femmes")

MAH	Men's remand prison (Maison d'arrêt "hommes")
MC	Long-stay prison (Maison centrale)
MCO	Medicine, surgery, obstetrics activities (Médecine, chirurgie, obstétrique)
MNP	National Preventive Mechanism (Mécanisme national de prévention)
MPDH	*Département*-level centre for disabled people (Maison départementale des personnes handicapées)
OFII	French Office for Immigration and Integration (Office français de l'immigration et de l'intégration)
OFPRA	French Office for the Protection of Refugees and Stateless Persons (Office français de protection des réfugiés et apatrides)
OIP	International Prison Watch (French section) (Observatoire international des prisons)
OPCAT	Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
OPJ	Judicial Police Officer (Officier de police judiciaire)
OQTF	Obligation to leave French territory (Obligation de quitter le territoire français)
OSCE	Organization for Security and Co-operation in Europe (Organisation pour la sécurité et la coopération en Europe)
PAF	Border Police (Police aux frontières)
PEP	Individual sentence plan (Parcours d'exécution des peines)
PJJ	Judicial Youth Protection Service (Protection judiciaire de la jeunesse)
PMR	Person with reduced mobility (Personne à mobilité réduite)
PPSMJ	Offender (Personne placée sous main de justice)
QCD	Detention centre wing (Quartier centre de détention)
QD	Punishment wing (Quartier disciplinaire)
QDV	Violent prisoners' wing (Quartier pour détenus violents)
QER	Radicalisation assessment wing (Quartier d'évaluation de la radicalisation)
QI	Solitary confinement wing (Quartier d'isolement)
QMA	Remand wing (Quartier maison d'arrêt)
QPR	Radicalisation prevention wing (Quartier de prévention de la radicalisation)
QSL	Open wing (Quartier de semi-liberté)
SMPR	Regional Mental Health Department for Prisons (Service médico-psychologique régional)
SPIP	Prison Rehabilitation and Probation Service (Service pénitentiaire d'insertion et de probation)
TA	Administrative court (Tribunal administratif)
TGI	Court of First Instance in civil and criminal matters (Tribunal de grande instance)
TIG	Community service (Travail d'intérêt général)
UHSA	Specially Equipped Hospital Unit (Unité d'hospitalisation spécialement aménagée)
UHSI	Interregional Secure Hospital Unit (Unité hospitalière sécurisée interrégionale)
UMCRA	Medical Unit in a detention centre for illegal immigrants (Unité médicale en centre de rétention administrative)
UMD	Unit for difficult psychiatric patients (Unité pour malades difficiles)
UMJ	Medical Jurisprudence Unit (Unité médico-judiciaire)
UNAFAM	National Union of Families and Friends of Mentally Ill and/or Disabled People (Union nationale des familles et amis de personnes malades et/ou handicapées)
UNCRPDUN	Convention on the Rights of Persons with Disabilities
USMP	Prison Health Unit (Unité sanitaire en milieu pénitentiaire)
UVF	Family living unit (Unité de vie familiale)
ZA	Waiting area (Zone d'attente)

Foreword

Like every year since 2008, the report of the *Contrôleur général des lieux de privation de liberté* (Chief Inspector of Places of Deprivation of Liberty, CGLPL) is an opportunity for the CGLPL to take stock of the situation of deprivation of liberty, analyse the follow-up given to its recommendations and report on its activities over the past year.

This year, in parallel to this report, the CGLPL is publishing "***Minimum recommendations to respect the fundamental rights of persons deprived of liberty***". They include, within an organised and easily accessible *corpus*, all the doctrine published by the CGLPL since its creation. Applicable in all categories of institutions where people are detained on the basis of administrative or judicial decisions, they are basic recommendations on which persons deprived of liberty, their relatives, those who care for them and those who assist them can rely to secure respect for fundamental rights. They are the "minimum" reference for the CGLPL's inspections.

The CGLPL monitors, with a view to prevention, the respect of fundamental rights from three angles: the recognised inalienable human rights of all, the rights that guarantee compliance with the rules, and above all, with restrictions on deprivation of liberty, and the rights recognised to all by the law but whose exercise can be hindered by detention. Its mode of action, inspections and referrals make it the inspector of the real world, not just of the law: what is inspected is the daily material reality of people in detention. Its numerous long and completely immersive missions provide it with real insight into these people's conditions and personal experiences. The legal changes requested by the CGLPL are the consequence of its field observations and of the concrete conditions of persons deprived of liberty, i.e. the fulfilment of their rights. Over the last 10 years, it has issued a large number of recommendations, for each of the 150 institutions inspected each year and also with regard to the policies implemented. And yet these recommendations are only imperfectly followed.

In order for persons deprived of liberty – often kept silent – to be heard, the CGLPL must be heard as well. Its constant presence in prisons, mental health institutions, custody facilities, detention centres and juvenile detention centres should be known to all and its recommendations should be followed.

For the past three years, the CGLPL has been asking ministers to report to it as regarding follow-up to its recommendations; this Annual Report will show that this year, this follow-up was complete for the first time. This means that the ministers questioned indicated, for all the institutions inspected three years ago, what actions had been taken in response to the CGLPL's inspections.

This is an essential stage in the life of the institution.

By publishing its minimum recommendations and the follow-up thereto, the CGLPL is providing a dual reference for those who work in various ways to promote respect for the fundamental rights of persons deprived of liberty: the professionals who take care of them, non-governmental organisations, and other independent government agencies. Within this set of actors, each has their role, distinct from that of the others, although they are all interdependent. In the CGLPL's texts, everyone may find a way of knowing whether the minimum set of rights is respected and whether the measures taken in a given place are appropriate and compliant with ministerial commitments.

Professionals, to start, are those who directly enforce the rights that the law grants to persons deprived of liberty: they provide healthcare or education, they inform, and they organise and maintain places of deprivation of liberty so that they are in phase with their mission of enabling persons deprived of liberty to return to life in society. They are the main target of the CGLPL's recommendations, and it is their good practices that the CGLPL highlights in its reports. It is also they who are capable of informing the CGLPL of anything that stands in the way of the daily exercise of their mission: a lack of

human or budgetary resources, excessive security precautions, the weight of the paradoxical orders they receive, or that of unsuitable regulations. They know that the CGLPL is at their service.

The role of non-governmental organisations in protecting the rights of persons deprived of liberty is also essential. In closed facilities, these associations not only provide assistance; they also witness the actual conditions of detention and the obstacles keeping persons deprived of liberty from exercising their rights. What they observe on a daily basis is extremely valuable; for them, referring cases to the CGLPL is a course of action they are using more and more frequently.

Lawyers are never absent from the group of people surrounding persons deprived of liberty: they support detainees in court cases, disciplinary proceedings and the adjustment of sentences; they advise foreign detainees and involuntary patients before the Liberty and Custody Judge; they assist children who have been entrusted to youth protection services or who are being criminally prosecuted; they support persons in police custody who so wish; they advise any person deprived of liberty before the administrative judge if this person considers that the conditions of their care constitute a prejudice for which they wish to obtain compensation. Their role in protecting the rights of persons deprived of liberty is fundamental, and the increase in the number of cases referred to them proves that they are aware of this.

The CGLPL's doctrine is at their disposal to inspire appeals, support arguments or back up claims for compensation. It is through lawyers' initiatives that the CGLPL's positions will be able to contribute to improving conditions of deprivation of liberty through judicial channels.

Other independent government agencies (IGAs) intervene to improve respect for the fundamental rights of persons deprived of liberty; these include the Defender of Rights and the National Consultative Commission on Human Rights. Their role is essential in both concrete and symbolic terms.

These three institutions, in their respective roles, participate in protecting persons deprived of liberty and above all give them a voice so that the legislation takes their situations into account, so that institutions are organised in such a way as to make rights effective and so that, should this fail to occur, everyone can benefit from assistance. Their complementarity is expressed through the concerted management of cases and through joint actions. Today, this is no longer a source of complexity or burden for persons deprived of liberty: misdirected referrals are rare and there are no doctrinal divergences. This complementarity and the singularity of each mode of intervention are assets for the protection of persons deprived of liberty. At once witnesses, spurs, influencers and whistle-blowers, these IGAs cannot be content with being respected and heard most of the time if they are not sufficiently listened to. Their role as watchdogs for fundamental rights is crucial and their necessity has been further reinforced since the time of their creation.

As I suggested during the celebration of the institution's 10th anniversary, it is necessary for Parliament, as part of its power of control over the Government's actions and the evaluation of public policy, to take up the CGLPL's observations, recommendations and proposals by organising, for example, public debates during which members of the Government involved in these issues could be heard.

As I have often said, the context has changed since the CGLPL was created 12 years ago. In 2007, the idea that detention could not be accompanied by violations of fundamental rights – and that it was essential to ensure that this was the case – seemed to be accepted.

Over the last decade, and even before the troubled period we are experiencing, where terrorism often serves to justify measures – first derogatory and then enshrined in ordinary law – that infringe freedom, we have seen a steady decline in the rule of law. I have had too many opportunities to reiterate this over these past six years; for some, it is freedom that has become an object of fear, and detention a short-sighted means of reassurance.

The CGLPL's doctrine is now available to all and the responses of ministers to its recommendations are made public. Anyone concerned by this information, in whatever capacity, is therefore in a position to point out to the institution any failure to adhere to its recommendations or to ministerial commitments. As required by law, the CGLPL will bring these testimonies before the Government, Parliament, international agencies or the public. Today, more than ever before, the protection of the fundamental rights of persons deprived of liberty does not belong to any one person; it is a responsibility to be shared.

Adeline Hazan

Chapter 1

Places of deprivation of liberty in 2019

Over the course of 2019, the CGLPL carried out 150 inspection visits:

- 34 mental health institutions;
- 22 penal institutions;
- 13 health facilities taking in persons deprived of liberty (secure rooms in hospitals and a medical jurisprudence unit);
- 5 detention centres and facilities for illegal immigrants, and waiting areas;
- 7 juvenile detention centres;
- 61 customs detention and custody facilities;
- 8 courts.

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

1. Mental health institutions in 2019

1.1 Overview of inspections carried out

Over the course of 2019, the CGLPL inspected 34 psychiatric units: 21 specialised mental health facilities; 11 psychiatric units in university or general hospitals; a unit for difficult psychiatric patients; and a Specially Equipped Hospital Unit[1].

These were initial inspections, with the exception of those of the Ain psychotherapy centre in Bourg-en-Bresse and the Saint-Etienne university hospital (CHU), which were inspected in response to emergency recommendations addressed to the Government in 2016 and 2018 and which will be dealt with in the section on follow-up to the CGLPL's recommendations.

The inspection of the Rouvray psychiatric hospital (CHS), which gave rise to emergency recommendations, will be addressed in the same section (see Chapter 2 of this report). In addition, one of the inspections carried out in 2019, that of the La Candélie hospital in Agen, resulted in the observation of patients' rights being infringed, which led the Chief Inspector of Places of Deprivation of Liberty to immediately refer the matter to the Minister of Solidarity and Health, asking her to carry out the necessary investigations to identify the causes of the dysfunctions observed and to offer essential support to the institution so that it could provide normal psychiatric care.

> The reception reserved for the CGLPL in psychiatric units is generally attentive and cooperative during the inspection and receptive to the end-of-visit

[1] *The full list of institutions inspected in 2019 is provided in Appendix 2 of this report.*

> observations. Recommendations, even when based on very unfavourable findings, are generally welcomed because staff members are often aware of the limitations of their own practices and are willing to overcome barriers to lifting them.

In only one case, when inspecting the psychiatric unit of a general hospital, the CGLPL found itself confronted with a unit that was closed in on itself and not very open to discussion; the hospital's management had indicated that it itself had experienced difficulty entering into discussion with this unit, whose managers had extensive experience in ensuring that nothing would change.

There are even cases of excessive responses to the CGLPL's recommendations. For example, in two institutions visited, the CGLPL's reservations were over-interpreted and instructions were immediately given to adopt a practice opposite to the previous one, without transition and without support. In such cases, an over-hasty reaction may directly provoke opposition that may lead to abandonment, or even spark concerns more unwelcome than the practice being criticised, both among patients and nursing staff.

Worse still are situations where the announcement of an inspection by the CGLPL causes immediate rectifications to be made, even before the inspectors' arrival. In one of the institutions visited, aware of its own weaknesses, the two or three days prior to the inspection had been used to make major changes in care. When the inspectors arrived, all that the nursing staff and patients had to discuss was the trauma caused by so many upheavals of which the inspectors were immediately and very widely informed.

1.1.1 *Patients as users of public services*

Emergency reception of patients

The reception of patients in emergency departments helps to guarantee their fundamental rights when they are hospitalised. However, this can generate organisational challenges for the hospital. Patients often stay too long in emergency departments, where they are placed under restraint, whether solely as a precautionary measure or due to a lack of suitable facilities (such as a calming room). Often, due to the lack of a protocol or training for emergency workers, there are not enough resources to manage crisis situations and the first line of action is to commit patients to involuntary care; it will then be difficult to lift the committal measure and in any case, it will leave traces in the patient's record.

However, in some of the institutions inspected, this issue has been successfully addressed. For example, CGLPL observed the operation of a psychiatric reception and admissions centre which plays an essential role by limiting committals to involuntary care during the 72-hour observation period during which adherence to treatment is sought. Sixty percent of committals to involuntary care are lifted within 72 hours of the committal procedure.

The overcrowding of institutions

Many institutions are constantly and significantly overcrowded, which determines their entire policy. When a closed unit no longer has any beds available for an arriving patient considered as requiring care in a closed unit, the patient is assigned to an open unit, which is then closed for them and therefore for all other patients staying there. Thus, overcrowding undermines the policy of openness and weighs on the conditions of patient care. Patients cannot keep their room when they are in seclusion and sometimes remain in a seclusion room after the end of the measure, the door simply being unlocked. Patients who have gone on leave are unable to return to their room or even their unit when this leave is over. Patients have to sleep on makeshift beds. Nursing staff and doctors are kept busy searching for beds and managing patient turnover, putting aside the organisation of activities.

> When regulatory measures are taken, they usually consist of dehumanised bed management, to the detriment of individualised care projects. As a result, patients

> are transferred from one bed to another, or even from one unit to another, sometimes in the middle of the night, without any respect for dignity or medical follow-up. The establishment of discharge plans is more difficult for patients who are hospitalised outside their sector unit and need medical-social counselling. On the other hand, there are early discharges for people who do not have housing problems. Adult patients are sometimes placed in seclusion in a child psychiatry unit, which traumatises some already fragile minors.

Overcrowding, which often affects regions whose population has increased without the means devoted to psychiatry having been reviewed, is often accompanied by a lack of human resources. Such difficulties can lead to the introduction of practices that undermine fundamental rights and dignity, with a tendency to formalise them to give them a veneer of normality. The organisation of care is then focused on managing the shortage, not on patient needs. A security force only serves to legitimise the daily disorganisation of units pooling the shortage at the expense of patients' care programmes, sometimes in a context of fairly high absenteeism.

Continuity between intra- and extra-hospital care

Most of the institutions inspected are committed to the organisation of real interactions between intra- and extra-hospital settings. In most cases, doctors share their practice with an outpatient activity in a mental health centre (CMP) and extra-hospital nursing staff take part in clinical meetings. There are some socio-cultural activities that are simultaneously open to patients in in-hospital and extra-hospital settings, and sometimes even to the entire local population.

However, there are often not enough facilities to take in patients upon their discharge from hospital. In this case, patients who could be discharged remain in the hospital due a lack of accommodation and partly contribute to the problem of overcrowding.

Defining a medical project

While some of the institutions inspected base their dynamism on the creation of intersectoral units and spaces for genuine medical or ethical exchanges, others still lack a medical project and spaces for consultation. The absence of medical reflection and of an ethics committee, sometimes even the absence of patient-carer meetings, or even of real clinical meetings within centres, leads to striking contrasts: some units have excellent operations, while others have shocking or inadmissible practices.

> Sometimes, doctors and nursing staff in each sector are at odds with each other, in polite but radical discord due to a different approach to psychiatric practices which leads to mutual distrust. Institutional meetings of practitioners are deserted and no pooling is possible, in particular for the organisation of an intersectoral activity centre, and this directly affects patients.

Conversely, even though intersectorality can be disappointing, causing this principle to be called into question for the organisation of care in adult psychiatry, the organisation of intersectoral activity centres continues to show its relevance. Several of the institutions inspected use this organisation to offer a very wide and original range of therapeutic activities with art therapy workshops, artist residencies, collective practices, outings, and a cafeteria, which in one case is open every day of the year.

The role of psychiatry in general hospitals

For psychiatric units in university or general hospitals, the question of whether psychiatry has its rightful place in the hospital, where it is often a marginal activity in terms of the number of patients and even more so in terms of funding needs, is a major concern.

Very often, this unit is not a priority and is restricted to remote, poorly maintained facilities without any individual rooms with sanitary facilities, activity rooms or rooms for receiving families. Sometimes, the menus served to psychiatric patients are more suitable for people with a somatic disease

who are admitted for a short stay than for young patients staying in hospital for several weeks. Lastly, the hospital's collective bodies (Users' Committee and especially Ethics Committee) sometimes have little or nothing to do with issues relating to psychiatry.

1.1.2 *Patients as objects of care*

Hospital care

Psychiatric care is primarily determined by doctors being present in units and by doctors and nursing staff being available to patients.

> There is a shortage of psychiatrists, affecting a significant proportion of the institutions visited. This has had many consequences. Patients and nursing staff have to deal with a succession of doctors whose skills vary widely. Many half-days go by without a doctor and patients do not always see the doctor at least once a week.

In some cases, patients – particularly those hospitalised on medical-legal grounds – see doctors only every two or three months, which does not prevent the drafting of monthly certificates in support of decisions to keep these patients hospitalised on an involuntary basis. Elsewhere, heads of centres rely on general practitioners who are not authorised to sign measures relating to involuntary care or decisions to seclude patients and yet do so without countersigning. The use of prescriptions "as needed" sometimes leads to injections being administered without a doctor necessarily being present to seek the patient's consent and check that the injection is really necessary.

The low availability of doctors is also having serious consequences for the governance of centres. Healthcare managers are in charge of their units, and most of the time they do a good job. But in this case, the units tend to operate under regulations, with more or less open "regimes", and with doctors contenting themselves until very recently with signing prescriptions. There is thus no authority capable of imposing the harmonisation of practices and patients are subject to widely varying behaviour. The competence of nursing teams is consistently recognised and seldom called into question. Nevertheless, it would not be desirable, as some institutions are starting to imagine, for them to gradually encroach on the powers of doctors.

Lastly, on weekends and public holidays, a will to not call on doctors sometimes leads to the entire medical department of a large institution being entrusted to an on-call intern who only has telephone access to a doctor authorised to sign certificates.

> The presence of nursing staff alongside patients may also be insufficient, with staff numbers consistently at the security threshold, which implies an ongoing state of operation in degraded mode; for a significant share of days and nights, they may even be below the security threshold. Exceptionally, the CGLPL has found that seeking interviews and activities with patients is not a priority concern. Nurses are often unavailable even when the unit is correctly staffed. Patients feel neglected.

In several institutions, medical care in psychiatry is accompanied by a desire to better control drug prescriptions and develop patients' autonomy with regard to their treatment: "drug workshops" are providing therapeutic education; pharmacy staff are working to train and inform medical and nursing staff; when necessary, prescriptions and their trends are being analysed; and working groups on seeking consent for certain specific treatments are being developed. These are all measures that should be extended.

> Lastly, the presence of peer mediators, i.e. former patients who have received specific university training to support those whose care is still under way, is helping to make patients feel more secure and be more attentive to their needs in one of the institutions inspected.

The availability of somatic care is highly dependent on that of the doctor. Many hospitals are faced with a shortage of general practitioners. As a result, the most necessary medical examinations are lacking, in particular upon admission and during placement in seclusion or under restraint. The somatic care required during stays is often provided in questionable conditions.

It is therefore rare to find cases in which access to somatic care is guaranteed, and even rarer to find cases in which a multi-disciplinary department of medicine, always present, offers the services not only of general practitioners but also of many specialists.

The implementation of care programmes

In many institutions, the CGLPL has observed that the use of care programmes deviates from the provisions of the Public Health Code. More time is spent inside the hospital than outside the hospital. This practice is sometimes institutionalised under the name of "hospital care programmes", which does not, however, mean it complies with the law.

That said, this practice corresponds to a need which is not, as may have initially been believed, a desire to bypass the Liberty and Custody Judge, who does not rule on care programmes but only on full-time hospitalisation. Rather, it may be a way of maintaining the involuntary care status of a patient whose discharges should exceed 48 hours, as this is not allowed under the involuntary care regime; it may also aim to get around cumbersome procedures for requesting discharges, or even refusals of this type of request by prefectures.

While the regulations applicable to care programmes may legitimately appear questionable in many respects[2], the frequent use of care programmes that are not really care programmes is a sign of the overly rigid nature of the legal regime of involuntary care and reflects the difficulty of setting up care programmes that comply with the law due to the overcrowding of mental health centres and day hospitals, and also, sometimes, due to the break between intra- and extra-hospital care. Moreover, even if this is not the institution's motivation, the status of these patients, who are nonetheless hospitalised on an almost full-time basis, means that they escape the oversight of the Liberty and Custody Judge, despite some patients having been in this situation for several years.

The CGLPL has also joined forces with the working group of the French National Authority for Health (HAS) on the preparation of a methodological guide to care programmes. This guide should meet clinical, non-legal needs. The nurses and doctors participating in the working group have emphasised the difficulty of implementing care programmes and would like for the system to be assessed before the guide is drawn up.

> The number of care programmes carried out under conditions that do not comply with the law and the lack of judicial control over these measures of deprivation of liberty are leading the CGLPL to recommend, on the one hand, a review of the legal regime of care programmes and, on the other, an analysis of the provisions for the overall regime of involuntary care that have led to the concept being corrupted.

Seclusion and restraint

The inspections carried out in 2019 confirm the findings reported in previous years. In principle, nursing teams have become aware of the traumatic nature of seclusion and restraint practices for patients and, apart from exceptional cases in certain institutions, have refrained from seeing them as a therapeutic

[2] *When care programmes were created in 2013, many psychiatrists felt that the home is not suitable for psychiatric care and that it is contradictory to want to provide involuntary care at home. Moreover, even without full-time hospitalisation, the care programme constitutes an infringement of liberty which it seems should be subject to judicial review.*

tool. There is growing understanding of the need to reduce their use; this is sometimes translated into practice for restraint, but less often for seclusion.

> However, institutional consideration of the objectives set by the Act of 26 January 2016, and of the recommendations of the CGLPL and HAS, remains insufficient.

Sometime, institutions even find semantic workarounds designed to mask the reality of the measure taken. While use of the word "restraint", which gives a rational and technical connotation to tying up a person, is shocking itself, the expression "intensive care room" is even more so: it places a security measure in a therapeutic semantic field and suggests additional intervention whereas any action taken is limited to supervision, sometimes until the effects of sedation set in.

> The CGLPL recommends that the vocabulary used to refer to seclusion and restraint not have the effect of masking the actual practices in force: in particular, it requests that "intensive care room" be replaced with "seclusion room" and that "attach" be used instead of "restrain" when this is what is actually happening.

The inspections showed a use of seclusion that, more often than not, saturates the available rooms, the number of which appears to be the most effective limit, unless, as is sometimes seen, this limit is circumvented by seclusion in ordinary rooms, often without any trace, over an uncontrolled period of time during which patients are poorly supervised.

> Decisions to use seclusion which, it should be remembered, is a security measure with no therapeutic indication, intended to protect a patient from a current or imminent risk, and which can only be made as a last resort, sometimes adhere to a different logic.

For example, some patients may be secluded due to a lack of staff available to care for them in an open environment, and some may remain secluded because no room is available to accommodate them; seclusion may even be near-disciplinary in nature, i.e. it may concern a patient who is not agitated and be motivated solely by an action they took in the past. More often, whether the practice has been implemented as a last resort cannot be verified, i.e. the list of measures taken to avoid seclusion has not been recorded and the measures taken to end it as soon as possible have not been listed.

Medical support for the decision is often lacking: the measure is sometimes taken by nursing staff based on "as needed" prescriptions and carried out in the absence of a doctor. When no doctor or only an intern is present in the institution, the arrival of a qualified psychiatrist may take more than a day. Somatic examinations, which are mandatory when the measure is taken and then every day, are also lacking because no doctors are available to perform them.

The conditions under which such measures are carried out are still frequently sub-human. For example, some seclusion rooms have no sanitary facilities, some have no windows, some cannot be ventilated, and some are only monitored via a video camera.

> Implementation of the Act of 26 January 2016 has progressed in form. All of the institutions visited now have a register of restraint and seclusion; however, these documents are often incomplete and are not meticulously filled in. They do not allow a clear understanding of the reasons for the decisions or the conditions of their implementation. Furthermore, they do not make it possible to assess the necessary and proportionate nature of the measures taken or compliance with the principle of last resort.

Reference can be made to the survey carried out by the National Union of Families and Friends of Mentally Ill and/or Disabled People (UNAFAM)[3] which, as part of of its participation in Departmental Commissions for Psychiatric Care, carried out a survey in 2018 on places of seclusion and on seclusion and restraint measures in 79 institutions, ensuring good representativeness. This survey's main findings are as follows.

On average, there is one seclusion room for every 19 beds, although this number can be doubled, which is an indicator of differences in the use of seclusion. The equipment of a significant proportion of these seclusion rooms does not comply with the HAS's recommendations and less than 10% of the units visited have calming rooms (separate but not closed). In addition, 20% of the seclusion rooms seen did not have sanitary facilities.

The seclusion and restraint register is in "paper" form in a third of the institutions, which means it is not entirely operational and is unable to produce the expected statistics. Fewer than half of the institutions have submitted an annual report to the User Committee (CDU) setting out the policy implemented to reduce the use of seclusion and restraint.

Lastly, the survey shows that patients' rights and dignity vary greatly and are better respected in psychiatric hospitals (CHSs) than in psychiatric centres integrated within a general hospital; seclusion rooms in general hospitals more rarely comply with the HAS's recommendations; "paper" registers are almost three times more frequent in general hospitals than in CHSs; and an annual report on seclusion and restraint has been submitted to the CDU in half of CHSs and only in a third of general hospitals.

These data confirm the CGLPL's findings in every respect.

The CGLPL recommends more strictly enforcing the provisions of Article L3222-5-1 of the Public Health Code, particularly in terms of verifying whether seclusion and restraint are indeed used as measures of "last resort" and also in terms of the actual measures taken to put an end to them as soon as possible.

The management of detainee patients

The management of detainee patients remains marked by a security-oriented approach that takes precedence over the consideration of care. In this respect, several types of measures undermine the dignity of these patients or reduce their access to healthcare.

For example, upon admission, detainee patients may be searched by nursing staff with a metal detector; they may be deprived of any packages or else shackled during transport. More frequently, detainee patients are placed in seclusion rooms throughout their stay, sometimes without access to an exercise yard or terrace, or they are required to wear pyjamas throughout their stay, including, even though this is exceptional, when they are brought before the Liberty and Custody Judge. In these cases, any therapeutic activity is impossible.

Only very rarely are detainees placed in a closed sector without being secluded, in which case they have access to activities like other patients; this situation should be the norm.

[3] *UNAFAM - La voix des CDSP - 1019 - Special Issue.*

1.1.3 *Patients as holders of rights*

Patients information

During each of its inspections, the CGLPL closely verifies how patients are kept informed about the following in particular:

- the measure of deprivation of liberty to which they are subject;
- their rights;
- the rules of the institutions they are entering.

These procedures are systematically followed by institutions, and yet they are usually ineffective. The division of responsibilities for this information is seldom very clear, and it is even less common for the various people in charge of delivering this information to be aware of its content and the issues at stake.

Most of the time, some of this information is given by nursing staff, but in many cases, even if everyone has a rough idea of what to say, they do not know who is responsible for providing the other information. It is also common for patients' rights to be learned "on the fly" or by "word of mouth", such that outdated expressions such as "involuntary confinement" persist. In a few rare cases, the CGLPL has noted a general lack of knowledge of the legal framework governing involuntary care, due in particular to a lack of specially trained persons of authority and institutional reflection on this topic.

> The CGLPL therefore reiterates the importance of nursing staff attending compulsory training on how to inform patients of their rights; a member of administrative staff should assist them in providing this information. In parallel with these measures, patients should be given the form notifying them of the measure and their rights.

Welcome booklets are most often silent on the issue of involuntary care when they are not, as in many general hospitals, silent on the topic of psychiatry itself.

The provisions on patient information and rights were codified in 2011. As a result, mental health institutions can no longer be considered as being in a transition or learning phase. The situation as observed by the CGLPL is not tending to improve. Appropriate measures therefore need to be taken to overcome this problem; for example, training modules should be developed and systematically offered to nursing staff and doctors when they are assigned to an institution authorised to take in involuntary patients. The CGLPL can use its expertise to support such measures, which are the responsibility of the Minister of Health.

Patients freedoms

The closing of psychiatric units is not legislated. The observations made in 2019 show a very diverse situation, ranging from a particularly open and liberal approach to a security-oriented approach that leaves little room for patients' freedom; there are also situations in which freedom of movement is vehemently affirmed but is restricted in practice.

This year, the CGLPL visited several institutions whose units are not or are only slightly closed and which nonetheless admit all patients, sometimes with "closable" single rooms that have two doors and, depending on the patient's condition, can be opened onto the normal corridor of the open unit or onto a closed space comprising a living area and a freely accessible exercise yard. In another unit visited in 2019, seclusion and restraint are no longer practised; patients are hospitalised at home and the sector only has 10 open-unit beds for 85,000 inhabitants, with no restrictions on freedom. There is a very

precise and efficient system for the organisation of care that relies on the common law healthcare and social welfare network. This sector treats all patients, including those with the most serious diseases. It is sometimes confronted with the weariness of some families who consider that more frequent hospitalisation would be more useful to them.

> Several hospitals have recently made progress in terms of freedom of movement: this is now covered by many institutional projects and is progressing overall, even though certain aspects can still be improved. Not all units in the same hospital, despite sharing a common objective, are progressing at the same speed.

Not all institutions have overcome the psychological barrier posed by the admission status of patients; some consider that any involuntary patient should be confined, while others rightly assert that any voluntary patient should be placed in an open unit although they close the units if there is not enough room for involuntary patients.

Freedom of access to rooms is not continuous everywhere: it can be hindered by the layout of the facilities or by the patients' inability to have a "comfort key" to their own room; patients may systematically be prohibited from visiting other patients' rooms. Elsewhere, however, keys allow patients to lock their rooms and come and go as they please; the park and cafeteria remain accessible regardless of the patient's admission status and no significant harm results from this freedom.

Even in a hospital that emphasises its commitment to respecting all forms of freedom, it may be the case that all units traditionally remain closed, including those that take in voluntary patients, who simply have to "ask" to have the door opened, which still constitutes a very restricted form of freedom. In this case, it is not uncommon for the closing of units to go hand in hand with an inversion of the principle of freedom: everything is allowed unless exceptionally decided otherwise by the doctor in the open sector, while everything is prohibited except with the doctor's authorisation in the closed sector: using the phone, going outside, smoking, etc. Sometimes the doors are only open during very narrow time slots.

Lastly, in many cases, security concerns take precedence over patient care and autonomy. Opportunities for leaving the unit are restricted even for voluntary patients and although some practitioners feel inclined to open the units' doors, this is not unanimously accepted within the institution. The number of staff present does not enable requests to be met, especially when the units are full, so patients have no other option than to stay in the corridors or in front of the television.

Lastly, let us consider a case where the doctors request that any constraint imposed on a patient reflect their choice of therapy, which therefore does not itself have to take admission status into account; they take medical responsibility for this choice. Challenging it would be tantamount to calling into question their know-how and medical power or contradicting the principle that seclusion, or "confinement", has therapeutic benefits, as do all restrictions on communication. Fortunately, this vision of psychiatry is tending to disappear.

The CGLPL is stressing a few principles: no voluntary patient should be confined; the admission status of an involuntary patient does not mean they should be placed in a closed unit; confinement is a security measure whose therapeutic value is not recognised in any medical literature.

> The issue of sexuality remains the subject of ill-defined prohibitions, which are sometimes absolute and are usually managed in conditions that do not provide patients with adequate protection. It should be remembered that a general and systematic ban on sexual relations is prohibited. Therefore, each and every institution should take this issue into consideration. It should aim to respect patients' freedom and take into account the need to protect them from unwanted pregnancies, sexually transmitted diseases and sexual violence.

In a small number of institutions, the CGLPL has observed that the issue of sexuality is addressed by nursing staff in their discussions with one another or even in their relations with patients. For example, in one unit, the issue of consent has been addressed with patients in the form of board games. Elsewhere, condoms are available on request but no information is provided. The issue of contraception is sometimes rather vaguely taken into account from a medical standpoint and the consent of female patients to the insertion of contraceptive implants is not always clear.

> Respect for the sexual freedom of patients can only be reconciled with the protection due to them following a collective reflection that should be conducted in all institutions under the aegis of ethics committees.

The systematic nature of certain restrictions imposed on patients is tending to diminish. Even in relatively closed institutions, mobile phones are no longer systematically confiscated; instead, individual restrictions are implemented according to the patients' clinical condition. When this systematic confiscation is still practised, the CGLPL's observations generally resonate with the institution's managers who have in each instance begun to address this point, including in units for difficult psychiatric patients (UMDs).

Access to computers and the Internet is often limited: procedures for keeping one's computer are restrictive, there is no Internet access except through personal smartphones, and very few units have computers that are freely available. In 2020, the CGLPL will publish an opinion on Internet access in places of deprivation of liberty.

> The CGLPL recommends that Internet access be possible for all, except in some medically justified situations: patients should be able to keep their personal terminals and have the network coverage required to operate them; they should also have open access to connected computers.

The conditions of visits are generally favourable: they are fairly open under the rules and are flexibly managed in practice. However, there are a few unjustified cases in which visitation times are very brief and are limited to narrow time slots; there are also situations where visits to rooms are banned even though the units do not have visiting rooms. Fortunately, such cases are rare.

Scrutiny by the Liberty and Custody Judge

The organisation of hearings with Liberty and Custody Judges (JLDs) has now entered a stable phase. Over the course of 2019, the CGLPL did not encounter any cases in which hearings were held in court, although it is regrettable that some were held in hospitals far from that of the patient. These transfers are unfortunate and sometimes dissuasive, but at least such situations are compliant with the minimum statutory requirements.

It can be rare for patients to appear before the judge. There was one observed case, admittedly extreme, where out of 52 patients who were supposed to appear before the JLD over a given period, only one actually was; for the others, there were 30 certificates of incompatibility and 16 "patient refusals" due to patients who seemed to have been discouraged by the nursing staff. Elsewhere, the rate of patient incompatibility with attending hearings or being transported is high, so that very few patients appear before the JLD, sometimes even against their will.

> It should also be noted that the CGLPL saw a patient in pyjamas appear before the JLD. Albeit, this only happened once, but it was enough to constitute a violation of dignity to which the judge seemed indifferent. It is highly advisable for the attention of Liberty and Custody Judges to be drawn both to the requirement that patients be brought before them personally and to the need for their dignity to be respected when this is happening.

Lastly, the timidity of judges and lawyers in the face of medical power raises questions. The CGLPL has seen judges refrain from pointing out irregularities in order to respect the medical decision

and protect the patient, while a prosecutor observed that the annulment of decisions that are justified in substance but irregular in form is not desirable: "it would constitute a danger to society as well as to the individual". Other judges stick to very formal scrutiny, which they present as such. In one of the hospitals visited, whereas a total of 591 orders were issued in 2018, only five hospitalisation measures were lifted.

It is true that judges are not encouraged to be daring by the lawyers, often court-appointed, who intervene before them. Although a few bar associations have made appointments for psychiatric hearings conditional on the completion of prior training, these are still rare. The dynamism of the case law generated by lawyers trained in this way should encourage others to imitate them. For example, a decision handed down on 26 September 2019 by a JLD of the Versailles (Yvelines) Court of First Instance lifted a measure of involuntary psychiatric care on the grounds of a manifest violation of the dignity of the patient who appeared in court in pyjamas and almost barefoot. The judge considered that such treatment constituted a direct violation the patient's dignity, tainting the entire measure imposed upon him with irregularity. He referred to Article L.3211-3 of the Public Health Code, which states that "in all circumstances, the dignity of the person shall be respected and his or her rehabilitation sought". However, such decisions remain exceptional.

The Court of Cassation's jurisprudence on psychiatry has ceased to be rare. This court has ruled on several occasions on appeal decisions made regarding the judgements of Liberty and Custody Judges. In 2019 for example, it:

- confirmed a release on the grounds that the requirement that the certificate be issued by a doctor not practising in the institution receiving the patient was not complied with[4];
- indicated that the starting point for the 24 hour and 72 hour time limits for establishing the need to maintain the measure is the date of the admission decision, regardless of the place of care[5];
- reiterated that a copy of the order for committal to psychiatric care must be sent to the Liberty and Custody Judge when committal to psychiatric care has been ordered by the prefect[6];
- ruled that any request filed by the prefect within the legal time limit of eight days from the admission decision is admissible, even if the JLD chooses to rule before the expiry of this time period[7].

But the most widely commented decision of the Court has been a judgement of 7 November 2019[8], which has sparked lively discussions among professionals. The Court considers seclusion and restraint, practised in an emergency unit prior to the decision to place a patient in involuntary care, to be medical "measures" and finds that it is not for the Liberty and Custody Judge to rule on the implementation of a medical measure, which is separate from the procedure of involuntary psychiatric care that is under his scrutiny. The debates that followed the delivery of this judgement hesitate between two interpretations. One is that the judge cannot examine seclusion and restraint measures because they are medical in nature, while the other considers that the judge may only examine seclusion and restraint measures if they are taken after placement in involuntary care, which marks the beginning of his jurisdiction.

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[4] *Cass. Civ. 1, 11 July 2019, no. 19-14.672.*
[5] *Cass. Civ. 1, 20 November 2019, no. 18-50.070.*
[6] *Cass. Civ. 1, 30 January 2019, no. 17-26.131.*
[7] *Cass. Civ. 1, 6 March 2019, no. 17-31.265*
[8] *Cass. Civ. 1, 7 November 2019, no. 19-18.262*

Whatever the interpretation, it cannot hide the fact that measures of real deprivation of liberty thus remain outside of the judge's scrutiny:

- what happens before the decision to place a person in involuntary care is in fact far from neutral. It is a de facto deprivation of liberty which may not be brief, for example in the Paris Police Prefecture's Psychiatric Infirmary, and which may take place in a tense or even violent context, particularly if restraint is used;
- the manner in which the measure of deprivation of liberty is implemented is also important. It should be kept in mind that the decision to place a patient in involuntary care does not entail any consequences other than the obligation to stay in hospital; it does not imply that of being confined to a unit, and even less so that of being confined to an unsanitary room or tied to a bed. However, in the current state of the law, these measures remain without judicial scrutiny, even though the Act of 26 January 2016 specifies that they are "decisions" and not "guidelines" and does not link them to any therapeutic intention but only to a security requirement.

The CGLPL reiterates that seclusion and restraint should be subject to judicial scrutiny. Articles L. 3211-12-1 and L. 3222-5-1 of the Public Health Code do not provide for this, but it is required under Article 66 of the Constitution, which states that "No one may be arbitrarily detained. The judicial authority, the guardian of individual freedom, shall ensure that this principle is respected under the conditions provided for by the law".

> The conditions under which involuntary care measures are carried out cannot be regarded as indifferent: confinement, seclusion, restraint, and restrictions on communication rights, freedom of movement or sexual freedom should be regarded as having adverse effects. They should therefore be subject to judicial scrutiny, which Article 66 of the Constitution is sufficient to establish. However, the timidity of lawyers and judges before this legal remedy requires that the law provide for more precise appeal procedures.

1.2 Topics of current interest

1.2.1 *National steering bodies*

The Government's general policy on psychiatry is coordinated by two collegial bodies: the National Council for Mental Health and the Psychiatry Steering Committee. The CGLPL is not associated with these bodies, but it keeps abreast of their work. The committee presented its activities to the CGLPL at a plenary meeting in February 2019.

In addition, the HAS has set up a Psychiatry and Mental Health Monitoring Committee in which the CGLPL is systematically involved.

Several of its activities are directly related to the CGLPL's missions:

- a programme on patient rights and safety and on involuntary care, in particular care programmes, will be implemented over the 2018-2023 period;
- a working group will review the conditions of seclusion and mechanical restraint practices with a view to simplifying them to make cases of partial seclusion more visible;
- the issue of the margin of appreciation when it comes to the very difficult task of defining matters of care and security, which is poorly understood by units, will also be studied.

The issue of care programmes was discussed in a first study meeting which showed the inadequacy of the current regulations. This finding corroborates those of the CGLPL, which during its

visits observes care programmes being used illegally, in particular with the aim of circumventing constraints linked to full-time hospitalisation in involuntary care. These findings could justify a review of all of the regulations relating to involuntary care, not only those dealing with care programmes.

1.2.2 *The role of CDSPs in monitoring the rights of involuntary patients*

Departmental Commissions for Psychiatric Care (CDSPs)[9] are responsible for examining situations of involuntary care. Each one is made up of two psychiatrists, a judge, two representatives of accredited associations of patients and of families of people with mental disorders respectively, and a general practitioner. The commissions choose one of their members as chairperson.

Act 2019-222 of 23 March 2019 on 2018-2022 Justice Programming and Reform repealed the provision requiring the presence of the judge, who in reality had quite frequently been chosen as chairperson.

The CDSPs are responsible for ensuring that the individual freedoms and dignity of persons committed to involuntary psychiatric care are respected. The presence of a judge in such a body undoubtedly helped to guarantee the effective exercise of this mission.

In addition, having a judge as a member of this body ensured a balance between the representation of the medical profession (two psychiatrists and a general practitioner) and the commission's other members, i.e. two patient and family representatives and, until 25 March 2019, a judge. The removal of judges from these commissions has thus inevitably and seriously undermined this balance, since from now on they will be composed mainly of doctors, which is likely to compromise their effectiveness.

Furthermore, the sole involvement of the JLD in reviewing the legality of measures of committal to involuntary psychiatric care cannot be sufficient to guarantee respect for the individual freedoms and dignity of the persons concerned, firstly because the CDSPs, insofar as they are in charge of "examining the situations" of persons committed to involuntary psychiatric care, are not limited to reviewing the regularity of the committal procedure and, secondly, because they have, as part of their various missions, an overview of how the institutions in their purview function. Their prerogatives allow them to exercise, with regard to the overall operations of institutions, scrutiny separate from that of jurisdictional and administrative controls, where the JLD's scope of action is limited to examining the regularity of individual measures. Lastly, these are the only bodies in which user representatives sit.

They also have jurisdiction to examine, among other things, the situations of people in care programmes who, once they are no longer hospitalised, will no longer be heard by the JLD.

Although the CDSPs are certainly not the only bodies authorised to visit psychiatric hospitals, the fact remains that their multiple jurisdictions guarantee an overall approach which remains unique and therefore indispensable, without prejudice to the involvement of the JLD or to the checks carried out by public prosecutors' offices or the CGLPL, which in no way deprive the CDSPs of their specificity and usefulness.

> As it wrote in a letter addressed to the Minister of Justice, the CGLPL recommends reversing, by all necessary means, the legislative amendment and reintegrating judges into the composition of Departmental Commissions for Psychiatric Care.

In principle, each CDSP's work is recorded in a report sent, "each year [...] to its jurisdiction's competent Liberty and Custody Judge, the State representative in the *département* or Paris's Prefect of Police, the Managing Director of the Regional Health Agency (ARS), the Public Prosecutor, and the

[9] *Article L.3223-1 et seq. of the Public Health Code.*

Chief Inspector of Places of Deprivation of Liberty". These reports are produced irregularly and vary greatly. While some are rich and present both the cases encountered and the positions taken by the commission, others merely list the commission's activities and movements. Moreover, some reports are never sent to the CGLPL while others are, but only very irregularly. Lastly, during its inspections, the CGLPL has observed that in some *départements*, the commissions are dormant or relatively inactive.

In addition to bringing judges back as members of the CDSPs, it seems that several measures need to be taken to boost their role. First of all, it would be appropriate for them to publish their annual reports in order to harmonise their content and raise awareness, in all institutions taking in patients committed to involuntary psychiatric care, of the CDSPs' recommendations to ensure respect for the individual freedoms and dignity of persons with this status. Secondly, it would be useful to set up a national body, constituting a reference point conducive to fine-tuning discussions, answering questions, harmonising the practices and actions of the commissions, and ultimately boosting their legitimacy.

> The CGLPL recommends that the Public Health Code provide for the publication of the annual reports of the Departmental Commissions for Psychiatric Care. It also advocates the creation of a national CDSP monitoring body.

1.2.3 *Secure management of care units*

The CGLPL has observed an increase in the number of interventions by security teams, or even the police, in places of care, for example for each opening of seclusion rooms, sometimes at the initiative of nursing staff or at the doctor's request. In such cases, simple operations such as the distribution of breakfast can be spread out over very long periods because the security teams visit the hospital units one after the other.

In one inspected institution, the service care project specifies that members of the security team "can attend medical interviews"; these measures are taken at the request of professional organisations of nurses. Elsewhere, the security team responds to every incident even though its members are not trained for longer than an hour and a half. In another institution, patrols are carried out by a dog handler in charge of night security for the site. Elsewhere, "prevention and security teams" can be mobilised for detainees, for support during JLD hearings, and for crisis management.

In the absence of internal security teams, the police may be called in, for example in the treatment area, for the admission or seclusion of detainees on the basis of an agreement or sometimes simply by phone. In some cases, it is simply a matter of showing uniforms to "calm" a patient; in at least one other case, the gendarmes indicated that they sometimes (rarely – once or twice a year – but for a small institution) physically participate in the seclusion and restraint of patients whereas they have received neither training nor awareness-raising on psychiatry. Elsewhere, custom officers visit the units with dogs at least twice a year to search for toxic substances. This security trend is developing and sometimes seems to be replacing certain care procedures, for example when searches for toxic substances are conducted, whereas medical addiction services are in a state of neglect.

There seem to be other similar trends, although hospital management teams sometimes contest this analysis. One example was the recent purchase in a hospital of 800 "hospital outfits" intended to provide uniform clothing for patients in closed units or, at the very least, for poor patients or those secluded in these units. Another example has been the installation of microphones in rooms to listen to patients, which is contrary to the respect of people's privacy and is not allowed by law.

These practices have the effect of making care disappear behind security; in the words of one nurse, "white disappears behind blue". They erode patients' trust in the care team and seriously undermine the confidentiality of care.

The CGLPL recommends that a national ethical debate be carried out with regard to security practices where non-medical third parties are involved in the care of patients; it recommends that locally, these only be implemented with the agreement of the ethics committee and on the basis of an explicit, published protocol.

On several occasions, the CGLPL has observed searches of patients using hand metal detectors as well as room searches, sometimes for an entire unit and sometimes just for one patient. In one of the institutions visited, there were even extremely precise criteria regarding the conditions under which they could take place and the causes that could justify them.

The CGLPL points out that security searches are only possible on the basis of a legal authorisation, which does not exist for hospitals. Therefore, searches for preventive, investigative or precautionary purposes are impossible. Nevertheless, in cases of extreme emergency, i.e. in the face of an identified present or imminent danger, it is the responsibility of medical officers to take the necessary measures to protect patients, which may involve searching for an object.

In light of the difficult choices that have to be made by nursing staff, the ethics committees of institutions should encourage exchanges on the issue of security searches in mental health institutions. They shall ensure that any decision leading to intrusive measures is precisely motivated and carried out in accordance with the principles of necessity and proportionality. The measures taken should be recorded and evaluated in a manner comparable to that used for an adverse event.

1.2.4 *Automated processing of the personal data of involuntary psychiatric patients*

In 2018 and 2019, two decrees of the Council of State (the second amending the first) have defined terms for managing the automated processing of the personal data of involuntary psychiatric patients[10].

The first decree authorises the HOPSYWEB processing of personal data for the management of involuntary psychiatric care in accordance with Article 26 of the Data Protection Act of 6 January 1978. The second authorises the linking of the data recorded in the HOPSYWEB processing system with the file of reports for the prevention of terrorist radicalisation (FSPRT), which is a database, managed by the Unit for Coordination of Counterterrorism, aimed at identifying radical Islamists who are in France and are likely to carry out terrorist actions. This linkage only concerns the information provided to the State representative in the *département* on committals to involuntary psychiatric care provided for in the Public Health Code and Code of Criminal Procedure and is intended to prevent radicalisation.

The first decree, which authorises an information system whose primary purpose is the administrative tracking of persons receiving involuntary psychiatric care, has been denounced by many healthcare professionals as a "big brother" record-keeping system and a dangerous amalgam between psychiatry and security. Indeed, it enables the personal data of patients involuntarily hospitalised to be electronically collected and managed by Regional Health Agencies (ARSs), in particular for the purpose of transmission between professionals and for statistical purposes.

Three appeals requesting the annulment of this text were lodged with the Council of State. The public rapporteur had recommended the annulment of three sets of provisions providing for the communication "only of the data and information from 'HOPSYWEB' processing necessary for the performance of their duties" to the administrative and judicial authorities; the use of personal data for

[10] *Decree no. 2018-383 of 23 May 2018 authorising the processing of the personal data of involuntary psychiatric patients and Decree no. 2019-412 of 6 May 2019 amending Decree no. 2018-383 of 23 May 2018 authorising the processing of the personal data of involuntary psychiatric patients.*

statistical purposes; and the retention of data for three years from the end of the calendar year following the lifting of the involuntary care measure.

These conclusions were not adopted by the court, which considered that the contested decree had "as its primary purpose the administrative tracking of persons receiving involuntary psychiatric care. It does not have the purpose or effect of laying down rules which, with regard to the fundamental guarantees granted to citizens for the exercise of public freedoms, would fall within the jurisdiction of the legislature under Article 34 of the Constitution". Consequently, the provisions which did not include any transmission of information not required for the performance of the recipient's duties as defined by law were not censored. The Council of State further specifies that "the provisions of Article 3 of the contested decree do not have the purpose or effect of authorising the recipients that they list exhaustively, and in a way that is sufficiently precise, contrary to what the claimants maintain, to access personal health data under conditions derogating from the requirements concerning protection of secrecy guaranteed by the provisions of Article L. 1110-4 of the Public Health Code". Only the measure that provided for the transmission of personal information to central administrations was therefore annulled since, according to the Council of State, these administrations only require aggregated information produced locally.

The second decree takes the same logic a step further. It allows the surnames, first names and dates of birth included in the identification data of involuntary psychiatric patients in the HOPSYWEB system to be linked to the identification data registered in the FSPRT. The Minister, questioned about this data linkage by a senator[11], cleared herself of any legal criticism: "no new exceptions to medical secrecy have been made: the decree is based on existing provisions of the Public Health Code, which states that the Prefect shall be informed of involuntary hospitalisations. The planned system systematises exchanges of information on hospitalised patients, particularly at the request of the institution's director. These exchanges are provided for by the Public Health Code, but current methods do not always allow this information to be transmitted in a timely manner. The Council of State, which examined the legality of the text, verified the existence of this legal basis before approving of its publication".

This legal reasoning, based on the idea that automated data processing is legal as long as it has no other purpose than to automate acts that are otherwise legal, is compelling. However, it cannot be ignored that the decrees of 2018 and 2019 represent a dangerous trend for freedoms. While all of the acts provided for by these texts are indeed legal when carried out manually, the fact of automating them gives them a systematic nature and ease of implementation which can in themselves constitute an infringement of individual freedoms. The CGLPL finds this trend to be unfortunate and can therefore only encourage civil society to remain vigilant in the face of measures which, although only technical, pose a risk to freedoms, while complying with rules at legislative level.

1.2.5 *The weight of forensic medicine on medical care*

Below is a testimony from a young doctor with whom a CGLPL member met during an inspection. It seemed relevant to the CGLPL to reproduce it here in its entirety, as it illustrates the difficulties encountered by professionals.

When the weight of forensic medicine influences medical decisions to the detriment of patients' rights

You'd asked me what I would change in my activity as a psychiatrist if I had a magic wand. My answer was oriented towards the weight of forensic medicine, which is already very present in the practice of psychiatry, and unfortunately,

[11] *Written question no. 11124 of Ms Pascale Gruny, Senate Official Gazette of 27 June 2019 - page 3321.*

its influence seems to be growing! I've only been working as a psychiatrist in a public hospital for a few years now and already this aspect is weighing on me and is involved in (far too) many decisions.

How can I fulfil my duty to provide medical care to my patients and respect their rights and freedoms, while at the same time being "designated" by society as a guarantor of security, which itself is merely illusory? I have the unpleasant impression that psychiatrists are the last link in a chain of "responsibilities" that are passed on from one person to the next until they land on a doctor's shoulders.

I could give multiple examples, but here are some highlights:

Placement in care at the request of a State representative (SDRE) is too often unjustified or excessive and based on "violent behavioural disorders" not linked to an underlying psychiatric disorder (alcoholism, drug use, antisocial personality, terrorist threats, etc.). This is a fairly easy (made easier?) measure to set up; however, by definition, it is a heavy responsibility to lift. You would need to be sure that the person would no longer have any behavioural problems, which is impossible to ensure, especially when there are risk factors for criminal dangerousness. What decision should you make then? Keep the patient in hospital "as a precaution"? Or respect their rights and discharge them all while exposing yourself to a charge of professional misconduct were a new event to occur?

In other reverse situations, the psychiatrist may encounter obstacles when attempting to secure the discharge from psychiatric hospital of patients whose clinical condition seems compatible with permissions to leave or with permanent discharge. Stabilised SDRE patients are often denied permission to leave by the Prefect for the simple reason that "they have been committed to SDRE care" or "because they have not yet left the hospital on their own". These reasons could be used ad infinitum. In addition, there are rumours that the prefecture may systematically refuse to grant permission to patients committed to SDRE care if the psychiatrist does not specify on the permission request that there is "no risk of dangerousness". These refusals prolong the hospitalisation of patients and can even disrupt their psychosocial rehabilitation projects, at the cost of a security policy but to the detriment of their freedoms.

It seems to me that the amalgam between "violence" and mental illness is the central issue here. The consideration of mentally ill people as violent by definition implies that psychiatrists know how to "treat or even cure" this violence and therefore can tell when this risk no longer exists. Violence is by no means a characteristic of psychiatric disorders and psychiatrists are in no way trained to treat it or to assume this responsibility. Increasingly, psychiatrists are being assigned non-psychiatric problems that society is seeking to impose on them (terrorism, domestic violence, etc.).

To conclude, I would like to point out that, in addition to violating patients' rights and freedoms, this forensic burden is clearly adding to the mental load of psychiatrists working in public hospitals. It is contributing to their exhaustion, thus possibly leading to their withdrawal from public service or driving away young doctors who prefer to work in the private sector: this is sustaining the public hospital crisis.

2. Penal institutions in 2019

2.1 Overview of inspections carried out

In 2019, the CGLPL inspected 22 penal institutions: 11 remand prisons, four prison complexes, three long-term detention centres, three prisons for minors and one long-stay prison[12]. All these institutions were inspected at least for the second time; the prisons for minors were inspected for the third or even fourth time. Two of these inspections will not be covered in this chapter: that of the men's remand prison in the Fresnes prison complex, which was intended to monitor follow-up to the emergency

[12] *The full list of institutions inspected in 2019 is provided in Appendix 2 of this report.*

recommendations made by the CGLPL in 2016[13] and will therefore be dealt with in the chapter on follow-up to recommendations; and that of the Nouméa prison complex which, having given rise to the publication of emergency recommendations in December 2019, will be dealt with as such.

2.1.1 *Material conditions*

In most of the institutions inspected, but especially in the remand prisons, the premises are in pitiful condition, are quickly deteriorated due to overcrowding, and are poorly maintained due to a lack of appropriations and the inability to free up the necessary cells to perform repairs. Pests, especially rats and bedbugs, are not uncommon, the sanitary facilities are in poor condition, water tightness is not ensured, hot water is random, the surroundings of the buildings are dirty and the exercise yards are degraded. There are still some institutions where the toilet, not separated from the rest of the cell, can be seen through the door viewer.

> Under such conditions, most renovations are carried out on occupied sites, which precludes both complete reparation of property damage and overall revamping of the institutions. In its 2019 reports, the CGLPL stated twice that such measures would not be sufficient to resolve the difficulties observed.
>
> In many cases, the budget shortfall encountered for work involving prison conditions is less significant when it comes to carrying out security work.

However, it should be pointed out that, despite their age, there are some clean and well-maintained institutions, which tends to show that, despite budgetary and material difficulties, sustained attention can significantly improve detention conditions, at least in long-term detention centres that are not, by nature, overcrowded. It should also be noted that the organisation of school camps often enables communal areas to be repainted on a regular basis; moreover, some institutions make paint and supplies available to prisoners who wish to repaint their cells themselves. Such initiatives, although not sufficient, make a useful contribution to improving the premises.

Lastly, it should be pointed out that the dirtiness that is sometimes observed can also be due to a lack of small supplies (rubbish bags, cleaning supplies, etc.).

The CGLPL also encountered several situations where food service had serious weaknesses. In one institution, the kitchen helpers are left to their own devices due to the absence of a technical assistant, so that health and safety standards are not met. In several cases, the conditions in which meals are distributed are such that prisoners eat cold food or do not receive the necessary quantities of food.

More seriously, it has been noted in both minors' wings and prisons for minors that the quantities served are not sufficient, even though the regulatory weights seem to be respected. Detained minors complain about a lack of food and fend off hunger by buying various sweets which, on the one hand, are not within everyone's reach (which can cause trafficking or pressuring) and, on the other, have well-known nutritional disadvantages. It therefore seems necessary to review not only the management of but also the rules governing food for detained minors.

> Detained minors regularly complain about a lack of food, even when there seems to be compliance with the regulatory standards; they compensate for this lack by eating too many sweets. It is therefore recommended that the relevance of the current standards for the nutrition of minors be reassessed.

[13] *Emergency recommendations on the men's remand prison in the Fresnes prison complex, published in the Official Gazette of 14 December 2016.*

2.1.2 *Staff*

The observations made in 2019 confirm those of previous years.

First of all, the number of warders present in detention directly influences respect of the prisoners' rights. There are three reasons for the insufficient presence of warders: the inadequacy of the reference organisational charts, particularly in the event of overcrowding; a high rate of absenteeism; and a high number of "protected positions" outside of detention.

> In several institutions, including one prison for minors, the CGLPL has observed that warders – too few in number – run about all day long with the sole aim of performing basic supervisory tasks, which prevents them, firstly, from taking the time necessary to ensure that the prison population is properly cared for, based on their knowledge of this population, and secondly, from carrying out the individual movements necessary to provide all inmates with access to the services intended for them (healthcare, individual student interviews, education, etc.).

There are many institutions that frequently, if not regularly, operate in "downgraded mode". For warders, difficult working conditions lead them to face insecurity and sometimes cause them to be permissive, which exacerbates the situation of insecurity and can make them give in to corruption.

Second of all, the importance of the role of management staff, especially its very presence within detention, should be highlighted. It is indeed this management staff that ensures the smooth operation of the detention units, provides necessary assistance to the warders who need it, and oversees their behaviour. It is not insignificant to note that institutions where the management staff never visits the detention area experience operating difficulties (management of movements or canteens, processing of requests, relevance of work in a single multidisciplinary committee (CPU), etc.); they also, as shown by a thematic report published in 2019 by the CGLPL, experience more serious situations of violence than elsewhere (see Chapter 2).

2.1.3 *General climate*

The quality of treatment depends on the relationship between warders and the prison population. The inspections carried out in 2019 showed significant differences in how these relationships are viewed and managed.

In older facilities, where everyone suffers from a lack of space, good-quality relationships are sometimes established where the warders, who are often highly loyal, are dedicated to maintaining close human relations with the inmates. The management staff often works actively on a day-to-day basis to promote this mindset. Requests are heard, rules are applied flexibly, and the prison population seldom criticises the warders. In a long-stay prison, this form of benevolence can even go so far as to make inmates sentenced to long terms feel comfortable or safe, which can sometimes make them panic at the thought of release.

However, opposite attitudes are not uncommon. For example, a lack of communication with the prison population or a purely verbal mode of functioning can give the prison population the feeling that it is subject to arbitrary rules that fuel distrust of the warders that soon becomes mutual.

It is also not uncommon for this distrust to be rooted in facts. For example, in one prison for minors, a dangerous situation arose when a youth worker indicated that detained minors had reported acts of violence involving prison staff. Although the administration correctly dealt with these acts by

dismissing the offending staff, the atmosphere in the institution was nevertheless marked by mutual distrust for a long time.

> There are also situations where a minority of the warders or one of the teams of shift-workers identified by the inmates adopts a disrespectful attitude towards the prison population or external participants, or carries out practices that may be detrimental to the inmates. For example, activities may be cancelled because no inmates have been called to attend. In some cases, the weight of old habits leads to resistance to any change in practices or even to the criticism that "too much is being done for inmates and not enough for staff".

In other cases, there is little interaction between prisoners and warders, among whom there are two main states of mind: indifference, and a will to assert one's authority at all costs and at all times. Some are consistently overzealous. Sometimes even the hierarchy, which does not ignore them, is powerless to stop them.

2.1.4 *Internal order*

Violence

All of the inspected institutions are, albeit unequally, confronted with acts of violence. This can be physical violence between inmates, especially in exercise yards, verbal violence on the part of staff, "passive" violence, by inertia, in the form of failure to respond or react, or violence against staff. Various forms of trafficking and tension related to overcrowding and lack of space are often at the root of these acts. Unless there are traces of such violence in the form of injuries, everyone often tends to turn a blind eye, and the victims themselves are often reluctant to report it; it is not uncommon for them to ask the doctor not to do so. The acts of violence are therefore difficult to characterise because testimonies are scarce and lacking in detail. There are usually no CCTV images.

The Prison Administration Department has indeed undertaken to guarantee the retention of images as soon as acts of violence are reported to it by the CGLPL, but this reporting often occurs too late for there to be time to do so. It is therefore necessary that CCTV images be stored centrally, in conditions that do not allow them to be modified, and for a sufficient period of time to enable reports to be made.

The administration should fulfil its obligation to protect inmates from violence. Weaknesses have also been observed in this area. It is not uncommon for some inmates to be afraid to go out for a walk for fear of being attacked. This feeling of insecurity is heightened under the "open-door" regime, where warders are not always present, and when there are places not covered by video surveillance which quickly become places for settling scores. In some institutions, protection is only possible if the request is based on specific information that people in vulnerable situations are often reluctant to give for fear of reprisals.

The frequency of violence often leads to its trivialisation and professionals, including healthcare professionals, who must also mentally protect themselves, are often resigned to the idea that prison is naturally and inevitably violent and that there is nothing to be done if the victims themselves do not ask for help. In one of the inspected institutions, violence is so commonplace that the public prosecutor's office is not informed in real time of such acts, which it deplores.

Discipline

The management of disciplinary procedures varies widely. Rights of defence are in principle formally respected, but there are still some institutions which lawyers, although informed, do not visit. The directors then have to appeal to bar associations.

> In a few cases, overburdened disciplinary committees are only able to deal with cases several months after the fact. Sometimes, although the disciplinary committee rules quickly, there is a waiting list for the execution of punishment wing sanctions, making them essentially meaningless.

For minors, disciplinary committees are often frequent and deal – with a degree of moderation and with respect for rights of defence – with incidents that seem minor and for which punishment tends to fall into the category of good-order measures. Punishments are then moderate and are sometimes not very educational, most often involving deprivation of television and meals in cells, and sometimes an obligation to write letters of apology. In the event of such measures being imposed for excusable acts, it is necessary to ensure that the referral to the disciplinary committee has no influence on the minor's criminal record and, in particular, that it does not deprive them of sentence reduction credits.

Conditions of solitary confinement

Penal institutions use four types of measures to confine inmates: at the request of the judge for remand prisoners; at the inmate's request, to protect themself; by decision of the administration for behaviour that is lastingly incompatible with continued ordinary detention; and lastly, time-limited confinement for the implementation of a disciplinary sanction.

> The living conditions of the people thus isolated from the rest of the prison call for the CGLPL to issue some major reservations. The notion of solitary confinement is indeed understood in everyone's minds as needing to be accompanied by harsher detention conditions.

Several of the institutions inspected in 2019 had disciplinary or solitary confinement facilities that were described as filthy and, in one case, their immediate closure had even been requested. Punishment and solitary confinement wing cells are bare and dark, even for long stays, the exercise yards are merely cramped, damp spaces devoid of everything and are often covered with various gratings darkened by plant debris, the cells are often preceded by a vestibule, sometimes equipped with a handcuff hatch, boredom reigns, and the prisoners have a radio that they cannot in principle adjust themselves and exceptionally a meagre library. The opening conditions for the vestibules are so draconian that even medical or social interviews and the delivery of meals sometimes take place through the screen. The CGLPL's inspectors themselves, who never talk to inmates through screens, sometimes had difficulty getting the vestibules opened.

There is no justification for this. The seclusion or punishment measure may indeed require solitary confinement, but this in no way justifies these degraded material conditions of detention. Moreover, seclusion, which always has a motive, does not justify any restraint that is not necessary in the light of that motive and proportionate to the objective of the measure. Thus, a person placed in seclusion who needs to be protected should only be isolated from those threatening them, and there is no reason why they should not be able to meet other people isolated for the same reason or why they should have to go out for air in a filthy yard when it would be sufficient to open a normal exercise yard for them at a specific time. Lastly, if the implementation of disciplinary sanctions needs to result in the person's confinement, there is nothing to prevent this from taking place under normal conditions of detention, including in their own cell.

Lastly, one of the inspected prisons for minors has devised a new form of confinement in a "break-proof cell", which has not yet been built. This is a "choice of treatment made as a precautionary measure, out of concern for order and security, to protect young occupants awaiting appropriate healthcare or a transfer". The reference document states that placement would occur "in the event of a risk of hetero-aggression or an outburst of aggression and violence"; the inspectors were then told that this would also concern minors who break their furniture on a recurring basis. It was stated that during this time, young people will be able to go to school and participate in activities. The CGLPL has strong reservations about such a project. It reiterates that any emergency confinement should be followed by

appropriate management immediately, i.e. within 12 hours at the latest, and that any form of confinement should be based on a law and applied following a procedure that respects rights of defence.

> Lastly, attention should be drawn to the practice of singling out a part of the prison population via signs, of any kind, that are visible to all and that impact the care provided. For example, red cards may be stuck on cell doors indicating that they should only be opened in the presence of two warders and a prison officer, while yellow cards are used when only two warders are needed. Such a system has the effect of stigmatising part of the prison population in the eyes of the other inmates but above all, it causes professionals to limit their exchanges with all the inmates in question.

2.1.5 *Searches and the use of means of restraint*

In none of the inspected institutions, with the exception of the long-stay prison, are searches carried out in accordance with legal provisions. Searches are generally still very frequent, they are unwarranted, and they do not respect the principles of proportionality and necessity. Decisions to search are informal (a mark in front of the chosen names on the visiting-room list, for example) and unjustified, and sometimes they take the form of lists drawn up for three months, which all the inmates know, but which makes the searches so predictable that they necessarily become ineffective and merely punitive. In other cases, decisions are not individualised and the measures taken are neither notified nor recorded.

> Furthermore, it is regrettable that searches are systematically carried out in certain open wings, that the absence of an agreement with the police forces can lead to the same inmate being searched four times during a medical extraction, and that pat-down searches are systematically carried out when prisoners leave their cells.

All of the inspections carried out show that the institutions' search policies are neither formalised nor recorded and that the procedures and controls imposed by law are not applied. Most of the time, the number of searches is beyond the control of the management staff and hierarchical guidelines are interpreted as minimums and not as limits. Therefore, the principle that prevails is that of precaution, from the warder's point of view, which in practice no one disputes. This should be seen as a consequence of the disciplinary policy implemented by the prison administration: a warder risks a sanction for any incident whereas unawareness of prisoners' rights is never sanctioned. As recommended by the CGLPL on numerous occasions, this disciplinary policy should be reversed.

> Each institution should formalise its policy on searches to ensure compliance with the provisions of the Prison Act and the traceability of the searches carried out. Reasons should be provided when decisions to search are made, in order to justify the necessity and proportionality of the measures taken.

Lastly, it should be noted that the quality and quantity of search facilities are often insufficient; in some cases, their absence leads to searches being carried out in shower areas.

> The use of means of restraint frequently disregards the principles of necessity and proportionality. The classification of prisoners into "security levels", which allow the restraints imposed on them to be graded, is in practice inoperative, except in the inspected long-stay prison, where persons classified in the "escort 1" category are escorted without any means of restraint, which is in accordance with the regulations but is exceptional.

Elsewhere, there are cases in which no one is classified in the "escort 1" category, others in which levels of classification are distributed but are revised before extractions, enabling handcuffs and shackles to be used, and still others where handcuffs are simply put on systematically, without

consideration for either the theoretical level of classification or the behaviour of the inmate. It is not uncommon for management staff to be unaware of these practices, or so they claim.

This should be seen as both the persistence of a dated prison culture and the application of a precautionary principle "from the warder's viewpoint", which has already been mentioned in relation to searches. The CGLPL therefore reiterates its long-standing recommendation to replace the obligation of result weighing on warders for proper escorting with an obligation of means.

> Warders should be under an obligation of means and not an obligation of result to ensure that extractions are carried out properly. Thus, once they have carried out searches and used the means of restraint reasonably necessary in light of the inmate's classification and behaviour, they should not be held responsible for any incident. Conversely, unnecessary or disproportionate outrages upon the dignity of inmates should be sanctioned.

2.1.6 *Open wings*

The CGLPL's inspections once again highlighted the poor use of open wings (QSLs), depriving penal policy of an important rehabilitation tool. For example, some open wings close their doors at around 5 p.m., preventing the persons they take in from participating in a large number of activities. More often than not, open wings are places of punishment and abandonment, as if being in an open wing itself was seen as a sufficient benefit that need not be supplemented by other amenities.

> Some open wings do not have exercise yards or sports facilities, while others do not have telephones, even though, against all logic, inmates with mobile phones continue to be deprived of them all day long. There are often no communal living areas or facilities, the cell doors are sometimes kept closed at all times, and searches are systematic when the prisoners return in the evening.

As a result, there is little demand for the open-wing regime, even though it has significant benefits in terms of rehabilitation. The CGLPL therefore recommends that the administration conduct an overall assessment of the living conditions in open wings so that maximum benefit may be derived from this measure.

> It is recommended that the conditions of detention in open wings be covered by an overall assessment.

2.1.7 *Health*

The institutional organisation of access to healthcare is rather inconsistent. While there are cases where there is a smooth flow of information, in compliance with medical secrecy, these are not the most frequent. The prison administration and integrated hospital units in prisons sometimes show mutual distrust. There are healthcare teams who refuse to share any information, even if it is not covered by medical secrecy, whether inside or outside of single multidisciplinary committees (CPUs). This attitude can sometimes go against the patient's interests.

As long as two conditions are met – respecting medical secrecy and acting in the patient's interests – several forms of sharing are possible and should be chosen according to local conditions: the participation of nursing staff in CPUs on the condition that they have clear instructions on the extent and limits of this participation, or the holding of ad hoc meetings outside the CPUs when these enable information to be exchanged as quickly and completely as required.

> In each penal institution, a protocol should organise relations between the health unit and the prison administration in order to guarantee smooth exchanges of information necessary for the

care of inmates, in a way that benefits their own interests and complies with rules of medical secrecy.

Regarding the serious issue of confidentiality of care during extractions or stays in secure rooms, see point 3 below.

There are also significant differences in the provision of care between institutions. Although everything necessary for good access to healthcare (suitable premises, radiology and dental care equipment, facilities for telemedicine and good coordination on the part of specialists, particularly for somatic and psychiatric care) is available in some newer institutions, such situations are rare.

> In the majority of institutions, there is a shortage of doctors and nursing staff. Dentists, physiotherapists and psychologists are particularly lacking. Medical extractions, burdened by excessive security requirements, are often cancelled due to a lack of resources, and permissions to leave on medical grounds are still rare, although one institution said it expects their principle to be accepted by sentence enforcement judges in the near future. In one of the inspected institutions, the health unit was so weak that inmates, with at least the tacit consent of the warders, resorted to reporting their medical problems outside of the health unit's opening hours in order to be directly treated by emergency services.

Lastly, as suggested by the CGLPL, the HAS has decided to modify its method of certifying healthcare institutions to take the existence of health units in prisons into account and to assess the quality of care provided to prisoners. The CGLPL has proposed several improvements which aim to ensure that the health units of penal institutions are certified under the same conditions as other hospital units.

2.1.8 *Suicide prevention*

Suicide prevention is often the subject of insufficiently thought-out or formalised measures. Sometimes it is based exclusively on the relationship with the warders, on specific night watches, or above all on the presence of one or more "cell mates" to whom no support is offered. It is often only after a large number of suicides or particularly traumatic suicides have occurred that prison and medical staff are jointly trained in suicide prevention or in the signs of mental illnesses.

> The CGLPL has been contacted on numerous occasions by inmates, considered by the prison administration as being at risk of suicide, who have been placed under a regime of "special surveillance" which amounts to waking them up every two hours to check on their condition. Although considered particularly traumatic by the inmates concerned, this practice continues despite guidelines to the contrary. In cases where such surveillance is necessary, this should be taken as a sign that hospitalisation is required.

In cases where the health unit does not participate in any CPU, the hierarchy does not dare to lift the special surveillance scheme intended to prevent suicides; in one of the inspected institutions, warders even affirmed that "during night rounds, they wake everyone up because it's easier".

The use of "emergency protection cells" (CProUs) and "emergency protection kits" (DPUs) is poorly regulated and has poor compliance; sometimes the CProU even serves as a storeroom. The length of stay in the CProU sometimes exceeds the time of the crisis or the transfer to hospital and medical follow-up during this stay is not recorded.

In this context, the number of suicides in detention continues to be a cause for concern. It calls for the strengthening of preventive measures, in particular the training of prison officers in detecting risks of suicide, in order to encourage the early provision of hospital care for the persons concerned.

People at risk of suicide require medical care. In order to encourage early management of the risk of suicide, prison officers should be trained to detect this risk.

The CGLPL met with the French Red Cross in January 2019 to discuss the issue of peer support from fellow prisoners.

Peer support from fellow prisoners is a primary mechanism for preventing suicide in detention. The administration selects, on a voluntary basis, inmates who will formally participate in suicide prevention in the institution. The system of peer support from fellow prisoners was first tested in the Villepinte remand prison in 2010. It was gradually extended to several institutions. In 2015, the Inspectorate-General of Social Affairs (IGAS) and the Inspectorate-General of Judicial Services (IGJS) issued a report in which they recommended introducing the system of peer support from fellow prisoners in institutions with more than 600 places.

The Red Cross trains prisoners involved in the peer support scheme and Red Cross volunteers are responsible for running a support group in institutions where the scheme has been set up.

This system has produced mixed results. Without any hindsight as to the system's effectiveness and given the lack of freedom that the association has in its implementation, there has been no real evaluation of the system to date, although such an evaluation would be necessary for its long-term survival. The association has encountered difficulties in implementing the scheme: people selected as peer-support prisoners have not had an appropriate profile and the administration sometimes tends to equate an association made up of volunteers with a paid service provider. The system should not be instrumentalised by the administration in periods of "suicide waves".

The CGLPL does not consider the system of peer support from fellow prisoners to be a relevant method of suicide prevention in prisons. It poses a risk of responsibility being transferred from warders to a prisoner. The issue of the medical department's involvement is also problematic, as it may be asked to give an opinion regarding the selection of peer-support prisoners. And yet this opinion seems to run counter to the notion of medical secrecy. Lastly, the instrumentalisation of the scheme by prisoners themselves can raise questions, as this mission, which is supposed to be voluntary, cannot be overlooked during sentence adjustment.

The CGLPL asks that the ambiguities that currently mark the situation of peer-support prisoners be lifted before any potential extension of the scheme.

2.1.9 *Prison overcrowding*

The observations made by the CGLPL in 2019 in terms of prison overcrowding do not differ greatly from those of previous years. Here we will not review the causes and consequences of overcrowding, which were widely analysed by the CGLPL in 2018, nor will we go over the recommendations that were issued on this topic. We will simply give a few examples illustrating this phenomenon.

For the first time in 2019, the CGLPL observed overcrowding in a prison for minors where two children were sleeping on mattresses on the floor. With all the cells being occupied, young people had been placed in the "reinforced regime" even when their behaviour did not fall within its scope.

In at least two interregional directorates, the desire to alleviate overcrowding in remand prisons has led to places in long-term detention centres being used to accommodate prisoners with short sentences (of around 10 months) who do not come under the jurisdiction of such centres and who therefore find themselves confronted with a violent climate for which they are not prepared. These people often reach the end of their sentence without leaving their cell.

The long-term doubling-up of cells has become commonplace, with the result being that institutions have found themselves structurally in a position to cope with significant overcrowding,

although merely in terms of sleeping capacity. Neither the available surface area nor the human care capacity of the institutions has increased.

Overcrowding is aggravating other issues: there are not enough teachers (the waiting list is long), the lack of work is not compensated for by an increase in the number of auxiliary staff, which remains constant, and movements are always lagging behind. Institutions are thus caught between overcrowding and a lack of staff.

In the inspected women's institution, the capacity of the wing reserved for detained mothers with young children was exceeded: there were 13 babies, whereas the nursery can only accommodate 10.

These findings only reinforce the recommendations made by the CGLPL in 2018.

2.1.10 *Differentiated regimes*

The inspected institutions implement a wide range of detention regimes, but these tend to deviate both from their theoretical definition and from the detention regimes intended for each category of institution.

"Respect regimes" are designed to promote the autonomy and empowerment of inmates by offering them more internal freedom and a guarantee of activity. The CGLPL has endorsed their principle to the point of recommending that this form of detention become the common law regime from which it would be possible to derogate, in a reasoned and personalised manner, if a closed regime were to prove necessary. However, it points out the risk of these regimes, particularly under the pressure of overcrowding and a lack of resources or activities, deteriorating and becoming mere methods of managing detention.

For example, it is most often observed that the activities are not up to the project's standards and that "activity" committees are not active and no skills development is possible. There is a lack of communal facilities; access to exercise yards and even showers, which should be free, is regulated; and, increasingly, doors are closing. The regime has evolved to such an extent that inmates sometimes prefer to stay in a classic open detention centre wing where the doors are no less open, but where there are in practice fewer constraints because this wing lets them escape from condescending "merit" and "demerit" point systems that have now lost all consideration.

> During its inspections, the CGLPL encountered some long-term detention centres whose regime fits with the objectives of this category of institution: where a small proportion of people are detained under the "closed door" regime, while the others, under the "open door" regime, are able to move freely within their building during long periods of time. Some freedom of unescorted movement between buildings is also offered, empowering prisoners by enabling them to autonomously access, for example, the medical unit, work, training, education, activities, laundry or the exercise yard.

More detention centres, however, are tending to reduce these liberal practices. "Closed detention centre" wings are losing their meaning: deprived of their autonomy, inmates no longer have free will for many things, their assessments are limited, and most importantly, no one goes looking for those staying in their cells. When there are activities such as those planned for an open detention centre, the closed door regime makes movements more cumbersome, in such conditions that access to these activities is reduced because everything is done with delay. Elsewhere, free movements are limited to one wing, or even one floor, so that possible occupations are rare, sometimes taking place in an "activity room" barely larger than a cell, with no equipment other than a weight-lifting machine. Everyday activities such as laundry and communal cooking are not possible. Sometimes, there are

incomprehensible differences between the two regimes, for example, with regard to access to family living units (UVFs).

The conditions for switching from one regime to the other are largely left to the discretion of the building manager – without passing through the CPU, and with no decision being issued – sometimes by "double penalty" after a disciplinary sanction. Then, the "closed door" regime becomes a disciplinary version of the "open door" regime, the relationship between the two sometimes being theorised under the name "progressive regime". Some detainees serve their entire sentence in confinement. Some institutions have set up a "controlled" regime which can be likened to unacknowledged solitary confinement, not giving rise to a formally notified decision, sometimes with very old CPU reviews. The practice of "isolation" in a cell (with deprivation of sport) while awaiting examination by the disciplinary committee – sometimes for several weeks – increases punishment measures in a serious and non-transparent manner.

Several institution managers recognise that the current superimposition of detention regimes is at the end of its rope and the CGLPL considers for its part that their insufficiently formalised management leaves room for margins of decision that should be filled by a principle according to which incarceration in a detention centre involves an open door regime, possibly after a brief period of observation, and that any decision contrary to this principle should be regarded as having adverse effects, which means it should be individualised, reasoned, made with due respect for the adversarial process and rights of defence, and subject to judicial appeal.

> The CGLPL recommends that the open door regime systematically be the reference regime for detention centres and that any exception to this regime be considered as causing grievance, which means it should be individualised, reasoned, made with due respect for the adversarial process and rights of defence, and subject to judicial appeal.

Prisons for minors also implement diversified detention regimes that allow for individualised treatment favouring the educational component. For example, one institution has set up a so-called small unit that fully involves youth workers and warders in the dynamic care of minors. Another has created a "trust unit". As with the respect regime, this is a derogating form of treatment that should be standard practice.

2.2 Topics of current interest

2.2.1 *The Justice Reform Act*

The Act of 23 March 2019 on 2018-2022 Justice Programming and Reform has been definitively adopted and partially censored by the Constitutional Council.

Title 1 concerns appropriations for the judiciary until 2022; in addition to the requirement for reports on the implementation of finance laws, it calls for assessments of respect modules, the situation of women in detention and recidivism to be presented to Parliament by 2022.

In the CGLPL's field of competence, the main new developments resulting from the reform are as follows:

- the digitisation of police custody procedures and the audiovisual recording of the notification of rights, which will be available "on simple request" and would dispense with the need for a written statement;
- the creation of the probationary sentence which merges penal constraint and suspended sentence. The specificity of the pre-monitoring assessment, specific to penal constraint, is retained with the possibility of passing a "reinforced" probationary sentence;

- the creation of a new house arrest penalty;
- the abolishment of prison sentences of less than one month;
- the principle, unless materially impossible, of *ab initio* adjustment for prison sentences of less than six months, which is a reversal of the requirement of motivation;
- the possible adjustment at the time of sentencing, without prior imprisonment, for prison sentences of between six months and one year, although this becomes impossible beyond one year of imprisonment;
- the capacity of the prison manager to grant permissions to leave to adult prisoners who have already benefited from prior permissions, unless the sentence enforcement judge refuses;
- the medical suspension of sentences which can now concern prisoners hospitalised in involuntary psychiatric care.

The reform also includes a programme for the construction of 15,000 new prison places and the moratorium on the principle of individual cells has again been postponed until 2022.

This Act followed announcements by the President of the Republic stating that it was necessary to reflect on the meaning of punishment and that prison sentences, far from being a panacea, have many negative effects. However, now that the Act has been passed, one may wonder about the real impact of the reform in terms of sentence enforcement.

The abolition of sentences of less than one month is a good thing, but it only applies to around 200 people. The enforcement in open environments of sentences of less than six months is subject to a very vague criterion: "impossibility owing to the person's situation". The abolition of the *possible ab initio* adjustment of sentences of one to two years, represented by around 20% of the prison population, is likely to lead to a sharp increase in the number of inmates and is based on an unfortunately widespread misunderstanding which consists in thinking that adjusting a sentence is tantamount to undoing it when it is simply a matter of executing it in another form.

It is also unfortunate that no provision has been made to change the summary trial procedure, which is at the root of many short prison sentences, passed in cases where judges have been unable to obtain information that would sometimes have allowed alternative punishments to imprisonment.

2.2.2 *Prison population control experiments*

The year 2019 was also marked by the start of prison population control measures in the form of experiments on 11 sites, with no legislative basis and far removed from what the CGLPL had recommended. This recommendation was made in 2016, and the Minister of Justice has responded to it in detail in the section of this annual report on follow-up to recommendations. It may be feared that this experiment will be reduced, in the mind of the Ministry of Justice, to a way of following up on the sentencing reform provided for by the Act of 23 March 2019.

The reader is therefore advised to refer to Chapter 3 below.

2.2.3 *Tenth anniversary of the Prison Act of 24 November 2009*

The CGLPL has examined the results of the Prison Act of 24 November 2009, 10 years after its entry into force, and it can only paint a mixed picture, to say the least. Indeed, while several provisions relating to the rights of prisoners have found concrete expression in the life of penal institutions, others have yet to be implemented, whether in part or in full.

First of all, the right to an individual cell in a remand prison is a right whose enforcement is constantly being postponed and has once again been shelved until 31 December 2022.

The promotion of prison work, presented as a priority focus of the Prison Act to favour the reintegration of prisoners, has yet to be translated into action and has many shortcomings.

The right to collective expression was an innovation of the Prison Act but its scope is still very limited. Article 29 restricts the consultation of prisoners exclusively to the activities offered to them, while European Prison Rule 50 recommends the establishment of a dialogue on "issues relating to their general conditions of detention". The implementation of the right to collective expression is still timid and marginal in penal institutions: random frequency; subjects and representatives of the prison population designated by the prison administration; lack of formalisation; replacement with simple information meetings.

Changes in the regime of full-body searches, governed by Article 57 of the Prison Act, particularly reflect the tightening of security rules in prisons. In its initial version, the Act sought to reconcile the requirements of security and dignity by making the use of full-body searches subject to the principles of individualisation, necessity and proportionality. In 2016, the legislature made a major change by opening up the possibility of non-individualised searches in specific places and for a set period.

Article 46 of the Prison Act reaffirms that prisoners shall have access to a quality of care equivalent to that of the general population. We are a long way from this, whether it involves the treatment of chronic conditions and diseases requiring specialist monitoring, the organisation of medical extractions, or the monitoring of prisoners with psychiatric disorders. There is thus real loss of opportunity for the prison population, whose risk factors are widely known.

Ten years after the promulgation of the Prison Act, it must be noted that the prison administration is no longer able to fulfil the mission of integration and reintegration assigned to it under the terms of Article 2 of the 2009 Prison Act.

2.2.4 *The creation of the Community Service Agency*

The observations made by the CGLPL in 2019 highlight a persistent and almost generalised shortage – two notable exceptions were encountered – of work and vocational training in detention. They also show the inadequacy of the work offer for people who are often far removed from work, which one of the inspected institutions is addressing through a project to create an internal work centre for disabled persons (ESAT) that will be managed in cooperation with an association. Sometimes, a reduction in the work offer has been observed; this may result in particular from competition between neighbouring institutions to recruit concessionaires.

At the same time, the CGLPL has observed that community service (TIG) sentences are seldom passed and in particular that judges have difficulty finding an offer adapted to the person being prosecuted within the time of the judgement. This difficulty is one of the causes of prison overcrowding.

The creation of a Community Service Agency by Decree of 7 December 2018 is intended to address these three difficulties:

- developing the use of community service;
- improving vocational training for prisoners;
- working on the dynamics of employment in prison.

It will focus on three components: sustainable development, personal services and digital technology. A platform presenting local community service opportunities should enable judges to know exactly what positions are available for the person they are trying. Lawyers will also enjoy real-time

access to this platform, which will enable them to request measures that they consider appropriate. The agency's objective is to grow from 18,000 to 30,000 community service positions within three years. The territorial advisors will be the CPIPs and DPIPs.

The CGLPL can only rejoice at the creation of this agency, whose results will be eagerly awaited. It reiterates that its recommendations on prison work are aimed at developing the range of activities on offer and adapting it to the prison population, but also at improving the social situation of prison workers by guaranteeing remuneration and social protection comparable to those enjoyed by free workers.

2.2.5 *Radicalisation*

The handling of Islamist radicalisation in prisons has been one of the most sensitive issues for the prison administration since 2015 and is a subject of concern for the CGLPL because the measures taken in this context are likely to affect the detention regime of the prisoners concerned, their family ties, their access to activities, their dignity through derogatory search and surveillance regimes, the protection of their personal data, their prospects for an adjusted sentence, and even the outcome of their criminal case file. The CGLPL has published two reports on this topic, in 2015 and 2016.

In 2019, this issue has been addressed through a "national plan for the prevention of radicalisation", published in February 2018. This inter-ministerial plan includes a prison section concerning "the monitoring of radicalised groups" in which three measures clarify or further describe the following initiatives, most of which have already been announced:

- the development of capacities to assess radicalised prisoners in four radicalisation assessment wings (QERs);

- the design and territorial distribution of wings for handling radicalised persons (QPRs);

- the development of programmes for the prevention of violent radicalisation in all institutions likely to take in prisoners prosecuted for acts of Islamist terrorism.

According to the Minister of Justice[14], "The prison administration has adopted an overall strategy to face the challenge of violent radicalisation: the detection and assessment of individuals are at the heart of this strategy, with the aim of spreading out radicalised prisoners, whether terrorists or common criminals, across the territory and individualising their care. A reinforced multidisciplinary assessment procedure is implemented within radicalisation assessment wings (QERs). In theory, it concerns both Islamist terrorists and radicalised common-law prisoners. Then, depending on their ideological beliefs and dangerousness, prisoners may be assigned to solitary confinement wings, wings for handling radicalisation (QPRs), or ordinary detention".

At the end of 2019, the population concerned by this type of response was made up of around 500 people imprisoned for acts of Islamist terrorism (including nearly 200 convicted prisoners) and nearly 900 common-law prisoners showing signs of radicalisation (including 660 convicted prisoners). Of the Islamist terrorists, 71 persons were placed in QERs, 49 in QPRs and 73 in solitary confinement wings. Three hundred fifty prison officers are dedicated to the fight against terrorism.

In 2016, the CGLPL had indicated that it would return to the subject, as it wished to study, in the long term, ways of handling prisoners involved in Islamist radicalisation. An inquiry was conducted throughout 2019 to answer some new questions:

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[14] *Answer to a written question published in the Official Gazette on 22 January 2019*

- what is the meaning and legal scope of the terms now used by the prison administration to refer to these prisoners?
- what have been the CGLPL's findings regarding the handling of radicalised persons in recent years both during its inspections and through the mail it receives from prisoners?
- how are assessments carried out and how are the ethical questions that arise for the professionals in charge of them dealt with?
- what is the daily reality experienced both by the prisoners concerned and by the officers and professionals who work with them?
- how have the exorbitant common-law regimes and the many restrictions imposed as security measures affected the exercise of fundamental rights?

These questions will be dealt with in a specific CGLPL report in the first months of 2020.

2.2.6 *The development of telephone use in cells*

A new concession contract has been signed to increase telephone access and reduce costs. The director of the prison administration told the CGLPL that the topic of mobile phone access had been excluded for reasons of efficiency (this topic is too controversial and involves the issue of Internet access). The Prison Administration Department has therefore opted for the installation of land-line telephones in cells.

The phones are being rolled out in several stages:

- renewal of telephones in corridors and exercise yards;
- installation of telephones in all cells (first in sentencing institutions, then in remand prisons);
- organisation of "Skype video visits" in sentencing institutions.

Regarding the terms of use, prisoners will be able to leave voice messages and will be entitled to a list of 20 individual numbers and to a national whitelist (freephone hotlines, CGLPL, DDD, etc.); the OIP's number has been added to this list. All telephones will be freely accessible, with no dedicated time slot.

Fees should be 35 to 45% less expensive than under the previous system, with declining-rate plans.

At the same time as the telephones are being deployed, a jamming solution will be set up in 80 institutions once the land-line phones are in the cells. To date, the system has been set up in two institutions (at the Vendin-le-Vieil prison complex, the rate of people using the land-line phones has risen from 80% to 100%; at the Osny remand prison, the number of calls over the fixed telephone network has increased from 4,000 to 12,000).

Recordings made for listening will be stored centrally, but this will not have the effect of centralising call monitoring.

Although the CGLPL approves of the installation of wall-mounted telephones in cells, this solution cannot be considered satisfactory in remand prisons because the presence of several people in a cell deprives conversations of any confidentiality.

2.3 Relations with the Prison Administration Department

2.3.1 *How institutions take the CGLPL's recommendations into account*

Second inspections provide an opportunity to take stock of actions taken as follow-up to the recommendations made during the previous inspection. In particular, they help ensure the sincerity of the responses that the ministers send to the CGLPL, either after its inspections or as part of follow-up to its recommendations after a three-year period.

In almost all cases, progress has been observed for some of the CGLPL's recommendations. Sometimes, teams become aware of practices that are rooted in habits and then change them. However, these changes never go as far as the CGLPL had recommended and even fall short of what the ministers had promised.

There are also cases where points that the CGLPL had noted as positive have visibly deteriorated a few years later, notably due to three factors: the degradation of equipment, reduced vigilance on the part of supervisors, or the influence of a security culture.

The recommendations made by the CGLPL during its second inspections only give reason to hope for measured progress. Indeed, it is not uncommon for the findings brought to the attention of institution managers at the end of an inspection to come as no surprise to them and for them to accept the recommendations made without objection. Sometimes, newly established management teams take advantage of them to encourage changes or to reinforce projects already under way, but in other cases, the CGLPL's findings and recommendations only lead to approval in principle accompanied by a degree of resignation as to the possibility of implementing them. Budgetary shortages, the need to deal with emergencies, overcrowding and the historical weight of "prison culture" are all obstacles to the modernisation that many nonetheless seem to want.

2.3.2 *The DAP's production of standards*

The Prison Administration Department (DAP), which no longer has a unit responsible for centralising the distribution of memos and circulars, has itself experienced difficulties in identifying them. The DAP was reorganised in June 2019; in this context, there is an office in charge of monitoring standards; it is the CGLPL's correspondent.

The CGLPL has reminded the DAP that, while it certainly wishes to receive new standards, it is also requesting that these standards be published to make them known to prisoners and their lawyers.

3. Reception of prisoners in healthcare institutions in 2019

In 2019, the CGLPL visited 13 hospitals taking in prisoners[15].

Since the beginning of 2019, the titles of reports on inspections of hospitals as part of their reception of prisoners have been modified: these inspections are no longer limited to examining the secure rooms in which prisoners stay in the event of hospitalisation; rather, they now include verifying respect for their right to the full range of hospital services, including when they only come for outpatient consultations.

While in one of the inspected institutions, everything has been done to ensure that the care of prisoners is completely routine, this is not the case in all the others. The reception of detainee patients

[15] *The full list of institutions inspected in 2019 is provided in Appendix 2 of this report.*

still results, generally speaking, in their rights being restricted, which amounts to considering them on an equal footing neither with other patients nor with other prisoners.

> In most cases, conditions for taking in prisoners are insufficiently formalised. This lack of formalisation, coupled with a lack of information and training for health professionals, leads to patients being accommodated in undignified conditions; moreover, the rights arising from their status as prisoners are neglected, disproportionate security measures are implemented, and the care provided is sometimes humiliating and does not respect medical secrecy.

The rooms are mostly Spartan, sometimes without any equipment other than a non-medical bed fixed to the floor, and sometimes without free access to the sanitary facilities. Of course, there are also, but rarely, classic hospital rooms with a monitoring station, sometimes even with the possibility of closing the monitoring window during treatment. Often, the occupant of a secure room is not able to open the window: either the window cannot be opened, or assistance is required to do so. In one of the inspected institutions, the Regional Health Agency had recently inspected a particularly undignified secure room without finding anything to criticise.

Similarly, it is common for detainees to be able to eat only with plastic cutlery without any analysis of their behaviour justifying this, and sometimes even when the hospital management is convinced that they had metal cutlery at their disposal.

Lastly, we should note a practice in some hospitals which, for short-term hospitalisation and for patients whose dangerousness has not been specifically reported, prefer to hospitalise detainees in an ordinary room in the unit corresponding to their disease. This option is the best possible guarantee of access to care equal to that enjoyed by other patients.

Sometimes, access to secure rooms and the management of medical or prison documentation are not covered by effective measures for protecting confidentiality. In this regard, it is recommended that the transfer of medical records between health units and hospitals be systematically digitised and not carried out in the form of paper files given to escorts.

When there are no documents governing the operation of secure rooms (and sometimes even when there are), nursing staff and police escorts are unaware of detainees' rights, particularly with regard to family ties or canteen purchases. In the best of cases, staff members question the nurses in the health unit or the prison registry in case of difficulties, but more often than not, requests are denied due either to ignorance of the law or to a lack of necessary logistics.

Warders are almost systematically present during consultations and care, despite repeated reminders from the CGLPL on this point. Sometimes, the presence of escorts seems to depend on the will of the doctor; most often it is imposed on them, even in the event that they protest, although this is rare. Frequently, both police and nursing staff are unfamiliar with the expression "level of supervision" and have no idea what it means; for them, every detainee is a dangerous offender. In one inspected institution, the CGLPL was able to verify that almost all detainee patients arrived handcuffed and shackled, whereas 70% of them were classified in the "escort level 1" category, which implies escorting without any means of restraint and excludes the presence of warders in treatment areas.

It is curious to note that the main exception encountered on this point by the CGLPL involved a hospital that takes in patients from a long-stay prison. Once, the police commissioner, for a detainee who obviously did not pose any risk of escape, even had his shackles removed and authorised visits from his family. In one hospital taking in detained minors, escorts only withdraw when there are two people with the patient, but not when a nurse is alone. Sometimes, while the police are absent during surgery, they are nevertheless present in the recovery room.

The presence of warders during care is not only a violation of medical secrecy; it can become a real obstacle to healthcare. One urologist told the inspectors that it is difficult to take medical histories

under these conditions. Similarly, female radiologists no longer wish to carry out abdominal-pelvic ultrasounds, having had to endure some sarcasm from prison warders during these examinations; therefore, when there are few male radiologists, waiting times become very long.

> Rarer, but more serious, are cases where escorts refuse to remove the means of restraint used on detainees for their transport once they arrive at the hospital. This is usually in addition to the escorts being present during care. This should be seen as a serious attack on the dignity of patients which doctors and nurses must not tolerate.

Whether for going from the secure room to the consultation areas, or for outpatient consultations, efforts are often made to make the journey through the hospital discreet, and to reduce and secure the wait. Nevertheless, the accompaniment of a detainee to their treatment area is ultimately visible to the public and the majority of detainees are conveyed handcuffed and shackled, including detained minors. The same is true for bedridden persons who are transported attached to their bed.

In only one case was it reported that, whenever possible, doctors go to the room to carry out planned consultations or procedures rather than moving the patient.

4. Detention centres for illegal immigrants in 2019

In 2019, the CGLPL visited four detention centres for illegal immigrants (CRAs) and one waiting area[16]. Two of the CRAs were inspected for the second time, one for the third time and the last for the fourth time. The waiting area was inspected for the first time. One of the CRAs visited was inspected following numerous case referrals.

Overall, these inspections did not reveal any significant improvements versus the previous ones and, with the exception of one centre that had recently embarked on a reform process, the management teams of the organisations visited did not appear very receptive to the CGLPL's observations. This distant attitude cannot be due solely to the individual attitudes of the officials we met. On the contrary, it shows that police teams are unaware of the fundamental rights of people in detention; it requires that training as well as assessment criteria for the officials placed at the head of the CRAs be reviewed. The means made available to the centres also need to be reassessed, but unless local managers profoundly change their attitudes, this will be ineffective.

4.1 Exercise of rights

The provision of information to detainees about their rights and appeals remains highly unsatisfactory. It is carried out expeditiously and with no sense of calm, with interpreters who often only intervene by telephone; even though forms translated into various languages are sometimes available, they remain rare and their diversity does not meet all needs. Postings are rare and are often only in French.

The same applies to the information given about daily life within the structure and about the role played therein by the French Office for Immigration and Integration (OFII) and legal aid associations. In most cases, neither a welcome booklet nor rules of procedure are handed out, which reinforces the impression of obscure and arbitrary rules that are discovered as responses are made to the detainees' behaviour.

[16] *The full list of institutions inspected in 2019 is provided in Appendix 2 of this report.*

> The numerous and sometimes unjustified restrictions are only rarely the subject of an inventory, which should undoubtedly lead the centres' managers to question their necessity, their proportionate nature and even their meaning.

In one of the inspected centres, provision was made for the appointment of a detention coordinator, competent for the exercise of rights and appeals against the detention measure, as well as for the appointment of a registry and litigation unit supervisor. These functions, which the CGLPL was unable to assess, are likely to lead to better application of the law. Their testing should be assessed by the Ministry of the Interior.

> No restrictions on the freedom of persons in detention may be imposed unless they have been previously recorded in rules of procedure approved by the police hierarchy and given to the detained persons in a language they understand.
>
> The impact of the detention coordinator and registry supervisor functions on the respect of rights should be assessed.

Relations with the outside world are generally subject to unjustified restrictions: network unavailability, lack of free access to collective telephones and/or computers, and removal of personal telephones and computers are common.

Since the persons detained are not in this situation because of criminal acts, there is no reason to impose restrictions on them that are not strictly necessary for the execution of the deportation order. Visits can be organised according to a timetable, but the time slots should be broad and adaptable, and no prior authorisation system is allowed. Internet and telephone access should be open and free of charge, both by means of open-access devices belonging to the administration and by means of terminals belonging to the detained persons which do not need to be removed, including when they enable pictures to be taken, even if the taking of pictures may legitimately be prohibited and, if necessary, sanctioned.

> Persons placed in detention cannot be prohibited from communicating in any way that is not provided for by law and decided by a court of law. The usual networks, open-access collective equipment and their personal terminals should be at their disposal.

In the waiting area, the difficulties observed were not much different from those encountered in the CRAs: notification of rights is expedited and mobile phones are removed with no legal basis. Officials also show little interest in measures that are as rare as they are rapid; they mainly seek to avoid them via almost immediate dismissal.

4.2 Security in institutions

> The CGLPL's series of CRA inspections shows that these structures are very clearly stepping up their focus on security, which is completely out of line with their function and with the nature of the population taken in. The inspected waiting area has not escaped this gradual shift towards a prison-like structure.

The internal organisation and perimeter protection of the centres gives the impression of a prison environment with partitioned spaces, complicated internal circulation and barbed wire fences.

Handcuffing is systematic for all movements, most often with hands behind the back. The practice of disciplinary seclusion (frequently giving rise to strict restraint), while not massive, is not uncommon, even though there is no provision for it, not even in the rules of procedure, which would moreover be powerless to authorise it, since any restriction of liberty within the structure must be provided for by law and accompanied by a procedure guaranteeing rights of defence. Surveillance is sometimes carried out exclusively via video cameras, with no contact between the detained population

and police officers, who sometimes only enter the detention area to ensure the safety of the cleaning staff, control access to the medical unit, the OFII or the legal aid association, and monitor meals. One CRA manager even clearly stated that "The main objective is to avoid any escapes". In most cases, despite some claims of disrespectful or even violent behaviour on the part of some officers, the staff do not appear to be brutal but act as guardians of dangerous individuals.

> The layout of the CRAs and staff relations with detainees should be consistent with the purpose of detention, which is to place people who are not in principle violent and who have not committed any crime under the control of the administration with a view to their deportation. No sanctions or restrictions of liberty can be imposed on them without a procedure provided for by law.

While the perimeter protection of the CRAs is strong, the same cannot be said of security measures aimed at fulfilling the administration's obligation to protect the people detained. In several of the inspected centres, incidents are numerous, and there are thefts and fights that give rise to no follow-up; although police officers sometimes take initiatives that save detainees with sometimes serious health problems, professional practices are not sufficiently regulated, and the absence of emergency instructions[17] or an agreement with the medical or rescue services sometimes leaves police officers helpless in emergency situations. Sometimes, in response to incidents, the hierarchy conducts an analysis of professional practices, but this is not systematic.

> Prevention, rescue and traceability measures necessary to protect detainees from violence or health risks should be planned and known to police officers by means of emergency instructions, training sessions and analyses of practices.

4.3 Everyday life

Once again, the precarious nature of the material conditions of accommodation cannot be overemphasised: rooms that are too cramped and do not close properly, and even modular structures, as well as defective heating, poor hygiene and low-quality food are common in detention centres for illegal immigrants.

The result is sleepless nights, disrupted by fear or noise. Visitors wait in undignified conditions and meet their relatives without any privacy.

In some cases, however, work has been carried out between two CGLPL inspections: here, ventilation has been installed; there, rooms accessible to people with reduced mobility have been created; elsewhere, the heating has been repaired. In one of the inspected centres, the arrival of a new commander sparked a major cleaning campaign which, while not without its advantages, did not remedy the structural dilapidation of the facilities.

> Collective or individual facilities are Spartan; rooms are furnished only with beds and a table-chair block sealed to the floor; there are no storage units or even bedside tables; some belongings are placed on the table; the rest is in the luggage room, available on request. Pillows are not given out, blankets are never washed during detention, and showers are smelly and have no door or privacy wall. In cases where the laundry of the persons detained can be done free of charge on-site, it is at the price of a mixture of individual belongings which entails a risk of loss.

In some centres, requests and logistics are managed with the aim of limiting tensions so that "everything goes smoothly". However, this is not the standard attitude; requests sometimes come up

[17] *There are national "reflex sheets" or emergency instructions that the centres are not always familiar with.*

against a wall or prompt a terse reply: "Speak French, I don't understand what you're saying". It also happens that the administration gets into the habit of not seeing logistical requests met, to the point that it simply issues requests without really expecting any response and without then trying to find out what happens to them.

As in the past, activities are almost non-existent and the people detained have no autonomy to manage them; they have to go to the police to change the TV programme or volume, and sometimes they have to go to the centre's manager to get a ball. Although there are some sports facilities, these are still rare, as are board games. This atmosphere, which mixes inactivity and infantilisation, creates a very unstable state of underlying tension in the detention areas. In two of the inspected centres, after the maximum period of detention was increased to 90 days, the installation of equipment was planned and one centre was even planning to create an "activity advisor" function, but at the time of the inspection, none of this was yet in place.

> In spite of some improvements and declarations of intent that have not yet been acted upon, there is thick and persistent boredom in the CRAs.

Lastly, it should be noted that in one of the inspected centres, in the absence of a room reserved for worship, group prayers are organised in collective spaces intended for another use, which seriously disrupts the lives of officials and detainees who do not wish to be associated with these events.

In the inspected waiting area, the same flaws are present: a living area devoid of any other equipment, rooms infested with live or dead cockroaches and mosquitoes, and a project to relocate in modular living quarters that are known to be unsuitable for the climate but will be "good enough" given the price of local construction and the low occupancy of the waiting area.

4.4 CRA departure procedures

In the course of their visits, the inspectors witnessed CRA departures due either to release or to deportation. In both cases, the procedures are conducted expeditiously, with summary information and a complete lack of support.

While departures are announced in advance for some people, for others they are not, and in the early morning four policemen come to pick the individuals up from their rooms and take them to the airport handcuffed behind their backs. This operation witnessed by the inspectors was conducted in conditions that left ambiguity, for as long as possible, as to whether the persons were being deported or released. The shock is therefore often brutal and the news often only becomes clear during handcuffing.

In such cases, the personal belongings of the person being deported are quickly recovered without any real inventory, information is given summarily, and the possibility of notifying relatives of their imminent arrival in the country of destination is not always clear.

> In the event of a deportation procedure, the person concerned should systematically be informed in advance of the date of departure and the destination. The person should be able to settle all interests and notify their relatives of their arrival.

While release does not in itself pose a comparable risk of trauma, it is nonetheless disrespectful of the fundamental rights of the person deprived of liberty. This person is in fact released as soon as the administration learns that this measure needs to be taken. The released person then leaves the CRA without any consideration being given to their means of getting to the public transport network, their overnight accommodation or even their means of subsistence.

> Persons in detention should be released in conditions that enable them to reach the place of their interests in suitable conditions (time, transport, resources, etc.).

4.5 Extension of the maximum detention period

Since 1 January 2019, the maximum detention period, previously set at 45 days, has been increased to 90 days[18].

During the first 10 months of the year, in metropolitan France, 20,586 people were placed in detention, of whom 1,218 (5.92%) passed the 45-day mark without exceeding the 60-day mark, and 984 (4.78%) exceeded the latter. Lastly, 13 people remained in detention for more than 90 days in application of derogatory regulations.

The CGLPL reiterates its opposition in principle to the extension of the detention period which, it should be recalled, concerns persons who can be blamed for nothing, except an irregular administrative situation that does not in itself call for any sanction. In addition, these are often people who were already subject to administrative follow-up from which they did not try to escape.

The longer maximum and average periods of detention have been accompanied by a real increase in the number of people detained. According to the information provided by the Border Police Central Directorate (DCPAF) following the terrorist attack at the Marseille Saint-Charles train station in 2017, the CRAs saw a sharp increase in placement measures, in a logic of "confinement".

This movement has come to an end, but the occupancy rates of the centres remain much higher than before 2017; there has been an increase in the number of released prisoners among those detained. These two trends are the result of an increase in the mobilisation of prefectural services. Today, there are more requests for CRA placements than there are places available. A "regulation" system has been put in place at the level of the prefectures in the defence zone[19]: a single window examines the places available in the zone's CRAs and refers detained individuals. In the event of incapacity, a national regulation system is used. However, under this system, the Border Police (PAF) does not examine the quality of the files with regard to reasonable prospects of deportation, which is the sole responsibility of the prefectures. In the Ile-de-France region, a specific system has been set up, common to the DCPAF and the police prefecture; contrary to the principle prevailing in the rest of the country, it enables priority to be given to files in which deportation is most likely.

In addition to voicing reservations in principle, the CGLPL had drawn the Government's attention to the material conditions of detention that make this measure unbearable in the long term. This observation was based on the precarious nature of hotel functions and the almost total absence of activity.

A series of circulars from the Minister of the Interior[20], the Director General for Foreigners in France[21] and the Border Police Director[22] recommended measures to overcome these two difficulties. These guidelines stipulate that, under the supervision of the prefects, "edutainment" activities for occupational purposes, entrusted to associations bound to the State by agreement, should be set up. These activities should exclude training in combat sports, equipment that can be used as weapons, and interventions that are contrary to the principle of secularism or that could constitute a threat to staff or institutions. It is in no way the responsibility of the PAF's internal or external staff to lead them.

The same guidelines also ask the centres' managers to "prioritise the programming of the investment work necessary to improve living conditions in detention centres for 2019", it being

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[18] Act no. 2018-778 of 10 September 2018 on controlled immigration, effective right of asylum and successful integration.

[19] A defence and security zone is an administrative unit specialising in the organisation of national security and civil and economic defence; there are seven in metropolitan France.

[20] Circular of 9 October 2018 on the improvement of equipment and occupational activities in detention centres for illegal immigrants.

[21] Memorandum of 20 June 2019, same subject.

[22] Circular of 9 January 2019 on the creation of a duty roster of psychologists in detention centres for illegal immigrants.

understood that this prioritisation will use existing resources and will take the form of changes of priority in the multiannual buildings programme.

These guidelines will be difficult to implement in practice. In fact, there are few CRAs where rooms other than refectories are available. Several centres therefore carry out activities in refectories, which are unsuitable for this purpose, in particular because of the sealed furniture. For example, a project to create a communal room has been validated in Metz, but in Palaiseau, a similar project has been rejected because its cost was too high; in Oissel, the decision has been postponed. To date, no general measures have been taken to adapt buildings and change accommodation conditions.

It is therefore not surprising that during the inspections carried out in 2019, the CGLPL only witnessed developments that were in progress: in the best of cases, it noted the unfinished installation of an activity room with furniture delivered but not installed, board games and a games console that had been purchased, a designated "activities" advisor, and partnerships in the process of being established. In the other cases, however, no changes were foreseeable.

According to the information given to the CGLPL by the DCPAF, no particular measures have been taken to increase the presence of either associations responsible for providing legal support or medical units. However, there are plans to set up a system where psychologists are on duty in detention centres for illegal immigrants due to the "development of increasingly violent behaviour among detainees". Duty times will be defined according to the particularities of each of the centres. They may vary from one to three half-days per week, depending on the size of the centre. Although this measure is not formally linked to the extension of the detention period, it was nevertheless presented to the CGLPL as part of the arrangements accompanying this change.

The possible consequences of the longer period of detention have not sparked any concern on the part of the centres' managers. Moreover, the issue has not been discussed by the ministerial technical committee.

> However, the CGLPL observes that since this development, the general climate in detention centres for illegal immigrants has become more tense: suicides and attempted suicides seem to be more frequent, legal aid associations are experiencing difficulties in carrying out their mission to the point of withdrawing, and the argument that the longer time period represents such psychological pressure that it may have the effect of encouraging voluntary departures has entered the debate without it yet being possible to really assess its relevance. If such a situation were to be demonstrated, it would be proof that a purely administrative measure has become a means of pressure affecting the free will of the people it concerns; it should be seen as an attack on their psychological integrity. The CGLPL will remain very attentive to changes in the CRAs' situation.

5. Juvenile detention centres in 2019

5.1 Overview of inspections carried out

Over the course of 2019, the CGLPL inspected seven juvenile detention centres (CEFs)[23]. In one of them, which had recently opened, it was the first inspection, in another it was the third, and in all the others it was the second.

[23] *The full list of institutions inspected in 2019 is provided in Appendix 2 of this report.*

The general conclusion drawn following these inspections is particularly disconcerting: the vast majority of the inspected institutions function poorly or very poorly, yet if we add up the good practices encountered, we will find almost everything we need to describe the smooth running of a CEF.

> Staff remains, as in the past, the main weakness of the CEFs. All public centres and some voluntary centres are encountering major recruitment difficulties. They compensate for them in several ways. In some cases, in order to not recruit insufficiently competent staff, it is decided to leave positions vacant; in one centre, this practice is positive because it is compensated for by the over-investment of the management team which, at the cost of unsustainable over-activity and the abandonment of other tasks, manages to guarantee appropriate educational support. In other centres, the shortcomings of the educational staff are remedied by other workers: housekeepers, teachers, nurses or psychologists. Lastly, in other cases, educational support seriously suffers from the lack of trained staff.

The issue of staff instability also affects all CEFs but has a more severe impact for public CEFs. Indeed, their staff rotates, which precludes any continuous policy: in one of the centres inspected for the second time, the five-year period between the two inspections had seen four changes in director and five changes in educational manager. In many other cases, a significant share of the staff is "under recruitment". In several centres, the youth workers we met were recruited on the basis of six-month contracts and did not know, just a few days before their expiry date, whether they would be renewed. Elsewhere, out of 12 contract youth workers, only three had more than one year's experience. The turnover of youth workers is such that their training sometimes appears as a permanent activity, constantly renewed, like the ever-draining Danaids' barrel.

> In such a context, everyone is overwhelmed by events and overloaded with daily tasks; they do not take time to think about trying something else: there is no feedback regarding incidents and no analysis of practices, and the supervision that is often planned does not work.

The administration should ensure that CEFs in the voluntary sector adopt a human resources management policy that promotes the stability of experienced teams. It is not by chance that the best quality of support observed was provided by a team of youth workers, the majority of whom have permanent contracts and whose ages range from 23 to 52.

With regard to public-sector CEFs, difficulties in recruiting youth workers were due to the fact that the law did not allow the recruitment of non-tenured staff outside category A for a period exceeding a few months, even though the administration was unable to retain civil servants in the CEFs. These difficulties have since been overcome as it is now possible to recruit non-tenured staff in all three categories of civil service[24]. It would therefore be to the advantage of the Judicial Youth Protection Service (PJJ) to use this new rule to build up a stable pool of contract youth workers, which would also enable them to be trained.

> The administration should take advantage of the new rules for recruiting non-tenured State employees to build up and train a pool of youth workers for public CEFs. It should ensure, in the contracts of objectives and means of voluntary-sector CEFs, that the centres develop a comparable pool of resources.

Lastly, the role of management is essential. For example, in one centre where the support provided is of high quality, the management works closely with the educational team, ensuring that practices are standardised and that the framework is respected. A large number of team meetings are

[24] *French Act no. 2019-828 of 6 August 2019 on the transformation of civil service, Art. 15.*

organised, a careful analysis of professional practices takes place twice a month, support groups for youth are held every week, and the ongoing training of the youth workers is rich, made possible by the stability of workers who have completed their initial training.

> An innovative practice was observed during two of the CEF inspections: systematic and personalised support for new arrivals. In one centre, this involves a two-day transitional welcome period during which a youth worker accompanies the new arrival at all times; in another, it consists of a welcome phase outside the CEF, for two days with two youth workers. These practices promote good integration in a period that is both the most traumatic for the children being placed and the most conducive to violence.

The issue of the calendar of activities offered to minors has repeatedly emerged as an important factor in the weakness of care provision. Here, the morning youth workers do not know what is planned for the afternoon. There, the weekly schedules of the young people, distributed on Sundays at 10:30 pm, contain inconsistencies and a lot of gaps. Elsewhere, as none of the activities are considered mandatory, a large number of last-minute changes are made to adapt to the young people's wishes, without any communication between professionals who, looking for the young person they are waiting for, for a scheduled activity, discover that they are engaged in another activity. Still elsewhere, the youth workers do not propose any activities on their own, most of them contenting themselves with babysitting, and some of them even locking themselves in their offices because they are afraid.

However, these serious difficulties should not obscure some very positive initiatives. For example, in one CEF that takes in girls, even though it is unfortunate that the activities are generally quite "gendered", important educational work has been done to empower adolescent girls and help them regain control over their bodies. In other centres, there has been real work to provide multidisciplinary and individualised educational support, which keeps the young people busy, provides them with a lot of outdoor training camps, encourages them to practise sport intelligently and, even during school holidays, lets them take part in a wide range of activities.

> These proposals may be accompanied by measures to highlight the children's successes, for example a skills booklet – containing all work experience/training documents, diplomas, etc. – that does not refer to the CEF placement and will accompany the young person on their release. Also noteworthy is the system of "good-behaviour notes", which are an educational and positive approach to discipline and are the opposite of the traditional incident notes.

Regarding the role of families, all the inspected centres had identified this point as a key factor in the success of care provision. Although it is sometimes difficult to give concrete expression to this consideration, it is at least fortunate that it is now being addressed. Some good practices should be noted, such as the financing of travel or accommodation for relatives, the involvement of families through open-custody youth workers, the authorisation of evening visits, and a project to set up a family reception centre.

> Internal order in the CEFs remains a matter of concern both because of the structures' obligation to protect the children entrusted to them and due to the need to implement discipline compatible with the specific vulnerability of the children and the educational nature of the institutions.

In one of the inspected centres, the internal constraints were in practice very weak, even though the rules of procedure were intended to be less liberal. This resulted in excessive use of the Internet on fraudulently obtained mobile phones in plain sight, heavy use of cannabis which the youth workers chose to disregard, complete freedom of movement within the centre, and consideration of all activities as being optional. Assaults on staff, including the director, were not uncommon.

While not all CEFs experience such excesses, which are evidence of children taking power, the number of runaways and the frequency of cannabis use should raise questions. It should be remembered here that the structure to which children are entrusted first and foremost has an obligation to protect.

> The exercise of discipline should be objective, predictable and driven both by concern for the children's education and by the principles of necessity and proportionality.

Although the guidelines of the Directorate for Judicial Youth Protection prohibiting body searches and physical restraint of young people seem to be increasingly observed, there are still some unfortunate exceptions. In one of the inspected centres, restraint was practised without any follow-up or traceability and by untrained youth workers.

> Any act of physical control over a minor should be regarded as an undesirable event and should be reported immediately to the instructing judge and to the holders of parental authority.

In some centres, punishments are left to the discretion of youth workers who are supposed to make collegial decisions but do not in practice. Elsewhere, however, disobedience is managed with a desire to provide responses that are more educational than repressive.

Lastly, it should be noted that healthcare for minors placed in CEFs remains very uneven. While several centres benefit from efficient and recognised health centres, sometimes even with nurses who play an active role in childcare and health education, others, because they do not receive support from strong hospital structures, offer only summary care, mainly provided by private doctors from the surrounding area. For children whose state of health is often deteriorated by wandering, addiction, neglect or long-term remoteness from healthcare, such care provision is not sufficient. This observation is even truer with regard to psychiatric care: indeed, very few CEFs have an agreement with a mental health institution so that children who are sometimes subject to long-term sedative treatment do not have access to appropriate psychiatric follow-up.

In light of the observations made by the CGLPL in CEFs in 2019, the recommendations made in previous years cannot be modified. The fragility of these structures, designed to take in children who are themselves fragile and whose paths have been chaotic, has not received the necessary political attention. The problem is known – no one disputes it – the good practices that should be observed are no less known, and the difficulty encountered is not budgetary: it is simply a question of designing a legal regime that will make it possible to stabilise the staff and train both the centres' managers and youth workers. Pending these measures, the CGLPL reaffirms its opposition to the opening of new centres.

5.2 The reform of the 1945 Ordinance on juvenile offenders

The Act of 23 March 2019 on 2018-2022 Justice Programming and Reform authorised the Government to reform the Ordinance of 2 February 1945 on juvenile offenders by means of an ordinance under the conditions of Article 38 of the Constitution, which was achieved by the Ordinance of 11 September 2019 on the legislative part of the Code for Juvenile Criminal Justice, which repealed the historic ordinance. This new ordinance has not yet been ratified.

This reform responds to the need to simplify and ensure the intelligibility of the texts relating to juvenile delinquency; it also meets the objectives assigned to it by Article 93 of the enabling legislation:

- simplify the criminal procedure applicable to juvenile offenders;
- speed up their trial so that a decision on their guilt can be made quickly;

- reinforce their care with appropriate and effective probationary measures before sentencing, particularly for minors who are repeat offenders or in a state of re-offending.

It is regrettable that there is no mention at this stage of favouring the educational and moral development of minors, as the prevention of delinquency is not defined in the report as a concern, while the security aspect is stated as a priority.

In addition to procedural provisions that do not fall within the scope of the CGLPL, this reform includes measures that may have an impact on detention:

- the abolition of the intervention of the Liberty and Custody Judge in proceedings before the children's judge helps to ensure continuity of follow-up for minors and consistent decisions;
- the option of restorative justice is a relevant and pedagogical tool for conflict resolution whose objectives are to repair the harm done to the victim, reintegrate the offender, and restore social peace; it is a strong symbol whose concrete translations need to be developed;
- the alignment of the rules for issuing a committal order against a minor at the trial hearing with those of the Code of Criminal Procedure ends a rule that was stricter for minors than it was for adults;
- for minors between the ages of 13 and 16, the text restricts the possibilities of judicial control; however, it does not do so for minors over 16 years of age, who are in fact the most exposed;
- the reform takes up the advances resulting from the transposition of the European Directive of 11 May 2016. Nevertheless, in the context of a free hearing, it is unfortunate that the text includes the possibility of dispensing with assistance from a lawyer;
- the acceleration of procedures leads to fears of an increase in the incarceration of minors, especially as the safeguards are weak: within a short "crisis" period, minors can multiply the number of acts and therefore the number of guilty hearings, which opens up the possibility of their being placed in detention, especially as the text largely allows for exemption from educational probation and a reduction in its duration, especially for minors with the most complex problems;
- the text does not provide a framework for decisions of public prosecutor's offices regarding the handing-over of minors, by not defining any criteria for the appearance in court of a minor at the end of police custody, which contributes to trivialising this mode of prosecution.

More generally, it is regrettable that the priority of the educational response over the repressive response has not been established as a strong general principle. Indeed, Article L. 11-2 affirms that "decisions made with regard to minors shall be aimed at their educational and moral rehabilitation, as well as at preventing recidivism and protecting the interests of victims" and Article L. 11-3 merely states that "minors found guilty of a criminal offence may be subject to educational measures and, if circumstances and their personality so require, to penalties". A debate should precede the ratification of this ordinance and should forcefully assert the priority of education over repression and establish it as a general principle. In this way, greater restrictions on possibilities for incarcerating minors, necessary to guarantee the principle of education as a priority, may be introduced.

6. Custody facilities in 2019

In 2019, the CGLPL inspected 20 police stations reporting to the General Directorate of the National Police; nine police stations reporting to Paris's Prefect of Police; 31 gendarmerie units; and one customs brigade[25].

The findings from these inspections were not very different from those of previous years.

In police facilities, the premises are most often unsuitable; this results in poor management conditions and unbearable working conditions for civil servants. The small size and dilapidated state of the premises should first be emphasised. For example, there are overcrowded jail cells in which eight people sometimes have to share less than 20 square metres, cells so small that a person over one metre sixty cannot lie down, and offices acting as cells in which people in custody can only sit or lie on the floor. It is now uncommon for police facilities not to have an entrance enabling people held in police custody to be brought in out of public view. It is, however, regrettable that security instructions are causing such access points to be closed, so that persons in custody have to be brought in through the public entrance. On the other hand, the facilities provided for medical examinations and interviews with lawyers are often not suitable for their purpose. For example, there are many examination rooms without a consultation table, rooms that do not allow any confidentiality and some rooms where the lawyer and their client have to share one bench.

> In such building conditions, hygiene leaves much to be desired. Foul odours are common, especially around the drunk tanks; when toilets can only be flushed from the outside by staff members, these frequently fail to do so; there are sometimes not enough mattresses and blankets for each person in custody; blankets are very irregularly washed; and hygiene kits are not available. It is particularly unfortunate that the need to provide a hot drink to each person in custody in the morning is only very irregularly met. Lastly, it should be pointed out that several of the inspections carried out were scheduled following particularly timely reports, particularly from Chairs of the Bar, concerning, for example, a lack of heating, lack of hygiene or unsuitable premises.

In gendarmerie facilities, on the other hand, although it is not unusual to find unsuitable buildings, these are mainly characterised by dilapidated or excessively austere custody cells which, unlike those of the police, are not glass-fronted but are usually completely closed. Hygiene conditions are generally satisfactory and as there are fewer people in custody, they are managed more flexibly.

During their visits, however, the inspectors encountered, both in police services and in gendarmerie units, several situations where the facilities were new or where new facilities were about to be delivered. In such cases, the facilities are well designed in principle and have all the necessary amenities to ensure that the rights of persons in custody are respected. However, having proper facilities is not enough. For example, in a new service where the showers and toilets were in good condition, it was beginning to be clear that there were insufficiently cleaned, and the lack of toilet paper and hygiene kits meant that the new facilities could not be used as intended. The multiple showers transformed into storage rooms that the CGLPL encounters in police stations are a perfect illustration of how good architectural design can be useless when the means or the will to exploit it are lacking. In one of the inspected police stations, hygiene kits were urgently delivered in the presence of the inspectors, to the great surprise of the policemen who, having never seen them, did not know what they could do with them.

[25] *The full list of institutions inspected in 2019 is provided in Appendix 2 of this report.*

The delivery of new facilities should be accompanied by all the necessary training measures and logistical services to ensure that they are used in accordance with their intended purpose.

The night-time accommodation of people in custody in gendarmerie units calls for persistent reservations on the part of the CGLPL. Indeed, these people are locked up in cells located in buildings where no military personnel are present. They are supposed to have a call button, but it rarely exists, does not always work, and sometimes even rings in an empty room. Rounds are supposed to be organised every three or four hours, but in practice they are irregular and have little success or follow-up. The CGLPL therefore reiterates that leaving a person locked up alone at night in an empty building is contrary to the administration's obligation to protect persons deprived of liberty.

Persons in custody who have to stay in a cell overnight should be taken to a police or gendarmerie unit where officers are permanently on duty.

As far as rights are concerned, the software in use today guarantees in principle that they are fully notified, at least formally. However, the practices observed do not always suggest that this notification has actually been understood. For example, the inspectors witnessed entries into police custody during which the person was searched and notified of their rights simultaneously; on one side, there was the police officer in charge of monitoring the cells who was talking to them and having them empty their pockets, while on the other side, a judicial police officer was reading a printout before having them sign the register that he was holding on his lap. This scene usually takes place in a disorderly and noisy environment, with the escorting police officers finishing the formalities they have to carry out while exchanging all sorts of remarks with their colleagues. In such a context, while it is indisputable that all the acts provided for in the procedure have been carried out, it is no less obvious that the information given could not be understood, even without any language barrier.

The CGLPL has stressed many times that the summary document on rights is not given to persons held in custody, contrary to the provisions of the Code of Criminal Procedure. In police units, in order to enable persons in custody to read this text in writing, but without complying with the law, which the police units refuse to do on principle, many police stations have gotten into the habit of posting it on the other side of the cell glass. It is unfortunate that this practice meets with exceptions. In gendarmerie units, which also quite often refuse to apply the law, the opacity of the cell doors precludes any postings. The summary document on rights is therefore presented when the interested party is being searched.

It is up to the police and gendarmerie authorities to ensure that the concrete conditions under which judicial police officers notify the rights of persons in custody guarantee that these are fully understood. To that end, they should ensure that all necessary explanations are given with due care and that the person in custody can consult, at any time, a document summarising their rights in a language and in terms they understand.

One of the CGLPL's recurring observations – the extension of custody for reasons of "administrative convenience" – has worsened considerably this year. Indeed, this unfortunate practice, very inappropriately tolerated up to now by the Court of Cassation, has been validated by the law. For example, there are an increasing number of cases where overnight judicial police officers intervene only to notify measures and leave hearings until the following day – and to other people. There are even instances where, in the absence of a judicial police officer on duty in a police station, persons placed in custody are taken to another police unit for the sole purpose of being notified of their custody. Similarly, the real or supposed difficulty of contacting the public prosecutor's office now legally justifies maintenance in custody, the sole purpose of which is to adapt to the operations of public services. The CGLPL has noted a sharp increase in the number of measures extended in this way. This practice seems to have become widespread, sometimes even in the complete absence of a hearing. Alternatively explained by work overload in urban units and by the difficulty of working in rural areas, these extensions are encountered in both police and gendarmerie units.

> If the motivations underlying such a measure are limited, as its promoters claim, to a simple desire for administrative pragmatism, they constitute, at the very least, a serious exception to the principle that no organisational consideration can justify a measure involving deprivation of liberty. However, it is not impossible that this "tolerance" is misused for more perverse purposes: a "policy of numbers" in terms of custody, or even tolerance for "police sanctions".

In view of the risks it entails and the concrete consequences that can already be observed, the CGLPL recommends that the legislation's tolerance for deprivation of liberty unrelated to the needs of an investigation be repealed and, in any event, pending such repeal, that it be used only with the utmost caution.

It is recommended that the police and gendarmerie authorities and the judicial authority restrictively interpret the legislative provisions now enabling custody to be extended for the sole purpose of protecting the comfort of public services.

The right to meet with a lawyer immediately after being placed in custody is also not well known. Bar associations should implement an organisation that enables this right to be respected, but more and more duty lawyers only come in shortly before the hearing, not from the beginning of custody. In 2020, the CGLPL will undertake actions to raise awareness of this need among bar associations.

Although this issue is considered in each CGLPL Annual Report, we cannot fail to mention the use of means of restraint and the removal of bras and spectacles. In this area, practices remain very heterogeneous, but while there are units that apply them with discernment, those for which they are systematic still represent the majority. Within the same police station, it is not uncommon for two units to use different methods. A few gendarmerie units have recently been equipped with belts worn around the person in custody's waist to which their hands can be cuffed in the front of their body, thus avoiding the pain caused by behind-the-back handcuffing. The CGLPL can only reiterate its recommendations with regard to this point.

Lastly, reports of strip-searches are extremely rare, but inspectors witnessed this practice being used once during the year. As a reminder, Art. 63-6 of the Code of Criminal Procedure stipulates that "Security measures aimed at ensuring that a person in custody is not carrying any object dangerous to themself or to others shall be defined by order of the competent ministerial authority. They cannot consist of a full-body search".

Handcuffing should be exceptional and may only be practised when the behaviour of the person in custody poses a real risk of escape or violence. Inside of closed premises, only a risk of violence can justify handcuffing. Belts should systematically be used to avoid behind-the-back handcuffing.

Spectacles and bras can only be removed during stays in cells when the behaviour of the person in custody poses a real risk of suicide. Spectacles and bras should be returned during each hearing and, a fortiori, for any appearance before a judge.

No strip-searches may be carried out.

Detention for verification of foreigners' rights of residence is verified by the CGLPL during each custody facility inspection. This procedure is usually monitored using a special register in police units and the custody register in gendarmerie units. Perhaps because of their rarity, these procedures are not well known and often give rise to approximate management inappropriately modelled on that of custody. Sometimes searches are carried out, objects such as mobile phones are removed, or intermediaries are used to carry out acts that the detained person should be able to perform themself, such as calling a relative.

The CGLPL reiterates that, from the beginning of the procedure, the foreigner should be informed of the reasons for their detention and of its maximum duration, in a language they understand.

They should also be informed of their rights: to be assisted by an interpreter, to be assisted by a lawyer and to talk to them as soon as they arrive, to be examined by a doctor, to notify their family at any time and, if they are responsible for minors, to have contact for their care, and to notify the consular authorities in their country. The foreigner may request that their lawyer be present at their hearings. In this case, the first hearing, unless it concerns only the identity of the detainee, cannot start without the lawyer, provided that they are present within the hour they were informed.

In any event, this procedure should in no way be confused with custody.

Training should be provided on the procedure of detention for verification of rights of residence so that it is not confused with custody.

Lastly, the issue of the supervision of police and gendarmerie units should be addressed once again. External supervision by public prosecutor's offices is very unevenly exercised. The inspections provided for by law are not always carried out and when they are, they may be of a formal nature that deprives them of their interest. This observation has been made several times in the past.

> For the first time, the CGLPL's inspections, whose lack of effect has been deplored several times, seem to have met with more success. In one of the police stations inspected for the second time, the recommendations made during the previous inspection had given rise to an internal memo from the Commissioner which, although it did not resolve all the difficulties encountered, at least encouraged some progress. In another unit, the inspectors were informed that building work carried out after the previous visit had been attributed to this inspection. Similarly, several inspectors stressed that they were carefully listened to by unit managers, which they considered to be a sign that their recommendations would be implemented. Such observations are rarer in the gendarmerie where second inspections are still exceptional.

However, it is only through effective internal supervision that practices denounced by external inspectors may be improved. First of all, internal supervision is the responsibility of custody officers; this function that is still poorly known is usually formally present but in reality not very active. Even so, we sometimes come across particularly dynamic custody officers who provide their colleagues with effective assistance, leading to a real improvement in procedures. On the other hand, the function of custody officer is not identified in gendarmerie units, which is unfortunate. On this point, the CGLPL can only refer to its previous recommendations on the subject.

Lastly, inspectors have for the first time observed the existence of a system called "AMARIS[26]" initiated by the national police in September 2018. It is a "self-monitoring" procedure focusing on several areas, some of which concern detainees: verification of the keeping of regulatory registers, and verification of the video surveillance and alarm system. Such systems should be developed and be assessed on a regular basis.

[26] *"Améliorer la Maîtrise des Activités et des RISques" (Improving Control of Activities and Risks).*

7. Presentation of people deprived of liberty before courts in 2019

In 2019, the CGLPL inspected the jail cells of eight Courts of First Instance (TGIs)[27], including that of Paris, visited for the first time in its new facilities. This site, which cannot be compared to any other, has been the subject of specific developments.

During these inspections, the CGLPL encountered two courts that benefited from new, well-designed facilities, with completely refurbished jail cells (drinking water, toilet isolated by a low wall, video surveillance respecting privacy), a protected pathway away from public view, and sufficient additional facilities enabling interviews with lawyers and social investigators to be carried out comfortably and confidentially. These courts have good security, which should in most cases make handcuffing inside the facilities superfluous.

However, the situation is quite different in the other courts that were inspected: the jail cells are too small and overcrowded; there may be no free access to sanitary facilities or even no sanitary facilities at all. While the routes to the courtrooms are most often isolated from the public, this is not the case for the paths to the judges' offices or for the wait in front of these offices, which are usually in the midst of the public. Interviews with lawyers and social investigators often take place in unsuitable spaces where confidentiality is not respected or in shared offices whose occupancy imposes long waiting times.

> It is not uncommon for people to be crammed into jail cells that are too small, without being able to lie or even sit down. Sometimes, there are not enough cells to simultaneously accommodate people who need to be separated; in other cases, some people have to wait outside in the vans that brought them.

Some of the heads of the courts visited did not hesitate to ask the CGLPL to highlight the defects noted so that the specifications for future work would take them into account.

In such facilities, the treatment of the people received often leaves much to be desired. There are no hygiene products, especially for women; maintenance, including in new facilities, is deficient: dirt has set in and the facilities risk prematurely deteriorating. Food is often provided empirically, without precise rules, at the initiative of the police, the court, or the relatives of the detained person.

The practices of the police, gendarmerie and prison administration are very disparate, sometimes even at the same time and in the same place. For example, when people are locked up together, they do not have the same possibilities depending on the goodwill of their escort: some allow access to tobacco, while others do not; some handcuff in the front, others behind the back; some enter a judge's chambers or the secure dock as a threesome, others as a twosome, and so on. Those who witness such disparities do not fail to wonder about them. They give rise to a feeling of injustice or, at the very least, of incomprehension.

> The treatment of persons deprived of liberty in a court is the responsibility of that court. It is therefore recommended that heads of court ensure that the most basic needs of persons deprived of liberty are met and that their rights are respected. Guidelines to this end should be given to escorts.

Comparable inconsistency is observed when it comes to the implementation of security measures, especially handcuffing. It is most often systematic, including in particularly secure courts. In most courts, waits in front of judges' offices take place in a public space with handcuffing, sometimes behind the back. Although the CGLPL has observed a variety of practices depending on the origin, or

[27] *The full list of institutions inspected in 2019 is provided in Appendix 2 of this report.*

even personality, of the escorts, it does not seem that it has encountered situations where security was in line with the risks associated with the behaviour of the person deprived of liberty.

In one case, since the juvenile court is located about 100 metres from the TGI, minors have to leave the cells of the TGI and walk, handcuffed and escorted, to the juvenile court, where there is no waiting area. This practice should be stopped immediately.

A handcuffed minor should not under any circumstances walk on a public road.

Lastly, it should be noted that the practice of searches in courts should systematically be based on a legal provision and be carried out by a trained public official specially authorised for this task. Thus, contrary to what was observed in one court, a person appearing free and placed under a committal order in court can only be searched by a police officer, gendarme or prison officer, not by the court's security team.

Searches of persons placed under a committal order in court may only be carried out in accordance with the legal provisions and by a trained and authorised person.

The CGLPL reiterates its opposition to the construction of permanent glass docks in courtrooms and requests that these only be installed on an exceptional basis by reasoned decision of the court.

> The CGLPL notes that some courts have stopped using the fixed docks installed for defendants in the courtroom. In such cases, this causes persons deprived of liberty to enter the courtroom through the public entrance, thus exposing them handcuffed in plain sight.

In other cases, the docks are used and, even when they have been well designed, which is not general, this system cuts the defendant off from the judges, does not allow them to feel included in the trial and, depending on their height, places them more or less in front of the openings in the glass part of the dock. Sometimes, reflections off the glass or the poor design of the dock do not even allow the court to see the defendant clearly.

The CGLPL reiterates its recommendation that docks in courtrooms not be permanent but instead be removable and installed on an exceptional basis, by reasoned decision of the court.

Lastly, on only one occasion did the CGLPL encounter a register enabling the use of cells to be monitored in one of the visited courts. It reiterates that such monitoring should be systematically organised so that lengths of stay and the list of events involving a person deprived of liberty (arrival, breaks, outings in open air, meals, consultations, interviews, conflicts, etc.) are subject to checks and guidelines from heads of court.

Paris's Court of First Instance is in all respects an exceptional site. It houses many diverse places of deprivation of liberty, each one designed for the type of public received (prisoners, persons in immigration detention and persons referred) and their experience in the court since there are, in addition to the jail cells, guarded waiting satellites. A very large number of civil servants responsible for supervising persons deprived of liberty rely on a substantial and efficient video surveillance system. The report on the inspection of this court includes a large number of recommendations that can only rarely be transposed to other sites. They involve in particular the length of stay at the TGI; the complexity of access to the site, and of the paths within it, both for persons deprived of liberty and for their lawyers; and the difficulty of transport between the site and the penal institutions in the Paris region.

Chapter 2

Reports, opinions and recommendations published in 2019

1. Opinion on healthcare for foreigners in detention centres for illegal immigrants[28]

> People held in detention centres for illegal immigrants (CRAs) require special care in light of their great administrative, social and medical instability, their possible linguistic isolation, the prevalence of certain diseases, and the mental disorders that can result from detention and the imminence of deportation. They enjoy the fundamental right to health protection which includes, in addition to health safety, equal access to and continuity of care.

Within each detention centre, the medical care of detainees is entrusted to medical units (UMCRAs). CRA inspections, on-site checks and referrals received enable the CGLPL to draw up a precise inventory of the UMCRAs' operations[29] showing that professional practices are very heterogeneous.

In the context of the maximum duration of placement in immigration detention being extended to 90 days, as of 1 January 2019, it seemed necessary for the CGLPL to conduct a detailed review of conditions of healthcare for detainees and to reiterate its recommendations in this area.

1.1 Medical units need to be reorganised

First of all, it should be noted that the legislative and regulatory changes that have taken place in recent years require the revision of the Circular of 7 December 1999[30] and that professionals should be able to have access to an exhaustive, clear and up-to-date reference document covering all the areas involved in the health and social care of detained persons. Some of the problems observed are due to the inadequacy of the applicable texts in this area on the one hand and to lack of knowledge of the regulations by medical and paramedical staff on the other.

The extension of the maximum period of detention also implies a redefinition of the UMCRAs' missions which should include, in addition to those currently assigned (immediate basic care, emergencies and continuity of care previously prescribed), measures to detect infectious and/or contagious diseases, preventive and therapeutic education actions and, where necessary, referral to specialists.

Lastly, in order to fulfil their missions, the UMCRAs do not always have suitable facilities or material resources, nor do they have a sufficient number of specialised medical personnel. The

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[28] *Opinion published in the Official Gazette of 21 February 2019.*
[29] *The CGLPL's opinion is based in particular on the 60 CRA inspections carried out since 2008 as well as on three on-site checks, specifically relating to the medical care of detainees, conducted in 2017 and 2018.*
[30] *Circular DPM/CT/DH/DLPAJ/DEF/GEND no. 99-677 of 7 December 1999 on the health system set up in detention centres for illegal immigrants.*

coordination and funding of the UMCRAs should therefore be strengthened in order to provide the same quality of healthcare for people detained in France. Indeed, the resources currently available to the medical units are very disparate – depending on the prefecture and hospital in question – and partly explain the heterogeneity of the medical care provided.

1.2 Access to healthcare should be guaranteed for those detained, in compliance with ethical rules

Access to nursing staff is not always easy within CRAs and, for one reason or another, some people detained do not apply for healthcare despite their precarious state of health. To overcome these difficulties, it is important that foreigners be systematically seen in the medical unit on arrival and that they have free access to the UMCRA facilities – or communicate directly with the nursing staff – throughout their stay. Healthcare professionals should be able to use professional interpreters, as is already the case in some centres.

Compliance with ethical rules and the right to privacy require that the confidentiality of care and exchanges between detainees and nursing staff be guaranteed – except in very exceptional circumstances. However, breaches of professional secrecy are numerous and still very frequent within detention centres for illegal immigrants: the CGLPL made observations on this subject for more than half of the CRAs inspected in 2017 and 2018[31].

Similarly, it should be remembered that the use of confinement rooms should be exceptional and that confinement for health reasons can only be accepted for a period of time strictly necessary for the provision of treatment or the organisation of hospitalisation. It is not acceptable, as has been noted on several occasions, for people to be locked in such rooms by medical prescription on the grounds that they suffer from psychological or psychiatric disorders. Hospitalisation should lead to the lifting of the detention measure, when the person is unable to exercise their rights.

1.3 The identification and treatment of mental disorders are essential

While it is a fact that people with mental disorders are over-represented in the migrant population, these disorders are still too often trivialised by the public authorities or perceived as a means of preventing deportation. Carrying out epidemiological surveys could be a useful way of determining the characteristics of mental and psychiatric disorders in detention centres, assessing their significance, adapting resources and putting an end to widespread suspicion.

At present, people in mental distress or with mental disorders are only treated on an emergency basis. Therefore, the presence of a nursing team dedicated to the provision of psychiatric care should be organised within each CRA to be able to diagnose any psychiatric disease and allow for appropriate medical follow-up.

Each CRA should also draw up an agreement with the relevant hospital on the terms and conditions of hospitalisation in a psychiatric ward. It should be noted that in accordance with the provisions of the Public Health Code, admission to voluntary care should be favoured when the detained patient consents to care and when their condition allows it.

[31] *Layouts of facilities that do not allow for confidentiality of consultations, distribution of medications by or in the presence of police officers, open-door provision of care, exchanges of information about a foreigner's state of health, medical certificates given to police officers without a seal, etc.*

1.4 Protecting the health of sick foreigners should be a concern for nursing staff, whatever the fate of the individual

CRAs sometimes take in people whose state of health does not allow them to be accommodated in a closed, collective space. In this case, unlike what is practised in many centres, it is up to the UMCRAs' doctors to draw up, on their own initiative, a certificate of incompatibility with continued detention. They should therefore be encouraged to go into living areas to assess the conditions of detention *in situ*. The CGLPL considers that the administrative authorities should then draw conclusions from the incompatibility and lift the detention measure[32]. On the other hand, in accordance with Article 105 of the Code of Medical Ethics, UMCRA doctors are not responsible for drawing up certificates of compatibility with detention and are required to recuse themselves when asked to do so.

The procedure for protection against deportation should also be implemented with greater transparency[33]. Some doctors never draw up medical certificates as part of the procedure to protect sick foreigners and when they do, they are seldom informed of the OFII's opinion or of the decision made by the prefecture. Similarly, the medical certificate prepared by the UMCRA doctor and the medical opinion issued by the OFII doctor are only very rarely provided to the persons concerned. Lastly, detainees released for health reasons do not always know the reasons for their release, nor the administrative steps to be taken when they leave the centre. A document, or even a summons to the prefecture, should systematically be issued to enable these people to assert their right to a residence permit.

The CGLPL has had to deal, on several occasions, with the situations of people released from CRAs for health reasons without any medical care being organised for the future. In order to ensure continuity of care, the CRA manager should send the UMCRA timely information regarding the fate of detainees so that the nursing staff may appropriately inform and refer their patients, give them medication for the duration of their treatment and provide them with elements of their medical record.

1.5 The Minister of the Interior and the Minister of Solidarity and Health submitted their comments on 15 February 2019

The two ministries agree on the importance of updating the Circular of 7 December 1999 in order to adapt the regulations to legislative changes (in particular, the increase in CRA capacities and the longer length of detention). They indicate that a working group will need to propose, in the short term, a new text defining:

- healthcare missions in CRAs;
- the required medical and paramedical skills and the need for psychologists;
- criteria for defining productive hours of presence;
- emergency management procedures.

They add that discussions will also be held on methods for financing and managing the UMCRAs, on the coordination of the various State services, on clarifying the role of the UMCRA doctor in relation to that of the OFII, and on the issues of detecting, identifying and treating certain diseases – including those related to mental health. The Minister of the Interior also mentions that the

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[32] *The current regulations stipulate that the prefectural authority is not bound by the opinions issued by the UMCRA doctor.*

[33] *A sick foreigner detained in a CRA can apply for protection against deportation if they are habitually resident in France and if their "state of health requires medical care, the lack of which could have exceptionally serious consequences for them and if, in view of the care available in and the characteristics of the health system in the country of return, they could not effectively benefit from appropriate treatment there" (Article L.511-4, 10° of the Code of Entry and Residence of Foreigners and the Right of Asylum (CESEDA)).*

work to revise the circular should enable the use of professional interpreters to become widespread within all UMCRAs. Lastly, contrary to what is regularly observed by the CGLPL during its inspections and inquiries, the Minister affirms that the prefectural services systematically lift the detention measure in the event that a detainee is hospitalised in a psychiatric unit.

In the comments sent to the CGLPL, the Minister of Solidarity and Health stated that the work on the circular was supposed to be relaunched during the first half of 2019, while the Minister of the Interior indicated that it should have been completed during the same period. In any case, as of 1 January 2020, no text had yet been published by the public authorities.

2. Thematic report: Places of deprivation of liberty at night

The CGLPL regularly observes that in places of detention, the notion of "night" involves a wide variety of systems and durations. All places of deprivation of liberty obey rules and procedures at night that are in some ways different from those prevailing during the day, and these specificities have a significant impact on the effectiveness of the fundamental rights of persons in detention. This is why the CGLPL wished to devote a thematic report to these periods of time about which little is known and during which the fundamental rights of persons deprived of liberty are put to the test, drawing concretely on the various observations made during its inspections as well as on numerous referrals received.

What is considered as "night" in places of deprivation of liberty does not correspond to the period between sunset and sunrise, nor to the reasonable length of sleep, but only to human resource management considerations. Daytime officers are generally relieved between 7 and 9 p.m. and night teams end their shift between 7 and 8 a.m. During this time, or even for a longer period, persons deprived of liberty must remain in their room or cell. This second detention in already closed spaces limits opportunities for coming and going even more so than during the day.

In penal institutions, the last time the doors are opened is when dinner is served, which is very early, usually between 5 and 6 p.m. in remand prisons. Prisoners then have to wait until around 7 a.m. the next morning to have physical contact with an officer. In custody facilities, people are locked up in cells during the day and at night. All procedures are frozen from 7 p.m. to 9 a.m. because, apart from in exceptional cases, investigators do not carry out any hearings or investigations during this period. The duration of what is commonly referred to as "night" seems more appropriate in mental health institutions, juvenile detention centres and detention centres for illegal immigrants. In these places, the night generally runs from 10:30 p.m. to 7 a.m.

Night is the time when the doors close and staff numbers are reduced. Activities stop and boredom sets in, as do difficulties sleeping when privacy and respect for dignity are strained. Awareness that the doors may not reopen quickly enough were an emergency to occur is sometimes a source of fear and anxiety. Arriving in a place of deprivation of liberty or leaving it after dark is often synonymous with a truncated welcome or an improvised release.

The CGLPL's analyses show that the current system does not correspond to the biological rhythms of people, since it sometimes leads to their being locked up for 12 to 14 hours at a time and profoundly compromises the effectiveness of their fundamental rights. Consideration should be given to extending the hours of the day shift. To that end, the CGLPL is issuing a series of recommendations.

2.1 Recommendations regarding the right to privacy and mental integrity

Each person deprived of liberty should sleep in a space of their own, unless they express a desire to share it with another person.

Accommodations should be configured to respect the privacy of the people placed there, both during the day and at night. When several people are sharing the same space, the facilities and equipment should provide them with privacy. Outside of periods when professionals are carrying out surveillance operations, it is essential that the interior of rooms or cells be hidden from view.

Persons deprived of liberty should have the ability to personalise their living space; they should be accommodated in a suitable living space and have the necessary equipment to satisfy their basic needs, with due respect for each person. They should be able to protect themselves from theft and from any outside intrusion into their room during the night, except by professionals.

In penal institutions, all necessary measures should be taken to ensure that night rounds do not disturb sleep. In addition, persons who are subject to special surveillance measures during the night should have their situation reviewed regularly and carefully.

2.2 Recommendations on maintaining family ties, activities and access to basic facilities

Persons deprived of liberty should be able to eat and drink during the night; they should have access to food and suitable equipment (kettles, hotplates, ovens or microwave ovens). They should have easy, continuous and autonomous access to an isolated toilet and a drinking water tap, in the daytime and at night. The use of substitutes (urinal, toilet bucket) is not acceptable. They should have access to a shower at bedtime and first thing in the morning. During the day, they should be offered activities outside of their accommodation, particularly outdoors, to help them sleep at night.

Mobile phones should only be removed from hospitalised patients for clinical reasons that are regularly reassessed by a doctor. This should never be based on a systematic rule, applicable to the whole unit. In detention centres for illegal immigrants, telephones should be kept by their owners, even if they are equipped with a camera, as recommended by the CGLPL in its Opinion of 10 January 2011, as they are advised that taking pictures is prohibited and that they may be subject to penalties if they fail to comply with this prohibition. Persons in open wings should be able to keep their personal telephones. Basic mobile phones, without any Internet connection or camera, should be sold in the canteens of penal institutions. These phones would be covered by the same monitoring and listening possibilities as today's calling points.

Given its importance today, both for maintaining family and social ties and for preparing releases, Internet access should be facilitated during the evening for people deprived of liberty. Computer rooms should be accessible at later times, while personal computers and tablets should be allowed more broadly. In addition, Wi-Fi coverage should be considered as an option in hospitals, juvenile detention centres and detention centres for illegal immigrants.

All places of deprivation of liberty should adapt visiting hours to facilitate the maintenance of family ties by taking into consideration the pace of life and work patterns of visitors; in particular, evening visiting rooms and visits should be possible.

Attractive group activities (debates, workshops on artistic expression, etc.) should be organised after dinner. In detention centres for illegal immigrants and hospitals, collective spaces, especially outdoors, should remain accessible during the night.

Persons deprived of liberty become bored in the evening in their room or cell. Thought should be given to how to better reconcile the need for security with the right to free time. In particular, objects allowing people to keep themselves busy should be allowed in rooms or cells unless there is a confirmed danger. In addition, institutions should be upgraded in terms of both electrical equipment and capacity.

2.3 Recommendations on security and access to healthcare

All accommodations should be equipped with an easily accessible intercom in good working order. Any request made in this way should be logged and answered.

A sufficient number of officers should be present at all times near any locked accommodation at night. This means that, when a person in custody has to remain there overnight, they should be taken to a police or gendarmerie unit with permanent surveillance; failing this, call buttons must be installed. In addition, frequent and regular rounds should be carried out in all areas where people are detained for the night, without disturbing their sleep.

Procedures for responding to emergency calls and opening rooms or cells during the night should allow for rapid and systematic intervention. In penal institutions, the management of keys to cells during the night shift should be made more flexible.

Framework protocols should be signed between places of deprivation of liberty, healthcare institutions and Regional Health Agencies to clearly identify access to out-of-hours health services. When a medical problem is brought to the attention of an officer on duty during the night, they should systematically contact a doctor or their superiors. In non-hospital institutions, any sick person should be able to communicate directly with the coordinating medical unit.

Night escort services should be organised in such a way that allows a person to be taken to hospital without delay and without restrictions. Emergency services should also be able to intervene quickly and optimally in any place of deprivation of liberty.

2.4 Recommendations on legal certainty

No placement in a detention centre for illegal immigrants can be decided for organisational reasons and take place the evening before the planned date of deportation, a fortiori concerning families with children.

At the hospital, policies should be developed for the mobility of nursing staff between day and night shifts – even if only for limited periods of time during the year – in order to harmonise practices. Night shift staff should also be provided with access to training in order to update their knowledge and thus better welcome patients in the unit. Measures restricting the freedom of patients admitted at night should be individualised, not systematic.

Court appearances should be organised in such a way as to enable persons referred or extracted to appear before a judge and be taken to a place of detention at decent times. In any event, there should be a sufficient number of trained officers carrying out procedures for arrival at a place of deprivation of liberty at night.

When a person arrives at an institution during the night, an inventory of the objects carried by that person should be carried out immediately, systematically and jointly.

Rights should be notified to a person in custody who is arrested while intoxicated as soon as they are able to understand them, and not based on the availability of the judicial police officers on duty at night. Lawyers should hold a 30-minute interview at the beginning of custody, not just the next day, for persons arrested in the evening or early in the night.

Training for nursing staff on patients' rights, which is already too rare for day-shift staff, should be developed for night shifts so that information may be provided as early as possible and throughout hospitalisation.

Any person subject to a confinement measure, whether for judicial, administrative or medical reasons, should systematically undergo a somatic examination.

For the same detained person, the measures of restraint (handcuffs, shackles) imposed on them at night should be of the same nature and intensity as those that would be used during the day.

Psychiatric institutions should strictly apply the provisions of the Act of 26 January 2016, as well as the recommendations of the HAS and the CGLPL, which stipulate that a seclusion or restraint decision can only be made as a last resort and must systematically be preceded by a medical examination. In case of an emergency, if the measure is taken by a nursing team, it should be assessed via a medical examination within one hour.

Individual decisions made at night are often precautionary in response to an emergency situation. Even in this context, all decisions to seclude, confine or place in a punishment wing should be reasoned, monitored and notified under the same conditions as during day shifts, in light of their consequences. It should be possible to leave these places at night, as soon as the situation of the person deprived of liberty no longer warrants them being there.

On night duty, when placement in an emergency protection cell or provision of an emergency protection kit is considered, the on-call manager should go and meet with the detainee before the measure is pronounced.

On night duty, too many decisions are postponed to the next day. Support should not be limited to emergencies and security procedures: it should continue with the same quality as during the day.

In mental health institutions, a medical examination of all secluded and restrained patients should be carried out every evening to decide whether the measure needs to be maintained during the night.

Both during the day and at night, measures of deprivation of liberty should be lifted as soon as they are no longer justified in law. In particular, all custody measures should give rise to investigations and hearings as soon as possible so as to limit their unnecessarily long duration and avoid extensions. Appearances before the public prosecutor at the end of custody should occur as soon as the last useful act of custody has been carried out.

The competent authorities should allow a person released at night to return to their usual place of residence. If this is not possible, they should be invited to sleep at the institution, if possible in an open space. Assistance upon release from detention should be effective even for persons whose release order is issued during the night shift. Unaccompanied foreign minors should be provided with accommodation upon release, whether during the day or at night.

3. Recommendations for the Andrée Rosemon hospital in Cayenne[34]

The Andrée Rosemon hospital in Cayenne (French Guiana) was visited by four inspectors from 5 to 12 October 2018. The observations made during this visit led to the drafting of an inspection report and recommendations, which were sent for adversarial debate to the institution in question and to the Regional Health Agency of French Guiana.

The final inspection report and the accompanying recommendations were sent on 14 March 2019 to the Minister of Solidarity and Health, who did not provide any feedback.

The most serious findings concerned access to medical care, seclusion practices and the facilities in which this seclusion is carried out.

[34] *Published in the Official Gazette of 24 October 2019.*

The mention of the initial observations made during the inspection attracted a great deal of attention and consideration from the medical community, which is why the CGLPL did not implement an emergency procedure (Article 9 of the Act of 30 October 2007). Nevertheless, the seriousness and structural nature of the observed difficulties justified, in addition to the publication of the inspection report, the publication of its final recommendations in the Official Gazette:

- illegal and abusive seclusion practices should stop immediately. Training on the management of violence, seclusion and restraint, as well as assessments of professional practices, should be implemented without delay for all nursing staff. A seclusion and restraint register should be created. It should be analysed regularly by nursing staff, which should help limit seclusion practices to what could not be obtained by other means;
- all rooms used for seclusion measures should respect the dignity of persons. Otherwise, they should not be used;
- access to somatic care for psychiatric patients should be provided without delay, in particular for medical examinations in seclusion rooms;
- continuity of care should be guaranteed to patients and medical presence organised within each unit, including terms of replacement and out-of-hours services;
- a medical culture shared with all nursing staff should be built via regular clinical meetings and the strong presence of doctors in the units, enabling individualised care projects to be introduced;
- therapeutic activities should fully integrate the individualised care projects of psychiatric patients, regardless of the status of their hospitalisation, and receiving funding from the institution that is in line with needs.

4. Opinion on the care of detained persons with mental disorders[35]

Since its creation, the CGLPL has repeatedly pointed out shortcomings in the mental healthcare of detainees. It paints a gloomy picture of the situation and reaffirms the principle of real equality of access to care and treatment between detained patients and the rest of the population. Its findings concern serious diseases aggravated by detention and seclusion, an increased risk of suicide, and detention conditions that disrupt access to healthcare and undermine its effectiveness. It can be considered that these situations are due to three main factors: lack of knowledge of the diseases affecting the prison population, inadequate institutional means for their treatment, and the trivialisation of violations of fundamental rights.

4.1 Epidemiological studies are old or partial

The latest epidemiological study carried out in France on mental health in prisons[36] showed that eight out of 10 male prisoners suffer from at least one psychiatric disorder and 24% suffer from a psychotic disorder. Forty-two percent of men and half of women in metropolitan France have a personal or family history of indisputable severity; 40% of men and 62% of women in prison are said to be at risk of

[35] *Opinion published in the Official Gazette of 22 November 2019.*
[36] *Rouillon F., Duburcq A., Fagnani F., Falissard B., Étude épidémiologique sur la santé mentale des personnes détenues en prison, Expertise psychiatrique pénale, 2007.*

suicide. A subsequent study – carried out in Nord-Pas-de-Calais between 2015 and 2017 – confirmed these data and highlighted frequent co-morbidities, with 45% of new arrivals in prisons having at least two psychiatric disorders and more than 18% at least four disorders[37].

In its 2013 Annual Report, the CGLPL recommended launching longitudinal epidemiological surveys on psychiatric disorders in places of deprivation of liberty, including psychiatric hospitals. It is now essential to improve screening for mental diseases among detainees, by directing it towards the search for appropriate care and the definition of a care policy.

4.2 The judiciary does not have the necessary means to identify mental diseases

Among the main causes of prison overcrowding are temporary detention and the summary trial procedure, which frequently leads to immediate incarceration. However, due to a combination of several factors – the difficulty, for people with mental disorders, of revealing that they are undergoing psychiatric care; the fact that lawyers are sometimes unable to study files in their entirety; and the non-suspensive nature of the psychiatric assessments conducted – its implementation frequently leads to the imprisonment of people whose state of health requires psychiatric care that cannot be provided in detention.

Moreover, while the judge may take into account, during sentencing, a psychological or neuropsychological disorder that has altered the discernment of the perpetrator of a criminal offence[38], and while Act no. 2014-896 of 15 August 2014 relating to the individualisation of sentences and increasing the effectiveness of criminal sanctions provides, if necessary, for a reduction in the sentence, psychiatric assessments rarely conclude that there is complete lack of responsibility.

Lastly, as highlighted in a recent parliamentary report of the National Assembly on detention[39], psychiatric assessment is going through a deep crisis, due in particular to the insufficient number of experts, the increase in requests for expert assessment, the lack of training for professionals, and the low financial attractiveness of this exercise.

> The CGLPL calls for a re-examination of the provisions relating to criminal responsibility in situations where discernment is abolished or impaired, in order to enable the judge to better assess the mental health of the accused.

4.3 Prison staff are not trained to understand and manage mental illness

Mental illnesses affecting detainees complicate relations with prison staff, who are not trained to deal with them. In addition, while many prisoners are reluctant to seek psychological counselling (which is seen as an admission of weakness and may expose them to the risk of being perceived as sex offenders), some detainees with mental health problems are sometimes left to fend for themselves because they do

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[37] Study cited by Stéphane Mazars in "La prise en charge des détenus souffrant de troubles psychiatriques", Repenser la prison pour mieux réinsérer, Report of working groups on detention conditions in France, National Assembly, March 2018.

[38] Article 122-1 of the Criminal Code: "A person is not criminally liable if they were suffering, at the time of the events, from a psychological or neuropsychological disorder that had abolished their discernment or control over their acts" (paragraph 1). "A person who was suffering, at the time of the events, from a psychological or neuropsychological disorder that affected their discernment or hindered their control over their acts remains punishable. However, the court shall take this circumstance into account when determining the sentence and setting the regime for it […]" (para. 2).

[39] "La prise en charge des détenus souffrant de troubles psychiatriques", Stéphane Mazars, in Repenser la prison pour mieux réinsérer, Report of working groups on detention conditions in France, National Assembly, March 2018.

not seek care from a staff member. Lastly, sometimes; a request for psychiatric care is perceived as being motivated solely by a desire to support an appeal.

> The CGLPL recommends that supervisory staff in penal institutions systematically receive basic training in the detection and management of mental disorders in the prison population.

4.4 The means for guaranteeing access to care are insufficient

Since the creation of Specially Equipped Hospital Units (UHSAs)[40], the care of mental illness in prison has been organised in three ways: outpatient treatment in Prison Health Units (USMPs), day hospitalisation in Regional Mental Health Departments for Prisons (SMPRs) and some USMPs, and full-time hospitalisation – in UHSAs or in local psychiatric units. Despite this relevant organisation, detainee patients do not have access to care equivalent to that of free patients.

The increase in the number of detainees in remand prisons and chronic overcrowding have not been accompanied by the parallel development of health facilities, while access to outpatient care and day hospitalisation is very unequal, particularly for women, depending on whether or not the detainee is placed in an institution with an SMPR.

The unequal territorial distribution of the UHSAs, their insufficient number and difficulties in terms of transporting detainees hamper access to care and increase corresponding waiting times. In addition, due to the insufficient number of UHSAs, some psychiatrists end up prompting the committal of detainees to involuntary psychiatric care under the terms of Article L.3214-3 of the Public Health Code, in which case a person who could benefit from voluntary care in a UHSA is kept under restraint.

The coordination of this system is insufficient to guarantee real continuity of care, as the return to prison after a stay in a UHSA or hospital does not offer a suitable environment for the management of psychiatric disorders as would a mental health centre in an open environment. For some patients, this results in an endless cycle of hospitalisation and return to detention after an always incomplete recovery.

4.5 Medical care in penal institutions is inadequate

In the vast majority of the penal institutions inspected by the CGLPL, detainees encounter major difficulties in accessing psychiatric care (lack of staff, excessively long waiting times), including in institutions designated to provide specialised care[41] for detainees handed down a social and judicial supervision sentence and for sex offenders. This results in serious shortcomings in their care.

Among the institutions that are supposed to provide this special care, the Château-Thierry prison complex (Aisne), which has around 100 places, is intended to temporarily take in convicted persons with behavioural disorders that make it difficult for them to remain in ordinary detention but who are not under the care of an SMPR or UHSA and are not hospitalised in involuntary psychiatric care. It is not a hospital structure, but rather an institution benefiting from reinforced prison and health resources, which has been redirected away from its primary purpose to make up for structural deficiencies in the care of detainees suffering from psychiatric diseases, since it actually takes in, for sometimes long or recurrent stays[42], people with severe psychotic disorders whose institution of origin is no longer able to provide them with care.

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[40] These units were created by the Act of 9 September 2002 on Orientation and Programming for Justice. The first UHSA opened in 2010; there are now nine of them.

[41] Article R.57-8-3 of the Code of Criminal Procedure.

[42] Chief Inspector of Places of Deprivation of Liberty, report on the second inspection of the Château-Thierry prison complex (Aisne), from 30 March to 2 April and from 5 to 7 August 2015.

Having noted serious infringements of the rights of persons detained in this institution, in particular the administration of heavy medication outside of any legal framework and the hospital context that should regulate it, the CGLPL considers that the management of behavioural disorders in a prison environment as therein implemented presents serious weaknesses, which prevent this institution from being considered as a model to be followed.

It therefore recommends that the development of secure hospital facilities be encouraged instead of the creation of medical prisons, in order to ensure that detainees with mental disorders receive appropriate care, including long-term care.

4.6 The continuity of the rights of patients staying in UHSAs is not always guaranteed

UHSAs are hospital facilities associated with a penal institution. The fluidity of relations between hospital and prison staff and the distance separating the unit from its relevant institution can affect the exercise of prisoners' rights (inability to manage their packages, arbitrarily decided escort levels, absence of the Prison Rehabilitation and Probation Service[43] and social services, unfavourable detention and visiting conditions, etc.), to the extent that many detainees refuse to be hospitalised.

All useful measures should be considered to ensure that a detainee placed in a hospital unit does not suffer any restrictions on their rights in detention; in particular, this should involve ensuring the continuity of their administrative situation and providing hospital units with the appropriate means and infrastructure (visiting rooms, activities, canteen, etc.).

4.7 Conditions of care for detainees in community psychiatric units undermine their dignity

Committal of a detainee to involuntary psychiatric care is governed by Article L.3214-3 of the Public Health Code, while Article D.398 of the Code of Criminal Procedure specifies that the rule laid down in Article D.394 of the same code "concerning their custody by police or gendarmerie personnel during their hospitalisation" does not apply to prisoners with mental disorders. These provisions make the hospital responsible for managing the security aspect of prisoners' hospitalisation, which almost systematically leads to their being placed in seclusion rooms, sometimes under restraint, for the entire duration of their stay[44] whereas their clinical condition does not justify it; in some institutions, it leads to the creation of care facilities with an exclusively security-oriented purpose.

The conditions under which people are transported from prison to hospital, i.e. by nursing staff in a medical vehicle with systematic restraint, are particularly prejudicial to their rights. There is no legal basis for these practices, whereas such measures should only be implemented on medical prescription based on the condition or behaviour of the person concerned.

With regard to the committal of detainees to psychiatric care, the CGLPL therefore recommends that national guidelines be issued, to put an end to the systematic handcuffing of persons during their transport and their systematic placement in seclusion.

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[43] *The Prison Rehabilitation and Probation Services (SPIPs), which are decentralised services of the prison administration at the departmental level, monitor and supervise offenders, whether they are in open or closed environments (see www.justice.gouv.fr).*

[44] *Isolement et contention dans les établissements de santé mentale, Chief Inspector of Places of Deprivation of Liberty, Dalloz, 2016.*

4.8 Release from prison may be accompanied by a break in care

While consultations are in some cases available to prepare for a prisoner's release, prison overcrowding, the precarious social situation of those concerned and intrinsic difficulties in the psychiatric sector often render this arrangement inoperative and can lead to repeated incarceration.

> To curb this dynamic, an administrative structure should be set up to mobilise and coordinate the use of social, medical and legal resources, provide those concerned with health and medico-social support and easier access to housing and employment, and ensure a coherent link between the care provided in open and closed environments.

Moreover, while Article 720-1-1 of the Code of Criminal Procedure allows for the suspension of a prison sentence "[...] for convicted persons whose physical or mental state of health is established to be permanently incompatible with continued detention", these provisions are seldom implemented, particularly because there is no relevant identification of persons likely to benefit from them and also due to a lack of host facilities.

> There is a need to create appropriate host facilities and to implement a policy to improve reception in existing institutions.

Having received this opinion before its publication, the Minister of Justice sent her comments to the CGLPL; in them, she mentions in particular the central place accorded to the care of detainees with mental disorders in the 2018-2022 roadmap for offenders, which she signed with the Minister of Solidarity and Health.

With regard to improving knowledge on the mental health of detainees, the Minister of Justice has announced two studies for 2020: a longitudinal study to assess the prevalence of mental diseases and co-morbidities at the time of arrival in prison, funded to the tune of €1 million by the prison administration and the Inter-ministerial Committee for the Prevention of Delinquency and Radicalisation (CIPDR), which will last 36 months and will be the subject of an interim assessment after 24 months; and a study on the prevalence of mental disorders among those serving short sentences and on the assessment of mental health pathways on release from prison, with €200,000 in funding from the Ministry of Solidarity and Health and the French Public Health Agency, which will cover 800 people in 20 remand prisons and will begin in March 2020 for a period of two years. The Minister of Justice also specifies that she is already supporting the deployment of the tool for collecting data on the state of health of people arriving in prison, created by several regional observatories, which enables a medical summary to be printed for each detainee patient. A secure data storage system enables the observatories' teams to analyse the data for the publication of an annual report on the state of health of detained populations in the region concerned.

With regard to criminal responsibility, while the Minister agrees with the CGLPL's observation on the difficulties involved in diagnosing psychiatric diseases before a prison sentence is handed down, she nevertheless highlights a recent legislative development allowing the judge to take into account the impaired discernment of the person charged with the criminal offence. In this respect, she invokes Article 122-1 of the Criminal Code and the Act of 15 August 2014, as well as the amendment, by the Act of 23 March 2019 on 2018-2022 programming, of Article 10 of the Code of Criminal Procedure, which now allows the president of the trial court, when the mental or physical state of an individual makes it permanently impossible for them to appear in person under conditions enabling them to exercise their defence, to decide after ordering an expert assessment establishing this impossibility to hold a public hearing to rule solely on the civil action. Lastly, stressing the need to work on the terms of recourse to psychiatric assessment and the link between the interventions of health and justice professionals, she announces the creation of an inter-ministerial working group (justice and health) which aims to define possible prospects for improvement, in terms of both standards and practices.

With regard to the training of prison administration officers in the detection and management of mental disorders among prisoners, the Minister of Justice announces the development of training and awareness-raising sessions for prison officers by the SMPRs and, under an agreement with the UNAFAM, the organisation of awareness-raising actions on mental disorders.

Regarding access to healthcare, the Minister of Justice indicates that the report of the IGJ and IGAS, contacted "for the purpose of auditing the structuring of mental healthcare provision and assessing the first stage of the UHSA programme", is currently being thoroughly analysed by her departments and those of the Ministry of Solidarity and Health; she also states that several commitments have already been made in the framework of the health roadmap, notably to combat the impact of the current nationwide shortage of medical staff on the prison population (increase in the number of work placements in prisons for medical students, development of prison health services, adaptation of the "action plan for the attractiveness of medical practice in hospitals" to the prison environment, etc.).

In addition, the Ministries of Justice and Health are currently working on revising the funding model for general-interest missions, in order to allow for a distribution of financial allocations that takes into account the population actually accommodated in institutions and prison overcrowding. An inventory of the SMPRs is also planned, with a view to developing day hospitalisation services, in particular to avoid breaks in care.

With regard to the medical care of mentally disturbed detainees, the Minister agrees with the CGLPL's findings concerning the Château-Thierry prison complex, on the one hand, and concerning the insufficient use of suspended sentences on medical grounds for mentally disturbed persons, on the other. On this last point, she considers that the widespread dissemination of the methodological guide on sentence adjustments and releases on medical grounds, drawn up in 2018 by several Ministry of Justice departments (DAP, DPJJ, DACG) and published in July 2018, as well as application of the provisions of the Act of 23 March 2019 aimed at encouraging the pronouncement of this type of suspended sentence "will help to make this measure better known to all health and justice professionals, thus encouraging the development of its pronouncement". She says that the development of partnerships with adapted medico-social structures is a priority objective of the health roadmap.

Regarding conditions of care for mentally ill detainee patients in community hospitals, the Minister of Justice emphasises the need to create new places in UHSAs, which "should be accompanied by an inter-ministerial debate to improve the reception of patients in community hospitals". She also reiterates the principles that should govern the implementation of restraint and shackling measures during a medical extraction; these are covered by regular instructions for the attention of institutions. Lastly, she indicates that the health roadmap provides for an analysis of restraint and seclusion practices in connection with more general work in the psychiatric field; she also announces the meeting in 2020 of a working group led by the DGOS whose mission will be to "work on issues related to the handcuffing, restraint and seclusion of detainee patients".

Lastly, with regard to continuity of care, the Minister of Justice stresses the need to strengthen coordination and exchanges of information between SPIPs, USMPs and judges, and refers to Action 25 of the health roadmap, which emphasises this objective. She also mentions specific, locally developed care mechanisms, such as outgoing and community consultations, which the roadmap plans to evaluate before their possible widespread implementation, and describes several possible avenues of work: mobilisation of places in therapeutic coordination apartments, extension to outgoing prisoners of a scheme providing people with mental disorders with access to housing with the support of a multidisciplinary medico-social team, and launch of the "Alternative to incarceration through housing and intensive monitoring – AiLSi" experiment in 2020.

Concluding that the CGLPL's observations are "on many points, shared by the Ministry of Justice and the Ministry of Solidarity and Health", the Minister of Justice announces the creation, at the

end of 2019, of an inter-ministerial working group responsible for implementing the orientations identified by the 2019-2022 health roadmap, to which the CGLPL will be invited.

The Minister of Solidarity and Health, who also received this opinion before its publication, sent the CGLPL comments in line with those of the Minister of Justice, in which she also assures the CGLPL of the mobilisation of all stakeholders in the implementation of the actions announced or already initiated, in conjunction with the Ministry of Justice.

5. Emergency recommendations relating to the Le Rouvray hospital in Sotteville-lès-Rouen (Seine-Maritime)[45]

Article 9 of the Act of 30 October 2007 allows the Chief Inspector of Places of Deprivation of Liberty, when it notes a serious violation of the fundamental rights of persons deprived of liberty, to submit its observations without delay to the competent authorities, asking them to respond.

In application of these provisions, the CGLPL published, in the Official Gazette of 26 November 2019, emergency recommendations relating to the Le Rouvray hospital in Sotteville-lès-Rouen (Seine-Maritime) following an inspection carried out in October 2019.

These recommendations were sent to the Minister of Solidarity and Health and the Minister of Justice. They were given three weeks to make their comments known.

> The Le Rouvray hospital (CHR), located in Sotteville-lès-Rouen in the Rouen-Normandie metropolitan area, was inspected from 7 to 18 October 2019 by the Chief Inspector accompanied by 11 inspectors. The CGLPL noted that the conditions of care were undignified and that there were serious institutional dysfunctions likely to constitute inhuman and degrading treatment as defined in Article 3 of the European Convention on Human Rights.

The most alarming findings concern the freedom of movement of patients, their accommodation conditions, seclusion practices, the information given to involuntary patients, and the material and health care provided to some of the hospitalised children.

This inspection occurred during a lasting period of social crisis, which had reached its peak in June 2018 and which, despite the signing of a protocol granting the institution 30 additional nursing positions, resurfaced in September 2019.

This is why the CGLPL has issued the following recommendations:

- as the confinement of involuntary patients during full-time hospitalisation is not intrinsic to this legal mode of care, this restriction in principle on freedom of movement within the hospital should cease. It is particularly unjustifiable for voluntary patients;
- the condition of the hospital facilities should be the subject of a harmonised investment policy with a view to improving them. Undignified reception conditions should be ended. The occupancy of full-time hospitalisation beds should not exceed the capacity of the institution;
- seclusion and restraint practices should comply in all respects with Article 72 of Act no. 2016-41 of 26 January 2016, the recommendations of the HAS of February 2017 and

[45] *Published in the Official Gazette of 26 November 2019.*

those of the CGLPL of 2016. Seclusion and restraint should always be practices of last resort and an institutional policy should be developed to limit their use;

- staff in charge of involuntary patients should be trained, particularly when they are responsible for informing these patients of their rights. In general, patients should be better informed about living conditions and healthcare provision during their stay in the institution;
- juvenile patients should not be admitted with adults. In all cases, they should be monitored under the close supervision of a doctor and a team specifically trained in child psychiatry;
- the need for a seclusion room should be considered as a team, as part of the medical project. Use of this practice should be avoided using all possible means; it should be totally excluded in units taking in children under 13 years of age;
- all of these findings, together with the absence of an institutional project and medical project, are accompanied by breaches of professional ethics and constitute serious violations of patients' fundamental rights. The institution should mobilise all its resources to stop them immediately.

At the time of writing this report, the CGLPL has not received any responses from the ministers to whom these emergency recommendations were sent.

Nevertheless, the Le Rouvray hospital has indicated that it is setting up a steering committee.

6. Recommendations concerning the Nouméa prison complex (New Caledonia)[46]

In accordance with the emergency procedure, the Chief Inspector published, in the Official Gazette of 18 December 2019 and in the Official Gazette of New Caledonia of 19 December 2019, emergency recommendations relating to the Nouméa prison complex (New Caledonia) following an inspection conducted from 14 to 18 October 2019.

Article 9 of the Act of 30 October 2007 allows the Chief Inspector of Places of Deprivation of Liberty, when it notes a serious violation of the fundamental rights of persons deprived of liberty, to submit its observations without delay to the competent authorities, asking them to respond.

The Minister of Justice and the Minister of Solidarity and Health were recipients of these recommendations and were given three weeks to respond. The Minister of Justice sent a response dated 17 December 2019, published with the emergency recommendations.

The CGLPL had already made use of the emergency procedure following the first inspection of the Nouméa prison complex in October 2011. During the second inspection of the institution, the inspectors found that the measures implemented since 2011 had been insufficient or unsuitable. In addition, due to a lack of maintenance and work, the wings that had not been covered by the previous emergency recommendations had deteriorated significantly.

As a result, the housing conditions are precarious, degraded and unhealthy. Two-thirds of the cells in the institution are made up of containers occupied by more than 330 people. Throughout the prison complex, the cell windows are screened, providing little visibility or natural light, while the lack

[46] *Published in the Official Gazette of 18 December 2019.*

of ventilation causes extreme heat. Hygiene is unsatisfactory, sheets are changed only once a month at best, most often every two months, and some prisoners do not have access to washing machines for their personal laundry. Maintenance is poor, with dangerous electrical installations in the detention centres and with malfunctioning call buttons. The exercise yards, some of which are particularly cramped, such as those in the open detention centre where 24 to 36 people share a 40 m² space, are on the whole devoid of any equipment. In the detention centre wings, the dark and unventilated container cells, with graffitied and dirty walls, experience unbearable temperatures in summer. In the remand wing, there are regular sewage backups, there is no system to ensure privacy in the sanitary facilities, and the cells are always dark. The minors' wing, due to lack of upkeep, offers undignified detention conditions with unhygienic sanitary facilities and degraded partitions. The former punishment wing, used until spring 2019, was made up of insalubrious cells plunged into darkness; now, punished prisoners are forced to get their exercise in containers with no conveniences, offering little space and no visual perspective.

These degrading detention conditions are aggravated by prison overcrowding. On the day of the inspection, 90 people were sleeping on mattresses on the floor. In the remand wing, out of 35 cells, which were nonetheless equipped with bunk beds, 12 had one mattress on the floor and 21 had two. While the legislation provides for individual cells for persons imprisoned in mixed institutions, as is applied in metropolitan France, all the cells in the detention centre wings and the pre-release wing are double cells; in the open detention centre, one-third of the cells have a mattress on the floor. In addition, the times spent in cells are particularly long. People are kept in overcrowded cells from 5 p.m. to 7 a.m., i.e. for 14 hours, which exceeds the maximum time provided for by the regulations. In the absence of cultural activities, training or employment, prisoners are also kept in cells for a large part of the day, even for up to 22 hours.

Despite the harsh conditions of detention, the atmosphere in the institution remains calm thanks to the personal behaviour of the officers who humanise daily prison life. The CGLPL thus notes that the effect of materially undignified and prejudicial treatment conditions with regard to rights is minimised by serene human relations which, paradoxically, allow for their perpetuation. The Chief Inspector therefore recommended that measures be taken without delay to put an end to the multiple attacks on the dignity and fundamental rights of the persons detained at the Nouméa prison complex.

7. Thematic report: interpersonal violence in places of deprivation of liberty

The CGLPL regularly observes, in places of deprivation of liberty, attacks on the physical and mental integrity of persons, as a result of detention itself and also of interactions between individuals. All places and administrations concerned – prisons, courts, juvenile detention centres, hospitals, police stations, gendarmeries, detention centres for illegal immigrants, customs detention facilities – are confronted with acts of violence.

Guaranteeing the safety of persons deprived of liberty should guide the actions of the administrations concerned at all times. The authorities have a twofold obligation: to not undermine the safety of persons deprived of liberty themselves, and also to protect them against any risk of harm.

Through this thematic report, the CGLPL is calling for vigilance with regard to a number of measures likely to reduce interpersonal violence in all places of deprivation of liberty.

7.1 Detention is conducive to interpersonal violence

The episodes of violence that occur in places of deprivation of liberty are caused by multiple factors. These contributing or triggering factors, whether alone or in combination, are known and above all can be found from one place to another.

Violence is promoted by facilities and forms of organisation that do not ot respect respect fundamental rights

Assignment to a room or cell brings into contact people who have not chosen to be together and this proximity can generate stress and violence between people. Overcrowding exacerbates poor accommodation conditions.

The layout of collective facilities is too often considered solely from the point of view of security. The lack of space in these areas, when they are densely occupied, exacerbates the risk of violent incidents. A lack of supervision in areas collectively occupied by persons deprived of liberty is also a risk factor for violence.

Dilapidated or neglected facilities generate violence, as do unwanted sounds and smells: nauseating odours in custody cells, or else constant noise or, conversely, deafening silence in prison, can create a feeling of unease and dehumanisation. Excess noise, as well as the absence of noise, can generate violence (sensory loss, sleep disorders, stress, aggressiveness, anxiety).

Regardless of the place of deprivation of liberty, inspectors receive numerous testimonies indicating that interpersonal violence is linked to the way in which restrictions on liberty are managed; violence is then the expression of defence, a sense of injustice, a lack of communication, frustration, or incomprehension.

The risk of violence is significant from the very first hours of deprivation of liberty

Violence is often expressed upon a person's arrival in a place of deprivation of liberty, sometimes as a result of aggressive behaviour or a crisis situation. Deprivation of liberty can itself provoke a violent reaction.

Police officers are not trained in mental health management or even in "simple" crisis management. However, they intervene in the event of disturbances to public order caused by people in distress or with a break in care without having the necessary know-how. New arrivals' wings in prisons help take into account the specificity of the first moments and reduce violence. In detention centres for illegal immigrants, however, there is no specific treatment for new arrivals.

Violence is part of uncontrolled human and social relations

In most places of deprivation of liberty, it is impossible to choose the people who are taken in. In CEFs, the structures where collective life is the most stable are those where the management can select the profiles that will make up the group of detainees. In both hospitals and prisons, inspectors collect testimonies that tend to attribute the bad atmosphere and acts of violence to one or more people who influence life in the unit.

These are not violent people but rather people who occasionally go through a violent phase. The CGLPL therefore challenges the introduction of specific regimes or wings where security measures are systematic (for example, handcuffing during movement). While it is legitimate to take a particular measure against a person to stop an act of violence, general, systematic and permanent measures cannot be accepted.

All persons deprived of liberty identify, as a cause of violence, the attitudes of the team members in charge of them: lack of empathy, incomprehension, power struggles, unsuitable individual or team

attitudes, etc. The level of competence of professionals – combination of knowledge, know-how and interpersonal skills – has an impact on violent acts.

The number, professionalism and maturity of the officers also determine their own safety. The policy of assigning professionals does not protect people when it leads to the most difficult institutions being understaffed, with positions only filled by trainees who have just completed their initial training.

The challenge for professionals is to learn and implement techniques for defusing the escalation of a conflictual interaction. The use of de-escalation measures by professionals requires, in addition to their training, their permanent presence alongside persons deprived of liberty.

7.2 Insufficient consideration of violence

Violence is insufficiently recorded and analysed

Acts of violence, although frequent, are poorly identified, and the recording of these acts is rarely exhaustive. Their identification is most often based on statements left to the discretion of officers who have not necessarily received *ad hoc* training. The obstacles to reporting by persons deprived of liberty largely involve the risk of reprisals and the possibility of negative consequences on the part of the institution and its staff.

However, within each ministerial department, a draft inventory is drawn up at the very least. It does not always lead to analyses that could identify the main system failures and propose solutions to remedy them.

Inefficient management of victims and perpetrators

Institutions should effectively protect the physical and mental integrity of every person deprived of liberty who is a victim of violence. The staff's initial response should allow the violent event to stop, while taking care not to aggravate the situation: support for and placement of the victim in an area limiting risks, and adoption of gestures and a verbal and visual attitude that avoid confrontation and allow for appeasement.

In all places, the person deprived of liberty or their relatives can submit a complaint, request or claim to the management. This procedure is relatively well explained in informational documents. At the hospital, the obstacles to lodging complaints are sometimes great: writing a structured and motivated claim is not always accessible to a sick person; families fear possible reprisals against their hospitalised relative in case of denunciation. In prison, reporting violence to the administration involves writing a request for an interview with an officer or a member of management. However, in many penal institutions, detainees complain that their requests are not processed or do not reach their recipient.

Staff are responsible for reporting incidents of which they are aware. However, the extent of the violence suffered by persons deprived of liberty (among themselves or on the part of a professional), whatever the type of place studied, is played down as soon as it is reported, in particular because the excessive frequency of incidents leads to their being underestimated and trivialised.

Even so, the reporting of violence by staff is a professional obligation. Administrations should take the necessary measures to ensure that the reporting obligations mentioned in codes of conduct do not remain a dead letter.

The difficulty of identifying the perpetrator of violent acts can also make it difficult to write a complaint, for example in cases of collective fights, or cases of acts committed by officers when they are not identifiable (this issue arises mainly in the prison administration). As regards more particularly acts committed by staff against persons deprived of liberty, they are the subject of an investigation, whether administrative or judicial, in a minority of cases; they are sometimes difficult to characterise, as

testimonies tend to reduce the act to a simple professional gesture or minimise it, without video surveillance providing any evidence.

Preventing violence requires being able to denounce it, file a complaint, be heard and be recognised as a victim. Although some institutions have set up systems for this purpose, it can be difficult to assert one's rights. In prison, as in other places, if one of the two sides of the story is told by a professional, it is more likely to be heard.

In addition, the filing of a criminal complaint for assault requires a medical certificate specifying total incapacity for work (ITT). Some doctors practising in structures of deprivation of liberty indicate that they are not competent to determine this ITT.

In order for persons deprived of liberty to escape denial of their rights, it is crucial that administrations set up support and assistance mechanisms for victims in their efforts to file a complaint.

A lack of protection for professional victims leads to fears of additional physical risks that can lead professionals to adopt attitudes that violate the fundamental rights of the people in their care, which in turn creates violence. Firstly, there is a risk of abstention in the face of certain obligations: a nurse will not risk opening the room of a violent patient alone. Secondly, fear can lead to excessive security measures such as the systematic use of handcuffing, seclusion, restraint or searches.

7.3 Promoting an approach that prevents violence

IInvolving people deprived of liberty in their treatment helps to reduce violence

The reduction and prevention of violence require the possibility of knowing one's rights and obligations and the risks associated with one's conduct. In all places of deprivation of liberty, the information provided to persons deprived of liberty – when it actually exists – is often only fragmented and is not individualised; the content of the applicable rights and their scope are not easily understandable but are rarely explained.

Making persons deprived of liberty actors in their own treatment and taking into account their choices – as well as the opinions of their relatives – is undeniably a factor that helps create peaceful relations. The establishment of peaceful social relations based on listening and the link between persons deprived of liberty and the people tasked with their welfare reduces the risk of violence.

In prison, relational mediation is a tool for the prevention and regulation of violence. When successful, it restores communication and thus social cohesion.

At the hospital, the participation of patients in their care is one of the dimensions of violence prevention. User and family representatives should be more involved in all aspects of institutions' operations.

In the various places inspected, there are tools that allow people deprived of liberty to voice their opinions, but the CGLPL notes that they are too often under-exploited, or even non-existent.

Dignified accommodation conditions help prevent violence

The CGLPL notes that human presence, through a sufficient number of professionals recruited for their mission, trained to carry it out and supported in its implementation, is likely to reduce violence between people. The humanisation of care should also involve regulating an institution's responses to aggressive behaviour by avoiding the inappropriate use of restrictions, rules and sanctions.

The presence of staff at night should be given great attention: there is a decrease in human interactions and activities, whereas this is the time when feelings of oppression linked to detention are at their height. There are fewer staff, with little or no supervision. The risk of violence increases, and

anxiety appears. The organisation of work should promote continuity, between day and night and from one day to the next.

Organisational continuity contributes to reducing violence, through enhanced monitoring of requests and better knowledge of the care provided. This requires continuity in the coverage of positions, and therefore in the choices governing the assignment of staff to units, sectors, and wings, and also continuity in the assignment of persons deprived of liberty to the same areas.

Meeting times and spaces for staff and persons deprived of liberty should be organised or reinforced by administrations: meetings between nursing staff and patients in mental health institutions, social life counselling, and collective expression in prisons are all on-site forms of democracy that materialise social ties and humanise the provision of care.

The architecture should encourage human contact, which should be able to develop through open professional spaces. Persons deprived of liberty should be able to feel that there is human presence. The CGLPL has, on many occasions, reiterated the need to prevent violence between people by adapting facilities, and in this respect it has noted significant changes, first and foremost in the specifications drawn up with a view to their construction or fitting-out.

Professional training focused on interpersonal relations prevents violence

Initial and ongoing training for professionals working with persons deprived of liberty should address the ethical aspects of dealing with violence, understood as a complex and multidimensional phenomenon; training should also cover the assessment of the risk of violence, the gradation of responses, defusing techniques, physical management to ensure the safety of all, environmental and organisational security, the maintenance of humanised relations, and post-incident management.

The ownership of ethical rules should be reinforced, in particular during ongoing training and through role-plays on professional ethics.

Any act that may affect a person's physical integrity or dignity (attachment, seclusion, handcuffing, confinement, searches) should be rigorously controlled via frequent reminders on the priority methods to be deployed. Discernment takes on its full meaning in the level of force used in the face of violence, which should be limited to what is strictly necessary to control the situation. Any reaction to a violent act should first and foremost be an attempt to de-escalate. Force should only be used as a last resort when negotiation, persuasion and deterrence have failed. Use of such force should comply with a precise protocol; it should be reasoned, recorded in the person's file, written in a register that can be consulted by the supervisory authorities, and rapidly notified to the person's family.

The analysis of practices and the existence of bodies enabling professionals to reflect together on their professional practices without any hierarchical constraints are expected everywhere but have not been sufficiently implemented.

Chapter 3

Action taken in 2019 in response to the CGLPL's opinions, recommendations and reports

1. Methodological introduction

1.1 Recommendations followed

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

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

The recommendations in question were, for 2016, taken from the following documents:

- the CGLPL's annual report for 2016;
- the opinion of 25 January 2016 on the situation of women deprived of liberty[47];
- the emergency recommendations of 8 February 2016 relating to the Ain psychotherapy centre (Bourg-en-Bresse)[48];
- the emergency recommendations of 18 November 2016 relating to the men's remand prison of the Fresnes prison complex (Val-de-Marne)[49];
- inspection reports for the penal institutions, mental health institutions, juvenile detention centres and places of detention for foreigners inspected during the year.

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

1.2 The CGLPL's adversarial procedures

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

- opinions and recommendations are sent to them before publication and are systematically published with the responses of the ministers concerned if these are provided by the requested deadline;

[47] *Published in the Official Gazette of 18 February 2016.*
[48] *Published in the Official Gazette of 16 March 2016.*
[49] *Published in the Official Gazette of 14 December 2016.*

- inspection reports have gone through two adversarial procedures: one with the institution and the other local authorities concerned when writing the draft report, and the other with the minister when writing the final report.

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

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

1.3 Best practices

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

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

> Ministers are requested to implement all useful measures (circulars, technical guides, training, etc.) to ensure that the best practices mentioned in the reports are known to and imitated by institutions comparable to the one that is the subject of the report.

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

1.4 The declarative nature of follow-up to recommendations

The follow-up to the recommendations as presented here is based on purely declarative statements. Consequently, the ministers' responses should not be considered as validated by the CGLPL. This is not the case for the emergency recommendations, since these, which are few in number by nature, give rise to a follow-up inspection in the light of which the ministers' responses are commented on here.

For the first time this year, the CGLPL, which had contacted the ministers on 11 March 2019 by sending them a copy of the recommendations made to them three years earlier - which, as a result, they were not supposed to be discovering – obtained, with delay and difficulty, all the requested responses.

However, the quality of these responses is very uneven. In many cases, the ministers report on the measures taken, their refusal to adopt them (often expressed rather vaguely), or their difficulties in implementing them; this is indeed what was requested of them. In other cases, the ministers, without rejecting the recommendation made, indicate that it has not been implemented but fail to explain the obstacles encountered, which the CGLPL sees as an insufficient response. In a third set of cases, particularly when it has been recommended to return to strict compliance with a regulation (for

example, on searches and means of restraint in prisons or on the traceability of seclusion in psychiatry), the ministers merely review the regulations and affirm that reminders have been or will be issued; this is not what was asked by the CGLPL, which is aware of the applicable regulations and has sometimes even taken the precaution of reviewing them in the lines preceding the recommendation. What the ministers have been asked is what measures have been taken to change practices, and above all how these measures have affected the condition of persons deprived of liberty. Lastly, several responses (for example, regarding the Cherbourg remand prison and the Issy-les Moulineaux hospital) clearly give the impression that nothing has been done: either because, in one case, the responses are limited to positive but evasive answers, or because, in the other, it is systematically or almost systematically stated that each recommendation has been addressed in a project initiated in 2019.

Therefore, while 2019 is fortunately the year confirming the ministers' ability to provide systematic responses to the CGLPL, we cannot be satisfied with these responses. It should be remembered that the aim of following up on the CGLPL's recommendations is not to engage in exchanges of information between ministers and an independent government agency; rather it is to evaluate and make public what has been done to change the fate of persons deprived of liberty. This presupposes that, before the formal exercise of following up on the recommendations, these have given rise to action plans decided on and monitored by the ministers.

The example of the two emergency recommendations published in 2016 is enlightening in this respect: in a penal institution and a mental health institution, serious violations of the fundamental rights of persons deprived of liberty were highlighted. In both cases, these were complex situations resulting from structural causes, deep-rooted habits and management shortcomings and, in the case of the penal institution, overcrowding and insufficient resources.

Following the emergency recommendations, the ministers responded in very different ways: the Minister of Justice affirmed principles, recalled structural difficulties and announced partial and progressive work, while the Minister of Health laid out the details of an action plan involving the institution, monitored by the ARS and the central administration and supported by the HAS. In both cases, the management of the institution has changed: that of the hospital has been renewed in order to implement a recovery plan, while that of the prison has undergone the normal course of promotions and transfers without the new staff being informed of the CGLPL's recommendations or of the commitments made by the Minister of Justice to follow up on them; it was even observed that appropriations that the minister said had been made available had never reached the institution, which was unaware of them. The CGLPL has alerted the current Minister of Justice about this matter.

During the follow-up inspections, the situations observed were diametrically opposite, as shown in detail on the following pages. The mental health institution has undergone such a profound transformation that it is now a model; the penal institution has certainly seen some improvements, but it remains fundamentally the same: overcrowding has decreased slightly due to the reopening of a neighbouring institution, but it remains at an unbearable level (160%); there are certainly fewer rats and bedbugs, but they have not disappeared, and the institution is still in a deplorable state of hygiene; internal memos requiring compliance with the law in terms of searches were issued three years later than planned; there are more staff members than during the inspection, but they remain unstable and inexperienced; and the management has no roadmap for implementing the CGLPL's recommendations.

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

In its annual report for 2016, the CGLPL had, for the first time, recommended that formal follow-up be established with each minister with regard to the actions taken in response to its recommendations, including the recommendations made in the institution's annual reports and explicitly indicating those recommendations that the Government does not wish to pursue. The ministers therefore responded to this recommendation in 2019.

> For juvenile detention centres, the Director of the Judicial Youth Protection Service has set up a cross-disciplinary management support unit under her direct authority. This unit is made up of two complementary divisions: the risk control division and the strategic planning division. This division is responsible in particular for operationally monitoring the actions taken in response to reported incidents and monitoring the implementation of the recommendations issued by the external inspection authorities of the DPJJ, including the CGLPL.
>
> For penal institutions, the Minister of Justice states that in conjunction with her services, she follows up on all of the CGLPL's recommendations, makes comments thereon and implements the necessary changes when the recommendations appear timely. She considers that reports from second or third inspections show that the majority of the recommendations are implemented.
>
> For mental health institutions, the recommendations made by the CGLPL are taken into account by the institutions for which they are intended, by Regional Health Agencies and by the Ministry of Solidarity and Health. Follow-up to specific and general recommendations after three years allows for the formalised monitoring of actions taken in response to the recommendations.
>
> For detention centres for illegal immigrants and waiting areas, the Minister of the Interior did not respond to this recommendation.

The CGLPL does not share the optimism of the Minister of Justice when she states that "reports from second or third inspections show that the majority of the recommendations are implemented". It notes that although, as has been said, the responses it receives are now systematic, their content is proof that its recommendations are not integrated into the administrations' action plans, i.e. are not included in the roadmaps of managers, in the programming of budgets or in the contracts of objectives and means of the supervised organisations. As a result, follow-up to these recommendations after three years appears artificial, even surprising, and the responses give the impression that the units are discovering that the CGLPL's inspections were not purely rhetorical and that they may have to report publicly on an action plan.

The CGLPL is therefore renewing and clarifying its recommendation from 2016.

> The CGLPL asks that the ministers formulate responses explicitly specifying which of its recommendations have been accepted and which have been rejected. It suggests that they implement a procedure in their departments formalising the inclusion of its recommendations in the institutions' action plans as well as a procedure for monitoring their implementation to ensure the accuracy of the responses provided after three years. It proposes that the general inspectorates be involved in these procedures and be explicitly mandated to validate the quality of the monitoring procedures and the responses communicated to the ministers by their departments.

As this is a relatively similar issue in the ministries that have institutions subject to inspection by the CGLPL under their authority or supervision, the Prime Minister will be asked to consult the inter-ministerial general inspectorates with regard to this matter.

2. Recommendations made in 2016 concerning mental health institutions

2.1 Recommendations published in the 2016 annual report

> The CGLPL recommended that the free movement of patients be established as a rule, with any restriction on free movement having to be expressly motivated by the patient's clinical condition. To this end, it recommended encouraging, within each institution, reflection on ways to increase patients' freedom of movement and reduce the constraints imposed on them in their daily lives (use of mobile phones, family ties, outings, Internet access, etc.) so as to maintain only those restrictions justified by a need for care or security associated with a patient's state of health.

The Minister of Health states that, in accordance with Article L. 3211-3 of the Public Health Code, restrictions on the exercise of individual freedoms by persons committed to involuntary psychiatric care should be appropriate, necessary and proportionate to the person's mental state and the implementation of the required treatment. Restrictions on the free movement of psychiatric patients can only occur within this framework, i.e. depending on the person's state of mental health and the implementation of treatment, and should be an exception and used as a last resort.

She specifies that the guidelines on mental health and psychiatry laid down by the Ministry of Solidarity and Health are consistent with respecting and promoting the rights of hospitalised psychiatric patients. These guidelines guide national and regional work on the organisation and operation of psychiatric care provision.

The texts cited by the Minister of Health are precisely those on which the CGLPL bases its recommendations. Despite ministerial statements of principle, as shown in Chapter 1 of this report, the freedom of movement of patients is mostly ignored: voluntary patients may be placed in closed units or subject to authorisations for leave, involuntary patients may be confined without clinical necessity, and seclusion and restraint are practised in the absence of imminent harm to the patient or to third parties. Consequently, the CGLPL reiterates the concrete conclusions to be drawn from Article L.3211-3 of the Public Health Code.

> No voluntary patient may be placed in a closed unit. The committal of a patient to involuntary care does not mean that the patient needs to be confined; they can only be confined if their clinical condition requires it, and only for the amount of time that is strictly necessary. No patient may be placed in seclusion or under restraint outside the conditions provided for in Article L.3222-5-1 of the Public Health Code. The placement of a voluntary patient in seclusion or under restraint should result in the patient being given involuntary status within 12 hours.

> The CGLPL also recommended that the Minister of Health take all useful measures to ensure that the recommendations made during the inspection of the Ain psychotherapy centre be known to all mental health institutions and that, during the inspections and controls carried out in these institutions, any comparable aberrations be investigated.

The Minister of Health indicates that the sharing of the best practices and recommendations issued by independent agencies such as the CGLPL is part of the national plan to reduce involuntary care, seclusion and restraint practices that the Ministry of Solidarity and Health included in the mental health and psychiatry roadmap published in June 2018. She specifies that a national observatory for the rights of psychiatric patients is currently being set up in this context; in particular, it will focus on the national and local deployment and promotion of measures to guarantee the quality and safety of care for psychiatric patients as well as respect for their rights.

The CGLPL takes note of these general measures; it would nevertheless like for there to be more immediate and concrete consequences resulting from its recommendations when they are published in the Official Gazette; concrete circulars or educational documents should be rapidly devised to this end.

2.2 Opinion of 25 January 2016 on the situation of women deprived of liberty

> The CGLPL notes the best practice of gender mixing (except inside rooms) in psychiatric institutions. Nevertheless, it considers that patients who wish to do so or who might fear, rightly or wrongly, for their personal safety should be able to lock themselves in their room at night, with the nursing staff naturally having at their disposal the means to unlock the doors.

The Minister of Health states that it is possible for a patient, provided they are given the practical ability, to lock their room without obstructing supervision or precluding access to the room by nursing staff. She adds that she promotes compliance with this principle so that it is taken into account in the development and improvement of accommodation conditions, which are however linked to the investment and restructuring time constraints of institutions.

The CGLPL takes note of this intention and recommends that express guidelines be given to the ARSs to ensure that "comfort locks" are systematically installed in mental health institutions.

2.3 Thematic report on "Seclusion and restraint in mental health institutions"

2.3.1 *Principles*

> The report recommended that every effort be made to calm a person in crisis through alternative approaches to physical restraint and stated that if, as a last resort, a decision must be made to place the person in a seclusion room or under restraint, the terms of its implementation should best guarantee respect for the patient's rights. It requested banning seclusion and restraint in a patient's room, particularly in view of the risks of trivialisation and insufficient traceability.

The Minister of Health states that her national and regional policy guidelines are part of a determined policy, shared at European level, to prevent, reduce and monitor seclusion and restraint practices. These policies are worked on in conjunction with the work of the National Psychiatry Steering Committee.

The CGLPL's inspections (see Chapter 1 above) continue to show a wide variety of practices, but in institutions that make extensive use of seclusion and restraint, it notes little change.

> The CGLPL recommended that the wearing of pyjamas and the removal of personal belongings in seclusion rooms not be systematic but be clinically justified.

The Minister of Health claims to agree with this recommendation.

However, the CGLPL observes that despite this agreement in principle, the situation in institutions has hardly changed.

> Lastly, the CGLPL recommended that the systematic nature of seclusion practices, whether applied to detainees, upon admission to a care unit or in any other situation, be ended.

The Minister of Health indicates that in the context of the roadmap of the "health strategy for offenders", a reflection has been planned on the management of patients detained in institutions

authorised to treat involuntary patients. This reflection is intended to be part of work on the mental health pathways of detainee patients in conjunction with the Psychiatry Steering Committee.

The CGLPL considers that reflection on this point is not appropriate. The systematic seclusion of detainees is a constraint that is not based on any legal provision and should therefore be regarded as abusive. Locally, this practice is often seen as the application of verbal instructions from the prefect.

> The CGLPL recommends that the guidelines necessary to put an end to illegal confinement practices not be the subject of reflection but be issued in a clear manner, recalling that any restraint that does not result from the law can only be based on the patient's clinical condition.
>
> As such, it should be decided by a doctor following an examination, be time-limited, and concern only one named person. A circular should therefore reiterate that the following are prohibited: seclusion in conditions not provided for in Article L.3222-5-1 of the Public Health Code, the compulsory wearing of pyjamas, and the systematic seclusion of a person because of their status, particularly for detainees.

2.3.2 *Traceability*

> The CGLPL recommended that guidelines be issued for the creation of the register provided for in Article L.3222-5-1 of the Public Health Code and that any restraint or seclusion measure be documented in the patient's file. It also recommended that the information collected by institutions be consolidated regionally and nationally, which requires the creation of a coherent and integrated information system.

The Minister of Health indicates that guidelines were issued in Instruction no. DGOS/R4/DGS/SP4/2017/109 of 29 March 2017 on the policy of reducing seclusion and restraint practices within authorised psychiatric health institutions. She specifies that national work to improve data collection in this area is continuing and has notably resulted in the dedicated gathering, within the RIM-P database, of seclusion and restraint practices by the Technical Agency for Information on Hospitalisation (ATIH) as of 1 January 2018; she also announces the forthcoming implementation of the national observatory for psychiatric patients' rights.

The CGLPL takes note of these measures.

2.3.3 *Patients' rights*

> The CGLPL recommended that the person concerned be informed when the seclusion or restraint decision is made, with the provision of a written document specifying their rights as well as the terms of care and support resulting from this measure; this information should be displayed in the seclusion room. It also recommended that the patient be systematically invited to specify the name of the person to be notified of the measure taken or that of the person *not to be notified*, as the case may be.

The Minister of Health indicates that informing any person hospitalised in involuntary care of the terms of their hospitalisation and of the possibilities of organised recourse has been included in the HAS certification manual for health institutions. She states that institutions produce informational documents at local level, based on work carried out by the Psychiatry Steering Committee and on national initiatives taken by psychiatric professionals. She specifies that the National Conference of CHS CME Presidents published a document in 2019 on the rules and rights of patients and their relatives, to improve the information provided to patients. She recognises, however, that these cannot replace the explanation and information work to be performed by ARSs and institutions, as provided

for in Article L.3211-3 of the Public Health Code. Lastly, she indicates that the deployment of the psychiatric trusted-person scheme is included in the national psychiatric guidelines.

During its inspections, the CGLPL has observed that persons placed in seclusion are only rarely informed of their rights with regard to this measure. No documents are given to them or displayed. The information document mentioned by the Minister of Health cannot be of use for this purpose, as it only deals with hospital living conditions and does not address the rights of involuntary patients.

> Lastly, the CGLPL requested that means of appealing against a seclusion or restraint decision be specified within each institution, posted in all seclusion rooms and communicated to the trusted person, the parents of a minor, or any relative informed at the request of the patient concerned.

No specific response has been given to this recommendation, which is moreover hampered by the weakness of the remedies available when faced with a seclusion or restraint decision (see Chapter 1 above).

2.3.4 *Decision and medical follow-up*

> The CGLPL reiterated that the decision to impose a measure of seclusion or restraint can only be made after an effective psychiatric medical examination of the person, and taking into account, as far as possible, the opinion of the members of the nursing staff. It also reiterated that the decision should be reasoned in order to justify the "appropriate, necessary and proportionate" nature of the measure; information on the clinical condition of the patient at the time of the decision should be provided.
>
> It therefore noted that the decision should specify what has been unsuccessfully implemented beforehand in order to provide proof that it is being made as a last resort; it also stated that, as soon as the measure is taken, means of lifting it as soon as possible should be sought within a multidisciplinary framework. Similarly, it noted that no decision of physical restraint can be made in anticipation or with the indication "if necessary" and that the terms of the benefit and risk assessment should be made explicit in the patient's file.

The Minister of Health refers to the terms of Art. L.3222-5-1 of the Public Health Code and to the recommendations made by the HAS concerning seclusion and restraint in general psychiatry. She specifies that the departments of the Ministry of Solidarity and Health at the national and regional levels particularly monitor compliance with the regulations and good practices in the implementation of these measures.

The CGLPL refers the reader to the findings reported in Chapter 1 of this report, which show that the provisions of the Public Health Code are not always applied.

> The CGLPL reiterated that the duration of a physical restraint measure should be as short as possible and cannot exceed that of the crisis situation; in any case, it is not possible to extend, without a new decision, also reasoned, seclusion beyond 24 hours and restraint beyond 12 hours. It also reiterated that somatic monitoring and care should be provided, including a compulsory somatic examination within the first hour, to assess contraindications. In addition to monitoring vital parameters and providing assistance in meeting basic needs, the nursing staff present should guarantee a therapeutic response tailored to the patient's clinical situation and requirements. Lastly, it reiterated that two daily medical examinations (psychiatric and somatic) of any person subject to physical restraint should be guaranteed.

The Minister of Health stresses that these points are part of the work and discussions developed at national level and indicates that, due to the excess mortality observed among people with severe mental disorders, this priority has been included in her ministry's mental health and psychiatry roadmap. She points out that many institutions thus ensure regular medical monitoring by the patient's referring psychiatrist, who contacts the somatic physician if necessary; she also specifies that the doctors' interventions are recorded in computerised patient files. Lastly, she specifies that the promotion of these good practices will be reinforced by their inclusion in the national observatory for psychiatric patients' rights, which is currently being set up.

The CGLPL shares the desire that the "good practices" mentioned by the Minister of Health be promoted, as it has observed during its inspections that they are still too rare.

> The CGLPL recommended that stays in seclusion rooms and restraint be regularly interrupted by short outings in fresh air, with only exceptional circumstances being able to justify the impossibility of such outings, in which case they should be explained.

The Minister of Health indicates that this recommendation is also among those of the HAS.

The CGLPL takes note of this.

> Lastly, the CGLPL recommended that an interview be conducted with the person concerned at the end of any physical restraint measure, to discuss the clinical context of their suffering, their experience under this measure, and ways of preventing a new one.

The Minister of Health indicates that a number of health institutions, including the Brive-la-Gaillarde hospital, which is the subject of follow-up this year to the recommendations made by the CGLPL in 2016, have developed protocols that include, in particular, the collection of the patient's experience with restraint at the end of the measure, as well as specific prescription forms in patient files. She points out that these good practices are intended in particular to be disseminated through the creation of the national observatory for psychiatric patients' rights and also aim to provide input for the work and orientations of the national health policy in psychiatry.

The CGLPL is taking advantage of this example to recommend once again the real dissemination of the good practices it identifies.

2.3.5 *Evaluation*

> The CGLPL considered that to achieve the objective of limiting the use of physical restraint measures in healthcare facilities as part of an explicit strategy, the health authorities needed to have the required control and monitoring tools.
>
> At the national level, it recommended that the identification, monitoring and evaluation of information be entrusted to a body that would ensure a multidisciplinary approach and a multi-factorial analysis.
>
> At the regional level, it recommended that the use of seclusion and restraint measures be a criterion systematically taken into account in multi-year contracts of objectives and means (CPOMs) between the Regional Health Agency (ARS) and the authorised psychiatric health institution. The ARSs, which receive the annual reports of institutions provided for in Article L.3222-5-1 of the Public Health Code, are invited to conduct a critical comparative analysis of means of using seclusion or restraint in institutions; this should be distributed annually to the Departmental Commissions for Psychiatric Care and the judicial authorities.

The Minister of Health indicates that national work aimed at improving data collection is continuing and has resulted in the introduction of a collection system designed to develop ongoing, territorial reflection on these practices. The forthcoming creation of the national observatory for psychiatric patients' rights will enable all the national work carried out in this area to be continued in collaboration with institutional partners and the Psychiatry Steering Committee.

She also indicates that since 2017, the work of the Psychiatry Steering Committee has led to a proactive approach to reducing seclusion, restraint and involuntary care measures that are most detrimental to patients' rights. A national plan to reduce the use of involuntary care and restraint has four components:

- gain a better understanding of the use of involuntary care and seclusion and restraint practices;
- identify and disseminate good crisis prevention and management practices aimed at resolutely reducing the use of seclusion, restraint and involuntary care measures that most infringe patients' freedoms;
- develop mechanisms to improve the effectiveness of patients' rights;
- roll out the observatory for patients' rights in the areas of psychiatry and mental health.

The creation of the observatory, whose membership will be broad and multi-professional, will help continue the work initiated to improve knowledge of the use of involuntary care and seclusion and restraint practices; it will enhance the collection, monitoring and evaluation of information as part of a multidisciplinary approach.

At the regional level, the development of the institutional project and the signing of a new CPOM between the institution and the ARS are opportunities to develop staff reflections on the various aspects of care, in particular respect for patients' rights.

The ARSs are given a great deal of leeway as to the content of the CPOMs, and the selection of a "hard core" of quantifiable objectives is recommended based on the institution's situation described in the context of the preliminary diagnosis.

> At the institutional level, the CGLPL pointed out that this same Article L.3222-5-1 imposes specific obligations in terms of record-keeping, the development of a policy to limit the use of seclusion and restraint practices, and the evaluation of its implementation. It recommended that the involvement of the institution's medical committee take the form of a review of the situation at each of its meetings, taking into account realities in each care unit and based on the illnesses of the people concerned. It called for this policy to be integrated into the institution's policy on the quality and safety of care.
>
> It also requested that any restraint be declared as an undesirable event and be subject to systematic review, and that institutional work be carried out, with third-party professionals, on all placements in seclusion rooms in a supervisory context in order to analyse the issues at stake in the relations between the patient and nursing staff (submission, resignation, reward).

The Minister of Health indicates that many initiatives are being developed within psychiatric health institutions, which are entrusting CMEs with the systematic analysis of seclusion and restraint data in order to limit the use of such measures and also ensure their compliance with recommendations for good practice.

She specifies that continuous reflection on reducing the use of seclusion is also a line of work of the CMEs, with the monitoring of trends in the use of seclusion and restraint and the development of alternatives such as the planned setting-up of calming spaces and the development of violence risk

assessments and de-escalation processes. "Seclusion and restraint" working groups are also being set up, to ensure the traceability and completeness of seclusion and restraint measures in registers on the one hand and to analyse these measures on the other.

The CGLPL takes note of these evaluation measures in which it is also involved and participates systematically. The measures taken at national level correspond to its recommendations and are producing notable results in terms of advocacy and awareness-raising among the most dynamic stakeholders in the field of psychiatry. Numerous working meetings and symposia are making it possible to measure considerable conceptual progress and observe the development of consensus on the topic.

However, the CGLPL's inspections of institutions give a more mixed impression. Large institutions, and even more so those whose managers exercise voluntary or professional responsibilities or take part in experimental work, are unquestionably in tune with national trends in thinking. As a study by the UNAFAM (see Chapter 1 above) has shown, practices in small institutions are changing more slowly.

2.3.6 *Information*

> The CGLPL recommended that the president and the public prosecutor of the Court of First Instance, within the scope of their jurisdiction under Article L.3222-4 of the Public Health Code, be provided with a monthly statistical list of the seclusion and restraint decisions made in the mental health institutions under their responsibility. It also recommended that similar information be made available on a monthly basis to the members of the Departmental Commission for Psychiatric Care and the members of the institution's User Committee.

The Minister of Health's response refers to the law and its implementing circular to indicate how information from the registers is disseminated as provided for in the texts.

Based on the inspections that the CGLPL has carried out since the publication of the circular in March 2017, it cannot be satisfied with these provisions. Indeed, the courts are not involved in policies to reduce the use of seclusion and restraint, whether as part of the function of the Liberty and Custody Judge who, as the legislation stands, is not competent to examine the lawfulness of seclusion and restraint decisions, or as part of the supervisory powers of the public prosecutor's office. Awareness-raising actions for the courts are therefore necessary. The CGLPL will take part in them, within the framework of the agreement it has signed with the National School for the Judiciary, as part of the ongoing training of judges.

As for the CDSPs, some of them have taken up the issue vigorously, in particular through their member representatives of users' families. It remains for the Ministry of Health to inject the same dynamism into all departments.

2.3.7 *Material conditions*

> The CGLPL recommended a set of material measures to guarantee the dignity and safety of seclusion conditions; these were as follows:
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> - adequate living conditions in terms of surface area, brightness, access to water and sanitary facilities, etc.;
> - quality bedding;
> - ability to sit and eat in dignified conditions;
> - ability to see a clock;

- TV and music equipment that can be used safely;
- absence of video surveillance in seclusion rooms;
- access to a calling device that should be answered immediately;
- ability to receive their visitors in respectful conditions;
- keeping a bed in an ordinary room during the whole period of seclusion;
- real-time notification of institutions' fire-safety departments regarding all seclusion room entries and exits and placements under restraint;
- lack of intervention by staff in these units as auxiliaries in managing the patient's healthcare.

The Minister of Health states that these recommendations are an integral part of the work of the Psychiatry Steering Committee concerning the technical operating conditions of authorised institutions. She specifies that the issue of architecture in psychiatry will also be taken into account in work on the reform of authorisations for psychiatric healthcare activities, which began in 2019, and that the new constructions and renovations carried out have already taken these recommendations into account.

She states that she encourages the use of monitoring devices for seclusion rooms that guarantee respect for the rights of psychiatric patients; however, she considers that it is difficult to lay down general operating and staffing standards for a sector of activity where there are no specific regulations.

Lastly, she specifies that the training of security teams, particularly on violence and the fundamental rights of patients, is part of mental health and psychiatry guidelines. She mentions the development of specific training plans for health and security staff working in psychiatric care units, reiterating the scope of action of each one.

The CGLPL takes note of these responses but stresses that they are out of step with the reality observed in the institutions. It recommends, in particular, that non-compliant seclusion rooms be very quickly rehabilitated or removed from service. It also deplores the fact that the Minister of Health considers that the absence of "specific regulations" prevents her from laying down general operating standards, when it would be up to the Minister herself to set out both regulations and operating standards. Institutions would often be interested in referring to such documents, as it is not unusual for managers to say that they are waiting for an inspection by the CGLPL in order to receive advice regarding the organisation of units.

Lastly, the CGLPL reiterates its recommendations concerning the role of security teams and especially of police or gendarmerie forces in mental health institutions (see Chapter 1 above).

2.3.8 *Staff education and training*

The CGLPL recommended the development of medical and nursing research on preventive professional practices with the aim of reducing the use of seclusion and restraint measures, as well as the training of doctors, nurses and staff, in particular on violence and the fundamental rights of patients.

It requested that the professional recommendations drawn up by the HAS, which are likely to limit the use of physical or chemical restraint measures and guarantee higher-quality care, be widely disseminated and accompanied by an approach designed to ensure that all professionals concerned take them on board. Lastly, it recommended that a postgraduate course in psychiatric care be organised to enable nursing staff to develop recognised clinical expertise.

The Minister of Health states that the actions taken since 2017 have helped promote research into the rights of patients and users in the areas of psychiatry and mental health with a view to promoting the gaining of consent, with more than 13 thesis projects started since 2017. She specifies that the development of medical and nursing research on preventive professional practices aimed at reducing the use of seclusion and restraint measures will be actively pursued within the future national observatory for psychiatric patients' rights. She points out that the organisation of regional seminars and support modules within institutions enables the HAS's recommendations for good practice to be widely disseminated and appropriated and considers that the creation of the national observatory will allow this proactive approach to be continued and extended.

She reiterates that the extension of the scope of practice of advanced practice nurses (IPAs) to psychiatry and mental health was included in the decrees of 12 August 2019. These texts arose from the co-construction of activity and skills frameworks between professionals and the Ministries of Higher Education, Health and the Armed Forces. The deployment of these IPAs will strengthen nursing skills in psychiatry and develop clinical expertise in psychiatric units through the coordination of skills.

Without disregarding the value of these measures in terms of enriching nursing, the CGLPL deplores the fact that they compensate for the low number of doctors and fears that they will not contribute to an overall improvement in care.

2.3.9 *Prevention*

> The CGLPL recommended that therapeutic and occupational activities be developed within psychiatric units to reduce boredom and tension, and that rules of living within units be disseminated to patients to avoid arbitrary situations conducive to the emergence of risk situations likely to lead to physical or chemical restraint measures being taken. It also requested that medical presence suited to the specificities of care units and the patients hospitalised there be guaranteed.

The Minister of Health indicates that the CGLPL's recommendations were integrated into the national work that led to the publication of the Decree of 27 July 2017 relating to the territorial mental health project, which provides in particular for:

- actions to prevent the onset or aggravation of disability, through the earliest possible access to care;
- the development of appropriate diversified services designed to facilitate people's access to housing, employment, schooling, education and social life, by aiming as far as possible for integration and maintenance in an ordinary environment.

Nevertheless, she notes that the distribution of psychiatrists across the country reveals significant disparities that constitute obstacles to accessing care. She indicates that national measures (training of IPAs, links between the interventions of psychiatrists and psychologists, reinforcement of heads of clinic positions in child psychiatry, promotion of mental health work placements for medical students in initial training, etc.) are aimed at making psychiatry more attractive and thus guaranteeing medical presence suited to the specificities of care units and the patients hospitalised there.

The CGLPL takes note of these measures which, for the moment, have not shown any measurable results during its inspections.

2.4 Emergency recommendations of 8 February 2016 relating to the Ain psychotherapy centre (CPA) in Bourg-en-Bresse

Following this inspection, the CGLPL had published emergency recommendations based on Article 9 (2) of Act no. 2007-1545 of 30 October 2007 establishing a Chief Inspector of Places of Deprivation

of Liberty which stipulates that "If it finds a serious violation of the fundamental rights of a person deprived of liberty, the Chief Inspector of Places of Deprivation of Liberty shall without delay communicate its observations to the competent authorities, set a deadline for them to respond and, once this deadline has been reached, determine whether the reported violation has been brought to an end. If it deems it necessary, it shall immediately make public the content of its observations and the responses received".

In accordance with this provision, the published recommendations were accompanied by the Minister of Health's response.

In 2019, the third year following the initial inspection, the CGLPL questioned the competent minister and at the same time carried out a new on-site inspection, as it does in principle when it has published emergency recommendations.

> The recommendations made by the CGLPL were as follows:
>
> - Establish freedom of movement in the institution as a rule; any restriction on freedom of movement should be expressly motivated by the patient's clinical condition.
> - Immediately end confinement in ordinary rooms.
> - Put an immediate end to the excessive practice, in terms of both duration and intensity, of confinement in seclusion rooms and restraint.
> - Immediately abolish medical prescriptions and decisions without prior examination of the patient.
> - Ensure daily medical presence of sufficient duration in all units.
> - Assess, with the help of external professionals, the clinical condition of, and management methods used for, all patients present in the "follow-up care" units and the unit for agitated and disruptive patients in order to draw up a care and life plan for these patients.
> - Reinforce therapeutic activities in and outside the units within a very short time frame in order to benefit as many patients as possible.
> - Train all staff in the prevention and management of crisis situations.

As early as 2016, the situation was taken very seriously by the Minister of Health, the Regional Health Agency and the National Authority for Health. The Minister indicated that:

- there would be immediately be open access to the inner courtyards;
- consideration was being given without delay to ensuring free movement between the inside and outside of the units for voluntary patients and two units that would only take in voluntary patients would be opened within two months;
- the testing of "open entry" units would be started;
- confinement in ordinary rooms would end immediately;
- detainee patients would no longer be systematically placed under restraint with a security inspection upon arrival from prison and, after a diagnosis, would be referred to normal care units;
- it would be immediately recalled that every restraint or seclusion measure requires a genuine medical assessment and that such measures cannot be extended without a medical re-assessment in accordance with the HAS's recommendations;

- documents reviewing best practices would be provided to health personnel;
- a training plan for the institution would be quickly presented to the ARS, prioritising the management of aggression and violence and the prevention and management of crisis situations.

In her 2019 response, the Minister of Health indicates that patient care has been profoundly modified: the framework of care that was previously based on security imperatives is now structured around respect for the dignity and fundamental rights of patients, particularly their freedom of movement. These values are now shared by all staff, both administrative and nursing.

She states that the use of seclusion and restraint has been completely rethought. The reflection undertaken by the institution has led to a significant reduction in the number and duration of measures. These take place in material conditions that respect dignity and well-being. Seclusion and restraint are now, in practice and in the minds of carers, measures of last resort.

She considers that, despite a penalising medical population, access to psychiatric and somatic care is of good quality with carers, nurses, care assistants and psychologists being heavily involved in the daily psychiatric care provided to patients. All of the aspects of their management are individualised: healthcare, rights, activities, and daily life. Nevertheless, she notes that the situation in this institution remains fragile given the major difficulties in recruiting psychiatrists and that the ARS will have to remain particularly vigilant.

She notes that the 2018-2022 institutional project grants an important place to ethical considerations refocused on the interests of patients and families and that, in and outside of the units, the activities offered to patients have been reinforced in order to benefit as many people as possible. Lastly, she states that the institution has committed to a policy of ongoing training for its staff on the management of aggression and violence and on the prevention and management of crisis situations.

During its inspection visit in June 2019, the CGLPL observed a profound transformation of the institution, effectively supported by the HAS and the ARS. It confirms the Minister of Health's statements. It observed remarkable changes in the institution's operations, achieved within a particularly short period of time and driven by the mobilisation of the CPA staff, united in a common will for change.

In April 2016, the CPA began reviewing its institutional project, adapted its real estate investments and supported the initiatives of its teams.

Patient care has been profoundly modified: the framework of care that was previously based on security imperatives is now structured around respect for the dignity and fundamental rights of patients, particularly their freedom of movement. These values are now shared by all staff, both administrative and nursing.

Despite a penalising medical population, access to psychiatric and somatic care is of good quality with carers, nurses, care assistants and psychologists being heavily involved in the daily psychiatric care provided to patients. All of the aspects of their management are individualised: healthcare, rights, activities, and daily life.

The use of seclusion and restraint has been completely rethought, which has led to a significant reduction in the number and duration of measures. These take place in material conditions that respect dignity and well-being. Seclusion and restraint are now, in practice and in the minds of carers, measures of last resort.

This dynamic and the changes observed should make the institution more attractive to healthcare professionals.

The 2016 inspection was violent for the staff of the Ain psychotherapy centre who suddenly became aware of serious dysfunctions to which they had become so accustomed that they no longer

noticed them. The consequences of this inspection have been exemplary: the staff, the centre's new management team, the ARS, the HAS and the successive Ministers of Health have made this institution a model where, within just three years, the care of patients has become fully respectful of their dignity and rights, even though it still has some room for improvement.

2.5 The recommendations made in 2016 following inspections of mental health institutions

A summary of the Minister of Health's responses regarding the 26 mental health institutions inspected by the CGLPL in 2016 can be found in the appendix. Subject to the reservations imposed by the purely declarative nature of these responses, the following broad outlines emerge.

In most of the inspected institutions, the CGLPL's report was used to launch a debate on themes previously often considered as secondary by sometimes overstretched teams or to give impetus to an incipient debate.

As in penal institutions, the CGLPL can be pleased that its documentary recommendations have been heard: care projects, medical-nursing projects, rules of procedure and welcome booklets are being developed. The creation of an information poster for patients by the Conference of CME Presidents in psychiatry is one example.

Various improvements have also been made to the conduct of JLD hearings: two institutions have created hearing rooms whereas they did not have any, while others have taken organisational measures to encourage the presence of lawyers or the personal appearance of patients at hearings or to improve patient information on the procedure.

Awareness of the issue of patients' rights and freedoms primarily focuses on freedom of movement, freedom to communicate with one's relatives and, more rarely, sexual freedom. On the first point, many institutions have begun to reflect and some have opened up units that were previously closed. In the same vein, the possibility for patients to keep their mobile phone or even their personal computer is spreading, subject of course to medical decisions to the contrary, but these are individualised and made for a limited period of time. For the moment, sexual freedom is only the subject of reflection, but it is true that this is what the CGLPL's recommendations are limited to.

Despite this progress, and in spite of the CGLPL's recommendations, there are still some voluntary patients in closed units in the institutions inspected in 2016.

Similarly, institutions that do not systematically place detainees in seclusion rooms and, even more so, those that allow them some freedom of movement, remain in the minority, despite some changes in practices.

External scrutiny of the institutions seems to have benefited from the CGLPL's recommendations; for example, two Departmental Commissions for Psychiatric Care that were not functioning at the time of the inspection have resumed their activities and several institutions mention that visits from the public prosecutor's office or a representative of the prefect have taken place.

With regard to seclusion and restraint, 2016 was the first year in which institutions were required to keep a register tracking such measures and to put in place a policy to reduce their use. Most of them were then only imperfectly aware of this obligation, which had not yet been the subject of any implementing directive from the Minister of Health. Since then, a circular has been issued, and the publishers of software used by mental health institutions have modified their products to include these registers. Therefore, the formal measures imposed by law have been taken. However, it is not clear from the Minister of Health's responses whether the policies to reduce the use of seclusion and restraint intended by the legislature have been put in place. Such policies will only be credible on the basis of quantitative data.

Lastly, the CGLPL finds it unfortunate that neither in 2016 nor in 2019 did the CGLPL's recommendations concerning the Issy-les-Moulineaux university hospital (Hauts-de-Seine) give rise to detailed responses.

3. The recommendations made in 2016 regarding penal institutions

3.1 Recommendations published in the 2016 annual report

3.1.1 *Prison overcrowding*

> With regard to the problem of overcrowding and its consequences for individual cell rates, the CGLPL considers that the development of building projects alone cannot constitute an effective solution.

The Minister of Justice reiterates the objectives of the Act on 2018-2022 Justice Programming and Reform: to ensure effective and appropriate sentencing in relation to the offences being punished and to guarantee effective sentence enforcement. The implementation of this revised penal policy is taken into account by the building programme, which is necessary to achieve the objective of individual cells. Ten-year prison population projections have helped identify the new locations of penal institutions. Calibration also takes into account the impact of the planned penal reform, in particular the reduction in the use of temporary detention and the limitation of short-term prison sentences. The aim is to be able to create 7,000 additional prison places by the end of 2022. The rest of the programme will enable further deliveries to be staggered until 2027, up to a maximum of 15,000 places.

The CGLPL reiterates that while the construction of new penal institutions may be necessary to improve detention conditions, in particular to provide an individual cell to any person who so wishes, it is opposed to an increase in the number of prison places because it recommends a decrease in the prison population through the development of alternatives to imprisonment, the reduction of temporary detention and the implementation of prison regulation mechanism.

> The CGLPL recommended introducing a more dynamic policy of sentence adjustment and imprisonment alternatives, necessary both to combat prison overcrowding and to promote reintegration, an essential factor in the fight against recidivism.

The Minister of Justice reviews the measures favouring alternatives to imprisonment. Today, nearly 90,000 sentences handed down are short prison sentences of less than six months. They do not allow for any real work to be done to prevent recidivism and are desocialising.

The law now prohibits prison sentences of one month or less and establishes the principle of enforcement outside a penal institution for sentences of one to six months, with systematic reinforced socio-educational monitoring, although the judge retains the possibility of pronouncing a firm short-term prison sentence if they consider that no other sanction is appropriate. It also creates an autonomous sanction of house arrest under electronic surveillance. In addition, it introduces a new probation measure, probationary suspension, which merges penal constraint and suspended sentence.

Moreover, the law establishes the principle of release under constraint at two-thirds of the sentence, for sentences not exceeding five years' imprisonment. Possibilities for converting sentences are increased.

The law also facilitates the use of house arrest under electronic surveillance during temporary detention.

In addition, the conditions for imposing a sentence of community service are relaxed. Lastly, the role of the Prison Rehabilitation and Probation Service is strengthened to enable the situation of offenders to be better assessed and to support the pronouncement of alternatives to imprisonment or sentence adjustments.

The CGLPL takes note of these measures but reiterates its reservations as to their ability to solve the problem of prison overcrowding (see Chapter 1 above).

> The CGLPL recommended that a systematic policy be implemented to seek suitable accommodation for people with very short sentences and for detainees whose age or state of health is incompatible with continued detention.

The Minister of Justice indicates that collaborative work with the Ministry of Solidarity and Health has led to the establishment of a mental health and psychiatry roadmap (2019-2022) concerning offenders in order to improve, in particular, the care of detainees with psychological and psychiatric disorders. A joint report by the Inspectorate-General of Justice and the Inspectorate-General of Social Affairs also gives an overview of the Specially Equipped Hospital Units (UHSAs) that care for detainees suffering from psychiatric disorders.

Within the framework of the "Housing First (2018-2022)" plan, several actions have been planned to ensure that those released from prison have access to social and medico-social facilities suited to the treatment of their disease (disability, psychiatric disorders, loss of autonomy, etc.) and to study home-maintenance options for people with short prison sentences.

With regard to people whose state of health is incompatible with detention, the 2019-2022 health roadmap aims to improve access to downstream structures for elderly and dependent detainees. An inter-ministerial working group has been set up to strengthen partnerships between Prison Rehabilitation and Probation Services and EHPADs.

The CGLPL takes note of this response.

> Lastly, the CGLPL recommended that a prison regulation mechanism be included in the legal order to enable the reception capacities of penal institutions to be taken into account in judicial decisions.

The Minister of Justice states that the objective of prison regulation requires support in the field (e.g. courts and Prison Rehabilitation and Probation Services) as it is a cultural change.

The Ministry of Justice chose to support 11 sites that were selected on the basis of various criteria (prison overcrowding, rate of sentence adjustments, human resources) to guide them in the implementation of the Justice Reform Act. Its support covers both the implementation of the first part of the reform (essentially house arrest under electronic surveillance and release under constraint, the provisions for which have been applicable since June 2019) and that of the sentencing block, whose provisions will come into force in March 2020. These 11 sites are as follows: Marseille, Créteil, Grenoble, Meaux, Nîmes, Tours, Dijon, Angers, Troyes, Saint Denis de La Réunion, Pointe-à-Pitre. This support is provided by teams from the DACG, DAP and General Secretariat, with help from the Inspectorate-General of Justice (IGJ).

This support is carried out under the guidance of the General Secretariat and has taken the form of trips to each of the 11 sites. These trips were an opportunity for judicial professionals and SPIPs to familiarise themselves with the new normative provisions and identify existing difficulties and possible levers. In addition, as part of this experiment in prison regulation, the Inspectorate-General of Justice has been given a support mission by the Minister of Justice. A team from the IGJ carried out a further trip of several days to each of the 11 experimental sites. This second phase was completed in mid-December 2019. The objective is now to continue supporting the sites in the implementation of the sentence block that will come into force in March 2020. Specific support tools are currently being developed (standard personality survey forms, tools for the president of correctional hearings, etc.).

In addition, work is under way to adapt certain sentence adjustment measures; its primary aim is to encourage external placement and day parole. The goal is to develop content likely to correspond to criminological and socio-educational issues that are insufficiently taken into account.

According to the Minister, the initial findings are positive. There has been a sharp increase in the number of releases under constraint in jurisdictions, with real investment by sentence enforcement judges. While the Prison Rehabilitation and Probation Services monitored 723 releases under constraint in the third quarter of 2018, this number more than doubled in the third quarter of 2019, rising to 1,820 nationally.

Densities in remand prisons remain lower in the last quarter of 2019 (139% in November) than in the last quarter of 2018 (141.4%).

The CGLPL deplores the fact that prison regulation has not been enshrined in law and that the purely incentive measures that have been taken do not have the ambition of the mechanism it had proposed. Nevertheless, it takes note of these announcements and will not fail to follow up on the results.

3.1.2 *Accommodation conditions*

> The CGLPL asked to guarantee the upgrading to standards and building maintenance of existing institutions with identified means and a monitoring system.

The Minister of Justice states that delegated management institutions and public-private partnerships (PPPs) benefit from close maintenance monitoring, for which budgets are contractually guaranteed. This monitoring is based on quarterly meetings with private maintenance contractors, the monitoring of work in progress and the evaluation of its performance, on the basis of data transmitted by the maintenance officers of inter-regional directorates and reports made (except for PPPs). On-site maintenance audits are also carried out by an independent firm; this is combined with trips by the office in charge of managing delegated management contracts (PS2).

The CGLPL notes that the maintenance of delegated management institutions is generally satisfactory.

The Minister of Justice also indicates that public management is subject to similar monitoring, particularly through on-site visits and the network of maintenance officers. Maintenance operations are mainly carried out by the inter-regional directorates. Certain large-scale rehabilitation operations can be entrusted to the Agency for Real Estate of the Justice System (Fleury-Mérogis, Fresnes or Poissy).

In budgetary terms, significant financial resources have been allocated for the maintenance of the existing buildings. For example, the allocation has been increased from €110 to €120 million per year for the 2018-2022 period (instead of the €70 million that were devoted to this purpose in recent years). Thanks to the Second Counter-Terrorism Plan and internal redeployments, €136 million were in fact allocated to building renovation and development in 2017; this figure was €133 million in 2018 and €130 million (provisional figure) in 2019. This amount should be used to carry out major repair, compliance and operational maintenance work. Biannual management dialogues with the real-estate affairs departments of decentralised services are opportunities to monitor the proper implementation of multi-year work programming for institutions.

As shown by the Minister of Justice's own responses to the CGLPL's recommendations, the budgetary resources devoted to maintenance and overcrowding do not enable the necessary work to be carried out.

3.1.3 *Security*

> The CGLPL recommended guaranteeing the exceptional nature of full-body searches by ensuring the effective training and supervision of all prison administration staff with regard to respecting the reasons for these searches and their conditions of performance; and ensuring that Article 57 (2) of the Prison Act is strictly interpreted via close scrutiny by the hierarchical authorities, administrative inspectorates and judicial authorities.

The Minister of Justice indicates that a circular will soon be issued for the implementation of Article 92 of the Act on 2018-2022 Justice Programming and Reform relating to searches of detained persons. It contains technical sheets aimed at promoting effective ownership of the applicable rules. It also reviews the procedure relating to searches based on Article 57 (2) of the amended Prison Act, namely the possibility for the institution's manager to order searches of prisoners in specific places and for a set period of time, regardless of their character, where there are serious grounds for suspecting the introduction into the prison of objects or substances that are prohibited or constitute a threat to the safety of persons or property. In this context, traceability is required, with a report for the public prosecutor and the Prison Administration Department having to be drawn up.

Following an initial assessment of the implementation of Article 57 of the Prison Act, it appears, according to the Minister, that this article is implemented by prisons in a measured manner. Nearly 4,000 search operations based on Article 57 (2) have been carried out per quarter, i.e. an average of 20 searches per institution. Lastly, as part of their initial training at the French National School for Prison Administration, all trainee warders are trained in search techniques.

The CGLPL takes note of these measures but does not share the Minister of Justice's opinion that a search operation unrelated to the behaviour of the persons concerned every four and a half days in each institution constitutes moderate implementation of the law. It also deplores the fact that the public prosecutor's offices almost completely fail to respond to the reports addressed to them.

> The CGLPL asked that the role of healthcare professionals working in prisons be affirmed and structured with regard to the detection of violence in accordance with the provisions of the European Prison Rules.

The Minister of Justice indicates that measures are being taken to increase mutual knowledge of the missions, roles and constraints of the various players and to harmonise professional practices, as well as to enable nursing staff to be more closely familiar with the prison population.

She also reiterates the provisions of the Code of Medical Ethics, which stipulates that if a doctor finds that a detained person has been abused or ill-treated, they must, subject to the consent of the person concerned, inform the judicial authority. The doctor must inform the detainee of the steps taken and provide them with a copy of the documents drawn up. The institution's manager shall be notified with the detainee's consent.

The CGLPL can only encourage mutual knowledge of professionals working in prisons; it is not unaware of the cited provisions of the Code of Medical Ethics but simply deplores the fact that they are not implemented.

> The CGLPL reiterated its hostility in principle to the video surveillance of cells. However, if the legislature considers that, in certain exceptional circumstances, it cannot be avoided, it requested at the very least that its legal framework be strengthened to preserve the exceptional nature of the measure, stipulate that it may only be taken to protect a detained person and not to satisfy public expectations, and organise regular monitoring and medical follow-up. This

> measure should be strictly limited in time and cannot replace human presence with the protected person.

The Minister of Justice reiterates that the video surveillance of cells is limited to two situations:

- emergency protection cells (CProUs) intended for suicide prevention, in which stays are necessarily short; they supplement the system of rounds and interviews with the person placed in the emergency protection cell.
- "exceptional" video surveillance of a cell provided for by Article 58-1 of the Prison Act: these are the cells of persons subject to a solitary confinement measure, whose escape or suicide could have a significant impact on public order in view of the particular circumstances that led to their imprisonment and the impact of these circumstances on public opinion.

In this second case, an adversarial procedure is implemented when such a decision is considered; this decision must be specifically reasoned and be made by the Minister of Justice for a renewable period of three months. The written opinion of the doctor working in the institution may be obtained at any time, in particular before any decision to renew the measure. As a reminder, there is no transmission or sound recording. The legal framework for video surveillance in cells is therefore already very strict and indeed provides for its implementation to be exceptional and occur over a limited period of time. Only one prisoner is currently covered by this system.

The CGLPL takes note of this information but observes that the period of surveillance of the detained person subject to this regime has been extended over the past several years.

3.1.4 *Everyday life*

> The CGLPL recommended taking all measures to alleviate economic and technical constraints on the acquisition of computer equipment and guaranteeing that detainees' property rights over their equipment and data are respected, within the sole limits imposed by the safety of property and persons, respect for public order and the rights of victims.

The Minister of Justice indicates that consideration is currently being given to the possibility of a national contract for the acquisition or rental of computer equipment for detainees for the various uses permitted in detention.

The CGLPL takes note of this information and refers to its opinion on Internet access for persons deprived of liberty published in the first quarter of 2020.

> The CGLPL considered that waking up detainees several times during the same night, sometimes for a long period of time, was likely to undermine their dignity and physical integrity and constitute inhuman and degrading treatment, especially since measures (verification of bars, assignment near watchtowers, etc.) are already implemented, in parallel, to ensure the security of the institution and prevent escapes.

The Minister of Justice indicates that the memorandum from the Director of the Prison Administration dated 30 October 2018 specifies the conditions for carrying out night rounds. It aims to clarify and harmonise professional practices. These professional practices aim to reconcile security requirements with respect for the physiological balance, dignity and physical integrity of the persons being monitored. She reiterates that the goal of night rounds is to contribute to the safety of individuals and penal institutions; that these rounds play a fundamental role in the prevention of escapes and acts of hetero-aggression and self-harm, but that they should not harm the balance or health of detainees, in particular through repetitive waking-up during night duty not made strictly necessary by specific

circumstances. Thus, the prison officer should ensure, on the basis of visual checks, that there are no signs of such incidents and, if necessary, should be able to pass on the information to management without delay. It is up to the institution's manager to determine on a case-by-case basis whether or not to systematically switch on the lights in cells during checks. Whenever no suspicious elements are noticed by the warder, and if there is sufficient visibility, there is no need to turn on the light in the cell: only in case of doubt should the cell light be switched on by the patrol officer. If this is not sufficient to ascertain the condition of a prisoner, an additional check should be carried out to remove the doubt.

> The CGLPL recommended taking all useful measures to ensure that each detained person has immediate, unimpeded and traceable access to the documents they have submitted to the registry and, failing this, removing any obligation to submit these documents and bringing the regime for cell searches into line with European Prison Rules.

The Minister of Justice indicates that the 2018 professional standards, which are the basis for the certification of institutions, aim to guarantee the right of detainees to consult their documents and keep them confidential.

She also reviews the regulations on cell searches.

The CGLPL observes that the internal, purely procedural regulations do not include the provision of the European Prison Rules according to which searches shall be carried out by staff who have received specific training to enable them to achieve the desired objectives without violating the dignity of detainees or respect for their personal belongings. In its inspections, it has observed that some cell searches violate the rights or property of prisoners.

The Minister of Justice reviews the rules relating to the control of correspondence.

The rules relating to the control of correspondence are in principle applied; the CGLPL's recommendation concerns the confidentiality of documents in the possession of a detainee, without these having gone through the correspondence circuit (documents written by the detainee, handed over by the medical unit or handed over by a fellow prisoner).

> The CGLPL recommended that a compendium of legal and regulatory texts and of circulars applicable to detainees be compiled and kept up to date in the very short term.

The Minister of Justice indicates that the Prison Administration Department is endeavouring to take this recommendation into consideration.

The CGLPL persists in pointing out that the fact that the administration is not able to collect and publish the texts that it writes has the consequence of subjecting offenders to regulations with which neither they nor their relatives nor their counsel can become acquainted. Prison officers themselves have little access to the regulations they are responsible for enforcing and, for this reason, take measures that do not comply with the texts or allow sometimes illegal customary practices to develop. This is a serious failure that undermines the legal certainty of all. Parliament will be informed of this situation.

3.1.5 *Maintaining family ties*

> The CGLPL recommended that persons placed in solitary confinement wings be able to benefit from family visiting rooms or family living units (UVFs) on the same basis as other detainees. Refusal to grant a family visiting room aimed at persuading a detainee to leave the solitary confinement wing is an infringement of the right to maintain family ties. The CGLPL also recommended that requests for family visiting rooms made by persons placed in a punishment wing not be systematically rejected but be examined individually.

The Minister of Justice indicates that access to UVFs may be refused for reasons relating to the maintenance of security, good order in the institution or the prevention of offences. However, the existence of a disciplinary record alone cannot be a criterion for refusal. The UVF system can also contribute to the positive development of relations between a prisoner and their prison environment. Any decision of refusal shall state the reasons for it and the legal and factual considerations on which it is based. Each decision of refusal shall be notified to the detained person. It shall also be notified by mail to the relatives who have requested a visit in a UVF. There is no special provision for persons placed in a solitary confinement wing who benefit from UVFs / family visiting rooms (PFs) like all other detainees. All UVF / PF requests are examined by a single multidisciplinary committee.

The CGLPL is aware that the regulations are indeed those mentioned by the Minister of Justice but emphasises that the access of persons in solitary confinement to UVFs is still not guaranteed in practice.

3.1.6 *Incarcerated foreigners*

> The CGLPL observed that remand prisoners and those sentenced to prison terms of less than three months cannot benefit from the scheme allowing foreign nationals to obtain renewal of their residence permit by post, pursuant to an inter-ministerial circular of 25 March 2013. It considered this exclusion to constitute unequal treatment, as it prevents persons whose residence permits expire at the beginning of their imprisonment from taking the necessary steps. They must therefore submit their application upon their release as if it were a first application, with much greater administrative constraints.

The Minister of Justice indicates that the Circular of 23 March 2013 is intended to facilitate initial applications and renewals of residence permits by allowing a procedure by mail to be set up, without requiring the detainee to be physically present. As with many administrative formalities, a short period of incarceration is insufficient to complete a procedure. Work is in progress to give more content to short periods of incarceration; one aspect of the support provided could specifically relate to the completion of administrative formalities.

The CGLPL takes note of this intention but underlines that its inspections have shown little change for the moment.

3.1.7 *Life imprisonment*

> The CGLPL was concerned about the creation of a new category of life imprisonment under the Act of 3 June 2016. The procedure put in place for lifting the period of unconditional imprisonment applied to these sentences is specific and extremely restrictive. Lifting may only occur in exceptional cases, subject to five strict conditions, in particular that the convicted person has served at least 30 years in prison. This sentence is therefore de facto similar to an actual life sentence and exposes France to condemnation by the European Court of Human Rights, since the fact of serving a life sentence that cannot be reduced de jure or de facto is considered by the Court to be inhuman and degrading treatment.

The Minister of Justice states that these provisions are in line with the case law of the Constitutional Council and the European Court of Human Rights, because according to these courts, the law may exclude certain convicted persons without any time limit from benefiting from a measure of sentence adjustment or a measure of sentence individualisation, on the condition that the legislature has also provided that this exclusion may subsequently be modulated or even removed. This is the case in the new provisions of the Act of 3 June 2016.

The CGLPL maintains its concern about the lifetime nature of these sentences.

3.1.8 *Judicial and medical extractions, transfers*

> The Chief Inspector noted persistent errors in the execution of court decisions for transfers, permissions for escorted leave, and medical extractions. The prison administration should devote sufficient staff to these tasks, which are fundamental for respecting the rights of detained persons. Furthermore, it seems appropriate for the police or gendarmerie forces to be able to supplement the staff of the prison administration in the event of insufficient numbers.

The Minister of Justice reviews the measures taken to increase the number of prison staff dedicated to judicial extractions and indicates that following an inter-ministerial audit carried out in 2016, a new organisation has been put in place and will be assessed in 2020.

With regard to medical extractions, an application has been submitted to the fund for the transformation of public action in order to finance the deployment of telemedicine in all prison health units to increase access to healthcare and reduce the number of extractions.

The CGLPL takes note of these measures and will assess their impact.

3.1.9 *Incarcerated mothers with young children*

> The CGLPL took note of prospects for changes in the regulations relating to the conditions of care for children left with their imprisoned mothers and noted that in new institutions, the planned facilities will comply with its recommendations.

The Minister of Justice indicates that, as part of the revision of the Circular of 16 August 1999, a minimum set of equipment for mother-child cells is provided for in existing penal institutions. This includes access to an outdoor courtyard and an activity room; mother-child cells shall not be equipped with gratings; mother-child cells shall include a space for tending to the child's needs (bed, changing table, bath, etc.). The administration also created a first micro-crèche in Fleury-Mérogis in 2019.

The CGLPL takes note of these positive measures but observes that many non-compliant facilities remain in service.

3.1.10 *Hospitalised detainees*

> The CGLPL recommended that all useful measures be taken to ensure that a detained person placed in a hospital unit does not suffer any restrictions on their rights in detention. To that end, it is necessary on the one hand to ensure the continuity of their administrative situation in order to avoid any break in care (relations with the outside world, personal accounts, sentence adjustments, etc.), and on the other hand to supply hospital units with the necessary logistics (yard, visiting rooms, activities, canteen, etc.).

The Minister of Health indicates that the continuity of the administrative situations of detainees falls within the competence of the Ministry of Justice and specifies that the institutions that care for detainee patients take into account their state of health and the configuration of the premises.

The roadmap of the "health strategy for offenders" provides for a reflection, not yet initiated, on the management of detainee patients in institutions authorised to treat involuntary patients. This reflection is intended to be part of work on the mental health pathways of detainee patients in conjunction with the Psychiatry Steering Committee.

The CGLPL takes note of these intentions, which it will monitor with interest.

> The CGLPL also recommended that the necessary organisational and training measures be adopted in the very short term to guarantee conditions of extraction,

> accommodation, consultation and care that respect the medical confidentiality and dignity of detainee patients treated in hospitals. The CGLPL emphasises that these are measures that have no financial impact and that no budgetary considerations can explain any delay.

The Government has not provided any response to this recommendation.

The CGLPL refers to the responses made as part of the institutions' follow-up to its recommendations. They show that, while statements of principle have been issued at national level, they have hardly been matched by everyday practices, which continue to undermine medical secrecy and the confidentiality of care for security reasons.

3.2 Opinion of 25 January 2016 on the situation of women deprived of liberty

> Detention should in no way constitute an obstacle to the application of the principle of gender equality proclaimed in the preamble to the 1946 Constitution. Women and men should be treated equally in places of deprivation of liberty, but this equality should not prevent certain needs specific to women from being taken into account.

The Minister of Justice indicates that a working group has been set up on the subject of women prisoners; it will review needs in terms of places of detention and conduct an inventory of the products, and their procurement, offered to women in penal institutions. In addition, penal institutions are striving to offer more and more mixed-gender activities, particularly in the context of one-off events and socio-cultural activities.

The CGLPL asks that the orientations of the working group mentioned by the Minister of Justice be made public.

> The CGLPL reiterates, for all places of deprivation of liberty, that the respect of human dignity precludes any possibility of carrying out searches of women's sanitary protection products.

The Minister of Justice had indicated in 2016 that no complaints about staff searches of the sanitary protection products of women prisoners had been recorded by the prison administration; the current Minister confirms this statement and says she agrees with this principle.

However, the CGLPL has received complaints about such practices.

> The low number of women deprived of liberty cannot justify their unequal geographical distribution, which can violate their right to maintain family ties. In this respect, the CGLPL recommended opening a "detention centre" wing for women in the South of France.

The Minister of Justice had indicated in 2016 that he had anticipated this recommendation and planned a 60-place detention centre wing for women when the Baumettes 2 building in Marseille opened. The current Minister confirms that this wing is in service and announces that projects to improve the territorial network will be possible as part of the prison building programme.

The CGLPL takes note of this.

> The special situation of under-age girls requires special attention and the same management as for young boys. The CGLPL reiterated in this respect that the incarceration of under-age girls in wings for adult women is unlawful. Thus, under-age girls detained in penal institutions other than prisons for minors (EPMs) should be incarcerated in "minors'" wings on the same basis as boys. On the other hand, there should be single-sex accommodation, as is theoretically planned for CEFs and EPMs.

The Minister of Justice had indicated in 2016 that this recommendation was facing two main difficulties: the architecture of many minors' wings, which does not allow the principle of separated accommodation units to be respected, and the insufficient number, both during the day and at night, of female staff for supervising under-age female detainees. For EPMs, the observation that under-age girls were being isolated and treated differently than boys had led to the establishment of a short list of seven institutions that could take them in. A new 24-place unit for under-age girls in the Fleury-Mérogis remand prison was to be operational in the weeks following the response. The current Minister confirms this response and adds that gender mixing has been tested for four years in the Épinal minors' wing.

The CGLPL would like for the results of the Épinal experiment to be made public.

> There could be modular, evolving structures that could be adapted to the needs and care of all the minors taken in, in order to enable mixed-gender community life (activities, meals, etc.) under the supervision of staff while providing separate and secure accommodation for under-age girls.

The Minister of Justice, like her predecessor in 2016, considers that mixed-gender activities in EPMs should not be perceived as an intangible principle but as an educational lever that needs to be adapted to the principles of reality and security. A clear disproportion between the number of under-age boys and under-age girls (a very common assumption given the low number of girls in detention) or the characteristics of the profiles involved may make it inappropriate to set up such activities.

She also refutes the idea of modular structures because infrastructure usually does not allow for the separation of small areas within detention facilities.

The CGLPL takes note of this.

> The CGLPL considered that the individualised management of detention requires the creation of a "new arrivals'" procedure including a welcome and observation period, the use of differentiated detention regimes, the possible creation of detention wings to accommodate "vulnerable" persons, and appropriate use of solitary confinement, as well as any tool to adapt the sentence and the conditions of its execution to the person subject to it. However, due to the low number of women prisoners and the small size of the wings in which they are detained, this individualisation is not effective, sometimes at the expense of the right to the preservation of physical and moral integrity. It recommended that a "new arrivals'" procedure be implemented in all institutions taking in women.

The Minister of Justice confirms the statements of her predecessor, who considered in 2016 that there is generally no new arrivals' wing independent from ordinary detention, even though some institutions have a "new arrivals' area", which is often part of a corridor. He pointed out that certification is for the "new arrivals' process" and not for a "new arrivals' wing" and that what is important is that during the welcome phase, arriving female detainees are physically separated from other detainees and that they benefit from all the formalities and interviews provided for during this period.

The CGLPL takes note of this.

> Women prisoners should be able to benefit from protection if needed and, according to the regulations in force, from the solitary confinement regime.

The Minister of Justice indicates that 20 institutions taking in women prisoners have solitary confinement places dedicated to them; as of 1 September 2019, of the 42 dedicated solitary confinement places, 14 were occupied. In the remaining 30 institutions that do not have women-only solitary confinement cells, women prisoners in need of protection may be placed in solitary confinement within their own cells in ordinary detention. The solitary confinement regime is then applied.

The CGLPL takes note of this.

> The CGLPL noted that the smallness of certain wings cannot justify infringements of the principle of separation of remand and convicted prisoners.

The Minister of Justice indicates that the Prison Administration Department is making efforts to implement this recommendation but is hampered by the high rate of overcrowding in some penal institutions.

The CGLPL maintains its observation.

> The CGLPL considered that the low number of women prisoners cannot justify their unequal access to the different ways in which sentences are adjusted or enforced and recommended that all wings and centres for adjusted sentences and all open wings and prisons accommodate men and women indiscriminately, as long as their accommodation and care arrangements are strictly controlled.

The responses of the Minister of Justice in 2016 and the current Minister show that within three years, the number of open places for women has decreased from 100 to 62. However, it is indicated that women benefit from more accompanied outings than men. Both ministers specified that the situation of women prisoners, particularly their family situation, has led the Prison Rehabilitation and Probation Services to evaluate other more appropriate forms of sentence adjustment for them than day parole. They consider that it is therefore not appropriate for all structures to take in men and women indiscriminately, as this requires a great deal of work and is complicated to organise with regard to the actual number of women received.

The CGLPL, although it understands the reasoning regarding the detention of women, deplores the fact that day parole is, in general, too seldom used and takes place in often unsuitable facilities.

> The CGLPL noted that the ban on women crossing paths with male detainees and mixing with male warders undermines the equal treatment to which they are entitled in terms of access to work, activities and healthcare. It recommended authorising mixed-gender movements in penal institutions accompanied by controlled supervision in order to promote equal access to communal areas of detention for prisoners. It advocated that women should be able to be supervised by male staff, although the use of force and restraint and the practice of searches should always be reserved for female staff.

Successive Ministers of Justice do not wish to follow up on this recommendation, as the assignment of male warders to women's wings, given that they will not be able to carry out all of their duties (searches, use of force and control actions if necessary), would only make the organisation of units more complex, and because the impossibility for an officer to enter a female prisoner's cell alone and carry out a certain number of tasks in women's wings would, moreover, have the effect of relieving the staff of their responsibility for the tasks entrusted to them.

In 2016, the Minister of Health had considered that women's access to healthcare was satisfactory as long as the prison administration was able to take them to the institution's health unit if the medical unit dedicated to women was closed.

The CGLPL takes note of these responses, which fall within the organisational power of ministers over their departments. It nonetheless reiterates that it is its responsibility to ensure the equal treatment of women and men and that it will endeavour to monitor this regardless of the arrangements chosen by the ministers. However, it notes that some institutions have refrained from blocking movement when a woman passes through the men's detention area and that there have been no particular consequences as a result.

> The CGLPL recommended the gradual organisation of mixed-gender activities, combined with the systematic provision of clear information on their mixed nature and the gathering of the participants' consent. It proposed the removal of the

> statement "by way of derogation" from Article 28 of the Prison Act and recommended the following new wording: "subject to the maintenance of good order and security in institutions, activities may be organised on a mixed-gender basis".

The Minister of Justice indicates that there is an increasing number and variety of activities organised on a mixed-gender basis, including certain physical and sports activities and programmes to prevent recidivism. Apart from these activities, other meetings in the context of detention have led to the grouping of female and male detainees (therapeutic activities, film debates, cultural activities, cultural events, consultation committees within the framework of Article 29 of the Prison Act, etc.). The majority of the opinions voiced by the staff supervising these activities have been positive and have encouraged the deployment of these initiatives.

Indeed, the CGLPL has observed during its inspections that mixed-gender activities, although not yet really developed, have ceased to be a taboo.

> The CGLPL reiterated that women prisoners should be able to access gynaecological care under the conditions provided for in Article 46 of the Prison Act of 24 November 2009: "care quality and continuity shall be guaranteed to people in detention in conditions equivalent to those enjoyed by the general population".
>
> The CGLPL reiterated the need to strictly comply with the provisions of Article 52 of the Prison Act according to which "any birth or gynaecological examination shall take place without shackles and without the presence of prison staff, in order to guarantee the right of women prisoners to have their dignity respected".

In 2016, the Minister of Justice indicated that each health unit, whether refurbished or installed in a new institution, would have specific treatment rooms and access circuits when the institution takes in women. However, the current Minister notes that, given the insufficient number of gynaecologists working in prisons, it is still necessary for the 2019-2022 roadmap for the health of offenders to include the objective of "guaranteeing that women in detention have continuous access to healthcare" in order to improve, among other things, access to gynaecological care.

This provision was affirmed in a memorandum in 2015, which states that it is strictly enforced.

Despite this memorandum, the CGLPL regularly receives testimonies describing practices contrary to Article 52 of the Prison Act, whether during its inspections or in the letters it receives.

> The CGLPL observed that women encounter difficulties in accessing specialised structures suited to their needs and in accessing psychiatric care in particular. Therefore, in order for men and women to have equal access to psychiatric care, all Regional Mental Health Departments for Prisons (SMPRs) and units for difficult psychiatric patients (UMDs) should be able to take in women.

While inpatient and outpatient care are in principle available to both women and men, day hospitalisation in SMPRs remains closed to women. This is addressed in a project under the 2019-2022 roadmap on the "health of offenders". In 2016, the Minister of Health reiterated that an experiment in mixed-gender day hospitalisation was under way at the Bordeaux SMPR.

The CGLPL requests that the results of the mixed-gender experiment at the Bordeaux SMPR be made public.

> Considering that in detention, self-esteem should be raised, the CGLPL recommended that women be able to take care of their physical appearance and that, in the absence of a wider choice offered in the canteen, the entry of hygiene and make-up products via visiting rooms be authorised, after inspection by the administration.

The Minister of Justice provides the following details. Since 2015, personal hygiene and cell maintenance kits have been designed to meet women's minimum needs, particularly for sanitary protection. Women who are not recognised as destitute have the opportunity to purchase hygiene products from the list of products available in the canteen; products and brands not available under the national canteen contract can be acquired through "exceptional canteens". In most institutions, it is also possible to acquire clothing, hygiene and beauty products via exceptional order forms, regardless of the gender associated with the product, with the agreement of the institution's manager. The New Real-Estate Programme (NPI) guidelines also include a socio-aesthetic room for new institutions, accessible to women who wish to use it. Lastly, a working group on the topic of women prisoners will soon be set up and will carry out an exhaustive inventory of the products offered specifically to women in prisons in order to develop access to certain products, if necessary.

The CGLPL takes note of this.

3.3 Report on radicalisation

The CGLPL's 2016 report and consequently the responses given to it by the Minister of Justice in 2019 should be placed in the context of a public policy that was then being developed on a very experimental basis. This policy should be analysed in light of the major changes it has undergone; it will be the subject of a new report by the CGLPL in 2020. The 2016 recommendations and the Minister of Justice's responses are therefore reproduced here as a reminder only.

> The CGLPL recommended evaluating the content of "deradicalisation" programmes in order to establish their serious and useful nature and lead to their official validation.

The Minister of Justice specifies that the prison administration now makes a distinction between rigorous religious practice and violent radicalism by targeting Salafi-Jihadism and that the handling of radicalised prisoners is not aimed at "deradicalisation" but at "disengagement" (renunciation of violence) and social re-affiliation.

> The CGLPL considered that people should be properly informed of the reasons for their assignment to dedicated units, the terms of their assessment and the content of the management programme.

The Minister of Justice states that radicalised prisoners are informed, during an adversarial debate, of the reasons for and methods of their assessment in a radicalisation assessment wing and that at the end of the assessment period, the elements of the assessment summary are communicated to them during a feedback meeting.

The decision to detain a person in a radicalisation wing may give rise to a complaint, so an adversarial procedure with the detainee concerned is therefore systematic.

> The CGLPL recommended that detainees who talk to psychologists from two-person support teams be informed of the use that can be made of their comments.

The Minister of Justice has taken note of this recommendation.

> The CGLPL observed that in certain dedicated units, correspondence is checked by warders in violation of the applicable law: indeed, this can only be carried out by the services of the postal officer, the judicial authority being empowered to check the mail of remand prisoners. It considered it undesirable for officers, who are in daily contact with these persons, to be the very ones who check their mail, at the risk of biasing their relations with the warders and undermining their privacy.

The Minister of Justice indicates that there is no legislative or regulatory provision requiring that the checking of the mail of detained persons be reserved for the postal officer and considers that it makes more sense, given the profiles of the persons detained in dedicated units, for the checking of the said mail to be the responsibility of more specialised staff who are familiar with issues related to radicalisation.

> The CGLPL considered that it is not the task of approved chaplains to inspect the religious publications and works of persons detained in dedicated units, contrary to what had been observed, and that the mere absence of a declaration of registration of copyright is not a reason for withholding works. It stated that it is under the institution manager's responsibility that the content of these publications should be checked and, if there is any doubt about a work, that the contact officer for secularism and the practice of worship within the DISP should be consulted; they can then, if necessary, consult the regional chaplain.

The Minister of Justice states that there has never been any question of chaplains being called upon to check the content of religious works requested by detainees and confirms that this is solely the responsibility of the institution manager in accordance with the provisions of Article R.57-9-8 of the Code of Criminal Procedure.

3.4 Emergency recommendations relating to the men's remand prison of the Fresnes prison complex (Val-de-Marne)

The inspection of the men's remand prison in the Fresnes prison complex in October 2016 led to the observation of serious violations of the fundamental rights of persons deprived of liberty, to the extent that the Chief Inspector of Places of Deprivation of Liberty decided, pursuant to Article 9 of the Act of 30 October 2007 establishing a Chief Inspector of Places of Deprivation of Liberty, to immediately communicate her observations to the Minister of Justice and immediately make public the content of her observations and the responses received.

In 2019, these emergency observations led to the Minister of Justice being questioned about the measures taken in response and gave rise to a follow-up inspection by the CGLPL, limited to the points covered by the said recommendations.

In a context of widespread prison overcrowding, it was noted in 2016 that the Fresnes prison complex was disproportionately burdened, with an average occupancy rate of 188% for the men's remand prison. The conditions of confinement were therefore particularly degraded, with only 13% of the prison population benefiting from an individual cell, 31% living in a two-person cell and 56% living in a three-person cell. The massive and long-lasting nature of this overcrowding, combined with the dilapidated state of the buildings, poor hygiene conditions and the context of tension in the institution, made the living conditions of the prisoners particularly undignified.

During its follow-up inspection, the CGLPL first noted that the institution had not taken any particular action in response to these emergency recommendations; it observed that the management and supervisory teams, which had been almost entirely renewed, had difficulty in assessing the implementation of these recommendations.

They have therefore not at all been used as a roadmap or lever internally; most staff are unaware of them, while most partners are familiar with them. Nobody knew that they are easily accessible on the Internet.

> The CGLPL recommended, as a first step in reducing overcrowding, the immediate abolition of three-person cells.

The response given by the Minister of Justice in 2016 merely stated that a national building programme would also involve the Ile-de-France region and that the institution would therefore benefit

from it. In 2019, the Minister also simply notes that the situation of the PACA region's institutions has been improved by the opening of the Draguignan and Aix prison complexes and that, similarly, the opening in 2018 of the Paris-La-Santé remand prison has helped reduce overcrowding in Ile-de-France institutions, particularly in Fleury-Mérogis and Fresnes.

During its follow-up inspection, the CGLPL observed that the occupancy rate has dropped from 200% to 165% under the combined effect of the opening of the Paris-la Santé remand prison and an active sentence-enforcement policy. However, this rate of 165% remains very high, and there are still many cells occupied by three prisoners.

> The CGLPL indicated that the renovation of the Fresnes prison complex constituted an emergency, particularly with regard to the accommodation facilities, visiting rooms and exercise yards. It called for the immediate implementation of measures for rat and insect control commensurate with the scale of the situation, with an obligation of results.

In 2016, the Minister of Justice indicated that furniture had been replaced, in particular to enable detainees to have at least one cupboard per cell; he pointed out that the sanitary facilities had been partitioned off for all the buildings in 2009. He reiterated that the exercise yards had been sized in relation to the theoretical capacity of the institution, that these yards, which are deteriorating due to overuse, are cleaned twice a day, that high-pressure cleaners have been acquired and that measures for collecting waste are implemented in detention after lunch. With regard to the visiting rooms, he described repainting work and a three-year renovation programme, from 2017 to 2019, for a provisional amount of around €400,000.

The current Minister indicates that a master plan for the overall renovation of the prison complex is being drawn up in order to programme the rehabilitation of the institution over a period of seven to eight years. She states that in the meantime, maintenance work is being carried out regularly to keep the institution operational; this involves bringing the punishment wing's cells up to standard and launching an ambitious plan to combat pests, in particular by concreting the bases of the façades, the electrical network and heating installations, the fire detection system and the roofs of the main wing. Concertina wire concentrating piles of rubbish has been replaced by fine-mesh anti-climbing fences. The frequency of collecting rubbish thrown out of windows has been increased (twice a day), and six industrial washers have been acquired.

In 2016, the Minister of Justice indicated that, as far as rodents were concerned, several rat control operations had been carried out, as had sewer plugging operations and the concreting of sandy areas. He also described measures to reduce littering through windows, including an improvement in the quality of meals. With regard to bedbugs and cockroaches, the institution had called on an external service provider to replace the ineffective disinsectisation carried out internally up to then and had conducted an inspection of the mattress stock.

In 2019, the Minister confirms these operations, in addition to the unblocking of pipes, which has enabled rat nests to be removed. In March 2019, in view of the persistence of pests, a new internal plugging campaign was carried out. As for disinsectisation, new operations have been planned, with priority being given to the 3rd division, which is particularly affected. At present, the contract signed with a service provider provides for three visits per year for rat and insect control. The Regional Health Agency has been informed of the actions taken to combat pests since October 2017.

During its follow-up inspection, the CGLPL observed that even though measures addressing the unsuitability of the facilities and hygiene have been taken, they have in reality brought about little change: there are fewer rats, there has been some repainting and installation of benches in the waiting rooms, but many remain unfit, the concreting of the base of the buildings, 40% of which remains to be done, is not very effective because it is incomplete, and heating in the cells has improved significantly, except in the punishment wing.

Nevertheless, the cells are still as cramped as ever despite overcrowding, and nothing has changed in the exercise yards. The level of hygiene in many communal areas remains inadequate due to limited budgets and poor management. Everyday curative maintenance has not improved.

For the visiting rooms, despite the financial efforts announced by the ministers (€400,000 in 2016 raised to €1.3 million in 2019), nothing has changed in the field, with the exception of stools being replaced. The local staff were even surprised to discover these responses that they had not been aware of.

Despite a plan of more than €200 million whose first effects would only be visible from 2021 onwards, any significant immediate action to improve prison conditions is paralysed. The only major investments concern security (70% of the real-estate allocation for 2019) and direct threats to buildings.

> The CGLPL requested that the warders and supervisory staff of the Fresnes prison complex be rapidly backed up by experienced officers and that the number of warders be imperatively matched to that of the prison population and to the actual tasks to be carried out.

In 2016, the Minister of Justice mentioned a national recruitment plan and was counting on graduates to meet the institution's staffing needs. In 2019, the institution's baseline staff was increased, but the vacancy rate was high; it was therefore necessary to resort to school graduates to meet staffing needs.

During its follow-up inspection, the CGLPL observed that a lot of efforts have been made in this area. Staff numbers have risen, management is more present and the human resources policy is driven by interesting projects, for example on the topics of "making warders more active", "attractiveness of officers", and "retention bonuses".

However, the ratio of the number of warders to the number of detainees is still very unfavourable to the establishment of peaceful human relations: in some corridors, there is only one warder for every 120 detainees. Training remains totally insufficient and, contrary to the assurances given by the ministers, half of the floor staff are trainees.

> The CGLPL called for immediate measures to be taken against the climate of tension and the trivialised use of force and violence by prison staff, in particular training and resolute reinforcement of the management staff. It also requested that incident reports be systematically checked by management and that each case of force being used give rise to a "feedback" session in the presence of a member of management.

The Minister of Justice reiterated that the Code of Prison Ethics was posted in the institution and assured the CGLPL of his "attachment to ensuring the exemplary behaviour expected of civil servants and officers of the public prison service". He affirmed that "if certain actions, which are not representative of the day-to-day dedication of staff, turned out to be disciplinary measures, I can assure you that the institution's response would be firm"; however, he did not mention any measures to detect such behaviour.

In 2019, the Minister of Justice indicates that staff are reminded of ethical principles and gives the same moral assurances. She adds that, as requested by the CGLPL, all incident reports are checked by management or a person delegated by the institution's manager and that institutions are encouraged to develop feedback in the event that force is used; however, she notes that these actions cannot be carried out systematically for any use of force.

During the CGLPL's follow-up inspection, this point remained difficult to assess, all the more so as the teams in place do not contest the observations made in 2016 but affirm that since their arrival in 2019, nothing salient has been observed. However, it was observed that:

- preventive placements in the punishment wing, or "*mises en prévention*", are highly developed practices which are increasing despite the decrease in the penal population and concern half of prisoners placed in the punishment wing;
- young officers do not learn how to respond well to provocations, nor how to calm conflicts;
- unnecessarily brutal professional actions are performed to take detainees to the punishment wing.

Conversely:

- staff are asked to write many more professional texts when there is violence;
- since 2016, successive management teams have not hesitated to initiate disciplinary proceedings in the event of inappropriate behaviour or violence;
- there are protective suspensions on this ground, as well as disciplinary board hearings for officers.

A few detainees report gratuitous violence, but more describe humiliation or bullying. There is no uniform discourse on this subject among the institution's partners: some say that nothing has changed, while others believe the changes are obvious.

> The CGLPL reiterated that full-body searches should only be carried out in situations provided for by law, on the basis of a reasoned decision and only when necessary; they should be carried out in a manner proportionate to the risk identified.

In 2016, the Minister of Justice indicated that he had ordered the end of the system in place, to revert to the wording of Article 57 of the Prison Act as amended by the Act of 3 June 2016. In 2019, the Minister states that full-body searches are only carried out in situations provided for by law, as stated in an internal memo from 2018; she mentions a project to regulate searches via a national circular that should be issued in 2020.

During their follow-up inspection, the inspectors noted that the regulatory texts have only been implemented since mid-2019: all detainees leaving visiting rooms continued to be searched until then. The use of searches unrelated to the prisoners' behaviour (Art. 57 (2)) is strong. Attention will need to be paid to the percentage of people actually searched under the new rules, which seem to be met with strong cultural resistance among prison staff.

> The CGLPL requested that the waiting rooms be fitted out in accordance with their purpose and be used within the limit of the number of places available and for durations compatible with a reasonable period of time that the administration should define and control.

In 2016, the Minister of Justice indicated that the organisation chosen aimed to ensure that all detainees would be present at their various appointments in a context of overcrowding and that he had given instructions for specific vigilance measures to be taken during these waiting times. In 2019, the Minister reviews the internal guidelines on the use of these rooms and indicates that work was undertaken in the waiting rooms in 2018 to install benches and replace the window frames: the waiting rooms in the first and second divisions were renovated and those in the third division remained to be addressed.

During its follow-up inspection, the CGLPL observed that the waiting rooms continue to address the administration's challenges but do not meet the needs of the prison population. Waiting times are shorter, the infra-disciplinary nature of the wait in the waiting rooms seems to have diminished and memoranda were issued to adjust their use immediately after the CGLPL's emergency

recommendations. Nevertheless, they remain tools for managing detention, although their condition and equipment and the lack of space in them do allow agitated detainees to calm down.

> Lastly, the CGLPL asked the Minister of Justice to have a thorough inspection of the institution carried out and to inform the CGLPL of its conclusions and their implementation.

In 2019, the Minister of Justice states that she has "taken note of this recommendation".

The CGLPL considers that the responses provided by the two Ministers of Justice who have succeeded one another since the emergency recommendations of 2016 are inadequate with regard to the difficulties facing the men's remand prison of the Fresnes prison complex. It is surprised at the clear discrepancy observed between the ministerial responses and the findings made on-site, including with regard to the appropriations allocated to the institution. It deplores the fact that real-estate investments are mainly devoted to security measures to the detriment of the rights of the prison population and finds it unfortunate that the prison authorities have not been tasked with conducting a policy of improvement inspired by its recommendations, which, it should be noted, have not been contested by the Ministers of Justice. The CGLPL considers the current situation of this institution where more than 1,500 people are detained as the consequence of a serious dysfunction in the conduct of prison policy.

In addition to the emergency recommendations, the institution was the subject of a report listing good practices and recommendations, whose follow-up can be found in the appendix, like for the other institutions inspected in 2016.

3.5 Recommendations made in 2016 following inspections of penal institutions

The appendix includes a summary of the responses of the Minister of Justice and Minister of Health, each as far as they are concerned, regarding the 26 penal institutions inspected in 2016. Subject to the reservations imposed by the purely declarative nature of these responses, the following broad outlines emerge.

With the exception of one, which seems to have done nothing before 2019 to implement the CGLPL's recommendations, all the institutions have taken some of the recommended measures.

Most often, documentary recommendations are acted on in a positive manner: this involves creating missing documents, redoing obsolete documents or translating existing documents into languages understood by the prison population. Although not all is complete in this area, the institutions seem to have made progress. As a result, the provision of information to detainees and the transparency of the applicable procedures have improved. In the same vein, the three years that have elapsed since the inspections seem to have enabled GENESIS to be taken on board, particularly with regard to the monitoring of requests and the traceability of measures of restraint.

Little progress has been made in terms of material conditions of detention. This progress is in fact dependent on large-scale programmes that go beyond the institutional level. For example, the Minister of Justice has rightly noted a significant improvement in the condition of persons detained in institutions that have been totally or partially refurbished, but for the others, institution managers have few levers at their disposal other than painting work, sometimes carried out during school camps.

Hygiene-related remarks are also the subject of local proactive measures, at least on paper.

Unsurprisingly, prison overcrowding has not improved at all, except in Fresnes; the opposite is true. Several institutions even indicate that their situation has worsened with regard to this criterion. The recommendations for individual cells have not been implemented.

The staff issue, on the other hand, seems to have progressed more favourably, with several institutions reporting the partial filling of the vacancies that had been observed. The massive recruitment recently carried out by the prison administration seems to be bearing fruit.

The issue of activities, particularly work and vocational training, is hampered by the low supply, which is itself linked to the local economic situation surrounding the prisons. As far as work is concerned, this difficulty is particularly acute in remand prisons, and even more so in the smaller ones, which have no workshops and have to make do with general service jobs. In these institutions, the CGLPL's recommendations have in most cases gone unheeded, sometimes in spite of sustained efforts by management. The provision of vocational training has increased, but it should be remembered that in 2016, the transfer of this function to regions had, in almost all prisons, led to a "blank year".

The local context has also affected access to healthcare. Depending on the site, the CGLPL's recommendations aimed to strengthen access to dental care, mental healthcare or paramedical specialities. In most cases, little progress has been made; sometimes, there has been no progress at all.

The issue of searches and means of restraint remains a matter of concern. The CGLPL's recommendations are usually the same: they are to limit the number of body searches in the conditions provided for by the Prison Act, to proportion the use of means of restraint to the risks posed by the detained person's behaviour on a scale of "escort levels", whose principle the CGLPL does not contest, and, lastly, to ensure the preservation of medical secrecy by not maintaining prison escorts in the room where medical examinations or surgical operations are carried out, except in exceptional cases. The answers provided by the Minister of Justice on these points do not give reason to believe that any real progress has been made in this area. In most cases, she simply reiterates the regulations and indicates that reminders have been or will be issued to staff. The Minister of Health, for her part, describes working groups led by the ARSs but makes little mention of concrete results. No measures in this area will be credible unless they are accompanied by quantitative data on the measures of restraint actually applied.

Lastly, the weakness of the actions taken in response to the CGLPL's recommendations for the Cherbourg remand prison (Manche) and the Majicavo prison complex (Mayotte) justifies hierarchical scrutiny by the Minister of Justice.

4. The recommendations made in 2016 regarding detention centres and facilities for illegal immigrants and waiting areas

4.1 Recommendations published in the 2016 annual report

> The CGLPL recommended maintaining, throughout national territory – including in Mayotte – a 48-hour time limit for the presentation of persons placed in immigration detention to the Liberty and Custody Judge.

The Minister of the Interior indicates that this period, which had been introduced by the Act of 7 March 2016 on the rights of foreigners in France, was restored to five days by the Act of 28 February 2017 on substantive equality Overseas, which the Act of 1 March 2019 on the time limit for intervention by the JLD in immigration detention in Mayotte confirmed in order to take into account the specific characteristics of this *département*.

The CGLPL can only analyse this legislative frenzy as a sign of the measure's fragility and persists in recommending that the law be the same for everyone throughout the territory of the French Republic.

> The CGLPL also reiterated that all measures should be taken to absolutely avoid the confinement of children in detention centres for illegal immigrants and a fortiori in detention facilities for illegal immigrants.

The Minister of the Interior indicates that the Act of 7 March 2016 specified that families can only be placed as a last resort, for the strict time period necessary for deportation and in suitable facilities. The Act also stipulates that the best interest of the child shall be a primary consideration for the prefect. Lastly, it should be noted that in 2018, less than 1% of placements involved the detention of families, for an average duration of 34 hours.

The CGLPL considers that the confinement of children, even for a short period, can never be in accordance with their best interests and deplores the fact that this is prolonged under the conditions described, since an average of 34 hours necessarily leaves room for longer periods that undermine the dignity of families and the psychological integrity of children.

> The CGLPL had recommended modifying the procedures in place to enable the effective provision of medical reports to the detained persons in question.

The Minister of the Interior indicates that the Act of 7 March 2016 transferred responsibility from the doctor of the Regional Health Agency (ARS) to a doctor from the French Office for Immigration and Integration (OFII) to give an opinion on the state of health of a sick foreigner who is subject to a measure of restriction or deprivation of liberty. The foreigner, if they so request, may obtain their administrative and medical records.

The CGLPL takes note of this institutional development, which has made the division of responsibility between the bodies responsible for giving an opinion on the situation of persons deprived of liberty more complex; it will assess its impact on the effectiveness of their rights.

4.2 Opinion of 25 January 2016 on the situation of women deprived of liberty

The Minister of the Interior does not respond to two of the recommendations in this opinion that concern CRAs.

One reiterated that detention should in no way constitute an obstacle to the application of the principle of gender equality proclaimed in the preamble to the 1946 Constitution and that, as such, women and men should be treated equally in places of deprivation of liberty, but this equality should not prevent certain needs specific to women from being taken into account.

The other indicated that, for all places of deprivation of liberty, respect for human dignity precludes any searches of women's sanitary protection products.

He does not add any more clarifications than in 2016 regarding another two of these recommendations. The CGLPL having recommended allowing women to be received in all detention centres for illegal immigrants in order to protect family ties, the Minister had then indicated that 15 of the 23 CRAs can receive women, which, according to him, guarantees the maintenance of family ties "in the vast majority of cases".

The CGLPL had also recommended the introduction of gender mixing during the day with regard to access to common services and activities and indicated that only women's accommodation should be separate from men's. In 2016, the Minister of the Interior had refused to give a favourable response to this recommendation "for security reasons", while acknowledging that the situation is different "in certain centres", which puts into perspective the imperative nature of the "security reasons" mentioned.

4.3 Institutions inspected in 2016

The appendix includes a summary of the Minister of the Interior's responses regarding the three institutions inspected in 2016: a detention centre for illegal immigrants, a set of detention facilities for illegal immigrants, and a waiting area. All three are located in the territory of Mayotte. Subject to the

reservations imposed by the purely declarative nature of this response, the following broad outlines emerge.

Regarding the detention centre for illegal immigrants, measures have been taken to follow up on certain recommendations such as those concerning the provision information to detainees, access for persons with reduced mobility, and basic equipment for the reception of mothers with children. Similarly, progress seems to have been made in the area of health: doctors no longer issue "certificates of compatibility of detention with a patient's state of health", confidentiality of care is better ensured, and the presence of nurses has been reinforced.

On the other hand, the most serious difficulty raised in 2016 by the CGLPL, the reception of minors, does not seem to have improved either in terms of monitoring their actual relationship with the adult accompanying them, or in terms of setting up a system allowing for appropriate treatment.

Regarding the detention facilities for illegal immigrants, the Minister's responses are incomplete and do not suggest that any measures have been taken to implement the CGLPL's recommendations. It is simply stated that the facilities are now only used "according to their condition, with the most basic facilities now being used only as a last resort, on a very exceptional basis", and with the most sordid of the three no longer being used.

Lastly, concerning the waiting area, there is reason to believe, despite an incomplete response, that all of the CGLPL's recommendations have been implemented.

5. The recommendations made in 2016 regarding juvenile detention centres

5.1 Recommendations published in the 2016 annual report

> The CGLPL called for the rapid implementation of the training and monitoring measures necessary for ownership of the recent body of regulations on juvenile detention centres.

The Minister of Justice indicates that a first specific training plan for public-sector CEF professionals was carried out in 2016. In 2018, three inter-regional directorates – Grand Est, Sud-Ouest and Centre Est – invested in this training by involving the authorised associations sector. More than 400 officers have been trained under this plan. Following this first experimental year, the training courses will be open to both public-sector staff and staff from the authorised associations sector; two sessions will be offered to the whole teams of the centres within one year; they will be conducted on- and off-site. This plan is supplemented by training for new employees and on-site training in preparation for the opening of centres. These training courses concern the population taken in, its characteristics, and its problems; they also cover the intervention framework as well as the profession, gestures and postures.

The CGLPL considers that the training efforts made for the CEFs are particularly beneficial; however, it points out that they can only bear fruit if the staff of the CEFs, whatever their function, is truly stabilised in these institutions.

5.2 Opinion of 25 January 2016 on the situation of women deprived of liberty

> The CGLPL reiterated that detention should in no way constitute an obstacle to the application of the principle of gender equality proclaimed in the preamble to the 1946 Constitution, without preventing certain specific needs of women from being taken into account.

The Minister of Justice indicates that care in the CEFs is based on individualisation, which requires that particular attention be paid to each individual according to their needs and regardless of their gender.

> The CGLPL also reiterated that respect for human dignity precludes any possibility of searching women's sanitary protection products.

The Minister of Justice reiterates general instructions on the prevention and management of situations of violence or institutional abuse from 2015, as well as instructions on the practice of searches.

The CGLPL considers that instructions should be given on this matter.

> Lastly, the CGLPL recommended setting up modular, evolving structures that could be adapted to the needs and care of all the minors taken in, in order to enable mixed-gender community life (activities, meals, etc.) under the supervision of staff while providing separate and secure accommodation for minors.

In his 2016 response, the Minister of Justice pointed out that caring for one or more girls in a group of boys requires suitable material conditions and facilities likely to preserve their privacy and keep them from being too close to the boys, without compromising the objective of achieving an 85% CEF occupancy rate. He indicated that he had authorised a second institution to take in young girls without gender mixing.

In 2019, the Minister of Justice indicates that of the 52 CEFs currently in operation, only 16 are reserved for boys; 36 are authorised to take in both girls and boys and one is reserved for girls. However, very few girls are taken in by the CEFs authorised to cater for mixed groups, as taking in just one girl in a group of boys leads to her being isolated. Therefore, some CEFs organise themselves to take in several at the same time, in order to form small groups; support measures have been planned for the professionals in these centres. The objective of opening a second CEF for girls has been confirmed.

5.3 Juvenile detention centres inspected in 2016

The appendix includes a summary of the Minister of Justice's responses regarding the five CEFs inspected in 2016. Subject to the reservations imposed by the purely declarative nature of this response, the following broad outlines emerge.

The institutions that have been able to resolve the difficulties raised by the CGLPL have done so because they have stable teams capable of designing and implementing a service project. It is therefore necessary once again to stress this precondition for any improvement in quality of care for minors. In this respect, the juvenile detention centres in the authorised associations sector seem to have had, during the period, an easier time than the public CEFs.

The responses given to the CGLPL most often highlight an improvement in document management: educational projects have been developed and the monitoring of minors' files seems to have improved.

Similarly, progress seems to have been made with regard to the monitoring of minors: certain centres apply a welcome period, either inside or outside of the centre, during which the minor is entrusted to a youth worker who will later be their contact person; moreover, the involvement of families in children's educational products also seems to have improved.

The healthcare of young people in detention is only progressing with difficulty and in a very disparate manner depending on the centre. While some have been able to implement the CGLPL's recommendations, others remain in difficulty due to local circumstances.

The inspected centres also state that they have put an end to internal-order practices identified by the CGLPL as abusive, such as strip searching, listening to telephone conversations and checking correspondence. These points, which are particularly delicate, will of course be checked during future inspections by the CGLPL.

Lastly, one of the Minister of Justice's responses was an opportunity for her to inform the CGLPL of studies conducted by the DPJJ on the profiles and future of children placed in CEFs. The CGLPL, which has long been calling for such studies to be carried out, takes note of this news; it encourages their continuation and requests their publication.

Chapter 4

Action taken in 2019 in response to the cases referred to the Chief Inspectorate

In accordance with the prevention mission delegated to the Chief Inspector of Places of Deprivation of Liberty, processing case referrals helps to identify the existence of any violations of the fundamental rights of people deprived of liberty, and to prevent their re-occurrence. With this in mind, the inspectors in charge of the referrals conduct verifications of documents and send written requests for observations from the authorities responsible for the facility in question – pursuant to the adversarial principle. They also conduct on-site verifications where applicable. The reports written following these inspections also go through the due adversarial procedure with the authorities responsible.

The large number of referrals received by the CGLPL during the year (more than 3,200) enable it to look further than individual situations and identify dysfunctions and violations of the rights of persons deprived of liberty that go beyond the framework of an institution or a region and call for national responses. While most of the inquiries initiated by the CGLPL concern specific institutions, several inquiries are sent each year to the Ministers of Justice, Interior and Health, or to some of their departments, particularly the Prison Administration Department for cross-cutting issues. They can provide an opportunity to identify issues raised in referrals concerning several institutions and cross-check the information from these referrals with the findings from inspections of institutions.

1. The response times of the Prison Administration Department: impairing the exercise of the CGLPL's mission

Under the terms of Article 6-1 of the Act of 30 October 2007, any individual or legal entity may inform the CGLPL of facts or situations which, in their opinion, constitute an infringement or a risk of infringement of the fundamental rights of persons deprived of liberty. Within this framework, the CGLPL may carry out verifications – on-site when necessary – and, after having collected the comments of any interested person, it may make recommendations relating to the facts or situations in question to the person responsible for the place of deprivation of liberty.

In accordance with its mission to prevent violations of fundamental rights, processing these reports helps to identify the existence of any violations of the fundamental rights of people deprived of liberty, and to prevent their re-occurrence. For the CGLPL, as in the context of its inspection missions, this mainly involves initiating a dialogue aimed at improving institutional practices and thinking on the way in which people deprived of liberty are treated – in strict respect of their fundamental rights.

The proper functioning of this prevention mechanism is obviously directly linked to the way in which the contacted authorities – prison directors, heads of medical facilities, Prison Administration Department, and the ministers concerned – participate in this dialogue.

However, for almost two years now, the Chief Inspector has been disappointed to see more and more inquiries opened with the prison administration going unheeded and, especially, the time it takes to receive replies growing considerably longer.

Indeed, the set-up in July 2017 by the Prison Administration Department of a centralised system for responding to CGLPL inquiries saw responses to inspections initially addressed to prison directors

almost completely dry up in 2018 – and the rare responses that were received took so long to arrive that they were often no longer relevant.

Since July 2017, responses to inquiries sent to prison directors have been written by a department within this administration.

For its part, the CGLPL continues to directly contact institutional directors who are, where prisons are concerned, in the best position to respond, during missions and the processing of referrals, and, pursuant to the Act of 30 October 2007, are "the individuals responsible for the place of deprivation of liberty". It also seems essential that they be the first to be informed of any difficulties identified in the institution for which they are responsible. Up to then, this system had never posed any obvious difficulties.

> The situation unfolding since the Prison Administration Department's set-up of the centralised system for responding to inquiries is hindering the CGLPL's mission. Moreover, contrary to this department's stated aim, the quality of responses has not improved. The explanations issued are often no longer relevant because of the time that has passed, and it is not uncommon for responses to be incomplete and for the requested documents to be missing.

In addition, it is also taking longer and longer for the CGLPL to receive answers to inquiries on nationwide concerns about which it has directly questioned the Prison Administration Department or the Ministries of Justice, the Interior and Health.

To give an example, in spite of multiple reminders, the CGLPL has not received a response regarding an inquiry on the consequences of detainees' committal to a UHSA, an Interregional Secure Hospital Unit (USHI) or the national public health institution at the remand prison of Fresnes (EPSNF), sent on 21 December 2016, nor regarding an inquiry dated 20 March 2017 on the introduction of a set fee for taking the driving theory test while in detention.

The CGLPL cannot make due progress in its work without these responses.

The CGLPL bemoans the fact that the ministerial departments with which it regularly exchanges information, not least the Prison Administration Department, have not organised the adequate means for responding to its requests within reasonable time frames. Indeed, the division in charge of relations with the CGLPL also has to respond to referrals from the Defender of Rights and to parliamentary questions, with only three FTE positions, which does not allow for fluidity in the responses provided to inquiries and thus hinders the CGLPL's very activity. As a result, 67% of the inquiries sent between August 2017 and the end of December 2018 had not received a response by 1 January 2019, compared with around 13% over a similar period before the new response system was introduced.

While an improvement in the processing of the inquiries sent to the DAP should be commended for the last quarter of 2019, the pitfalls referred to above still remain.

> The solution to enable the CGLPL to have rapid and high-quality responses to its inquiries consists in restoring the previous system, i.e. giving institutional managers the possibility of directly responding to it.

The Minister of Justice was informed of this situation via a letter dated 23 January 2019. A response was sent to the CGLPL on 23 April 2019. It confirmed the prison administration's centralisation procedure and explained that its purpose is to ensure the "completeness and harmonisation of responses to correspondence and referrals sent by independent supervisory authorities. The observation of vast differences between responses, with approximate content, and of fragmented and sometimes inconsistent responses that were above all rarely put into the perspective of national guidelines, motivated this decision, which aims to improve the quality of the administration's responses".

The Minister of Justice also describes the "significant strengthening of the division" via the recruitment of three temporary staff and three trainees and the implementation of a sustainable organisation for this division.

"As part of its commitments, the Prison Administration Department has set the objective of reducing the backlog of referrals from 2017 to the end of April 2019; that of 2018 referrals should be gradually cleared by aiming to reduce 20% of the backlog each month by September 2019".

In addition to the number of inquiries launched by the CGLPL without any response from the DAP, it is the processing time that fundamentally impairs the proper functioning of the institution.

2. Nationwide concerns identified through referrals: some examples of case referrals in 2019

The high number of referrals received by the CGLPL throughout the year bring to light, over and above isolated cases, failings and violations of the rights of people deprived of liberty that go beyond an institution or region and call for nationwide responses. Although most of the investigations undertaken by the CGLPL concern specific institutions, several inquiries are submitted every year to the Ministers of Justice, the Interior and Health, or some of their departments, not least the Prison Administration Department (DAP).

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

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

At the time this report was written, some of the referrals already mentioned in 2016 were still pending an answer: referrals on the consequences of committal to UHSAs and UHSIs on the exercise of detained persons' rights, on the difficulties associated with the introduction of a set fee for taking the driving theory test, on the prison warders' strike, and on the status of Muslim chaplains.

Other inquiries, for which responses were pending for a long time, saw progress in 2019, which will be addressed below.

2.1 Referrals for which responses have been forthcoming

2.1.1 *The situation of the Condé-sur-Sarthe prison complex*

In 2019, the Chief Inspector received numerous letters alleging violations of the fundamental rights of people detained at the Alençon – Condé-sur-Sarthe prison complex and of those of their relatives.

In a letter dated 5 April 2018, the Chief Inspector questioned the Minister of Justice about the measures taken or planned by her departments to ensure that the detention of persons during institutional blockades by prison officers, as occurred from 11 to 26 January 2018, would be carried out in a manner respectful of their fundamental rights. To date, the Minister of Justice has not replied to this letter, even though violations of the rights of prisoners similar to those observed in January 2018 occurred again in 2019.

Indeed, the Alençon – Condé-sur-Sarthe prison complex was blockaded by prison officers from 6 to 21 March 2019, after two warders had been assaulted by a detainee and his girlfriend on 5 March. The CGLPL quickly received testimonies concerning the consequences of this social movement on the conditions of detention in the institution; in particular, they reported that, throughout the duration of the blockade, detainees were kept in cells 24 hours a day and deprived of exercise, canteen deliveries were not made except for tobacco on certain days, and rubbish was not collected for several days, while at the beginning of the movement, only one hot meal was distributed daily. Furthermore, no visits were reportedly allowed during this period, and detainees were also denied the ability to send or receive correspondence, including correspondence to lawyers and courts, and to access telephone booths.

After two persons detained at the prison complex filed two applications for interim liberty (Article L. 521-2 of the Administrative Justice Code), the judge hearing applications for interim measures of the Caen Administrative Court, by two orders dated 14 March 2019[50], rejected the said applications, considering: on the one hand that, although it was common knowledge that all the detainees in the prison complex experienced deteriorated detention conditions, "mainly due to their continuous confinement in cells depriving them of visiting rooms, daily exercise and canteen distribution", these did not constitute an infringement of Article 2 of the ECHR (right to life) and did not, "to date", constitute inhuman and degrading treatment within the meaning of ECHR Article 3; on the other hand, that there was no manifestly illegal infringement of the applicants' right to lead a normal private and family life as guaranteed by Article 8 of the ECHR, since the ministerial authority had to be regarded as having used the means at its disposal, in a context of severe constraints, "to allow access to the site and provide the detainees with basic services", and that it was pursuing negotiations with the participants in the social movement with a view to obtaining the lifting of the institutional blockade "peacefully and within the shortest possible time, in order to restore normal functioning in the institution".

In a letter dated 21 March 2019, the Chief Inspector of Places of Deprivation of Liberty requested the comments of the prison complex's director regarding this situation; she asked for any information that could enlighten her as to the consequences of the blockade on the institution's operations and as to the measures taken by the prison administration to remedy the situation. In a letter dated 2 October 2019, the Director of the Office of the Prison Administration Director replied to the CGLPL that basic services had been provided from 7 March, in particular thanks to backup from Regional Response and Security Teams (ERISs) and officers from the inter-regional directorate and central directorate (rubbish removal and distribution of tobacco, two daily meals and medical treatments by staff from the health unit at mealtimes). The prison administration confirms that visiting rooms and exercise were cancelled but says that access to telephone booths was maintained, arguing that 193 telephone calls were placed from the prison between 7 and 17 March. Analysis of the documents submitted in support of this response, however, shows that telephone access was significantly restricted[51] during the period of the blockade, and was moreover monitored by ERIS members.

The same applies to correspondence: while the prison administration reports the delivery to inmates, on 19 March, of 20 letters from lawyers and two others from the Defender of Rights, it acknowledges that the distribution of mail was compromised for some time, as is clear from the documents attached to its response, since it appears that no mail was distributed between 7 and 18 March. At the end of the strike movement, the exercise yards having only resumed on 23 March, the inmates had remained confined to their cells for 17 days. Telephone access was authorised on the same date, the workshops resumed on 28 March, and general service picked up on 3 April. Families and

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[50] *Nos. 1900448-1900449*

[51] *25 and 30 calls were placed respectively on 7 and 8 March, 57 calls on 15 March, and 58 calls on 16 March. Between 9 and 14 March, a total of only 10 calls were placed, none of them lasting more than two minutes. In addition, during this period, no calls were made for three days.*

lawyers were able to access the visiting rooms from 29 March, i.e. 23 days after the start of the social movement. Socio-educational activities only resumed on 15 April.

> All of the above leads the CGLPL to consider that the conditions of detention during the blockade of the Alençon – Condé-sur-Sarthe prison complex were likely to affect the physical and mental integrity of the inmates as well as their dignity, their right to maintain family ties and their right to appeal.

In addition, several reports were sent to the Chief Inspector indicating increased security measures as a result of this social movement. Several inmates were transferred, some to institutions located far from their families, and full-body searches were systematically carried out at the end of the movements, some in the presence of several officers and even in full view of other inmates. In addition, new control procedures were implemented in the visiting rooms, including systematic pat-down searches, including of children, regardless of age, and the obligation for women wearing a veil to remove it outside a dedicated area and for persons accompanying children in nappies to change them under the supervision of a prison officer. The implementation of these measures was observed by three inspectors visiting the prison complex as part of the preparation of a report on the handling of radicalised people, on 11 June and again on 8 and 9 July. All of these measures are set out in internal memos, only some of which were provided to the inspectors. Faced with the possibility of these measures becoming widespread, the CGLPL will remain particularly attentive to changes in the legal framework applicable to searches in penal institutions.

In a letter dated 25 July 2019, the Chief Inspector informed the Minister of Justice of her deep concern about this increase in security measures and questioned her about their sustainability and the measures taken to ensure respect for the fundamental rights of detainees and their families. The Chief Inspector was also informed of several incidents in detention, in particular arson attacks in the punishment wing in the weeks following the lifting of the blockade; she notified the Minister of her concerns about the future of the Alençon – Condé-sur-Sarthe prison complex and alerted her to the consequences that could result from the persistence of such tension. To date, no response to this letter has been received.

2.1.2 *Prisoners' right to vote*

Regarding prisoners' right to vote, following on from the exchanges initiated in 2017 with the Minister of Justice, the latter informed the Chief Inspector in 2018 that, as the security constraints inherent in detention make it particularly difficult to set up polling stations, the discussions conducted jointly with the Minister of the Interior had focused on the choice of voting by post. She also announced that the French Act on 2018-2022 Justice Programming and Reform would contain provisions to this effect and that she hoped that this possibility of voting would be effective for the next European elections as announced by the President of the Republic in his speech in Agen on 6 March 2018.

The Chief Inspector also drew the Prime Minister's attention to this matter. His response also mentioned, at the beginning of 2019, provisions of the Act on 2018-2022 Justice Programming and Reform that should enable people duly entered on a voters' list on 31 March 2019 "to opt to exercise the right to vote from prison". The mechanism announced provided for ballot papers to be sent to a central office of the Ministry of Justice, in charge of counting votes. The Prime Minister stressed that this new system would not only save the persons concerned from having to request permission to leave or to vote by proxy, but would above all allow them to exercise their rights and duties as citizens themselves, from prison. The provision of information to prisoners was announced without waiting for the vote on the Programming Act.

Subsequent to these exchanges, the CGLPL received at least one testimony from two persons detained in a remand prison who, unlike in previous years, had been unable to obtain permission to leave to vote in the European elections, on the grounds that they could now vote from the prison.

However, these two persons claimed not to have received the individual explanatory letter or the form allowing them to choose to vote by post. As such, they intended to appeal against the decision of the sentence enforcement judge.

Exchanges on this matter with the ministries concerned will continue.

2.1.3 *Procedures for issuing and renewing national identity documents*

During 2018, the Chief Inspector referred to the Prime Minister the issue of obstacles identified in the procedures for issuing and renewing national identity documents (CNIs) for detainees[52].

Since the introduction of the "next-generation prefectures" plan in 2017, it has been compulsory to integrate biometric features. In order to collect these biometric features, a provisional system has been set up: prefectural officials travel to the penal institutions equipped with mobile collection devices. As part of an inter-ministerial Interior-Justice system, the plan was to equip the prison registries with these devices. But this solution was reportedly rejected by the Prison Administration Department. With no consensus, some prefectures would seem to have been instructed not to travel to the penal institutions any more, undermining the provisional system set up pending a more permanent procedure for the first-time issuance or renewal of national identity documents in penal institutions.

In his response to the Chief Inspector, the Prime Minister said that he had forwarded the referral to the Ministers of Justice and the Interior for them to work on finding solutions to the difficulties reported. He stressed the importance he attaches to the citizenship of prisoners being recognised and effective under the Government's "prison plan". He assured that since the facilitation of procedures for issuing identity documents has this very purpose in mind, he would ensure that existing barriers to identity document issuance or renewal are removed.

Having received this report, the Minister of the Interior informed the Chief Inspector in 2019 that he had decided to extend over time and broadly roll out the transitional procedure implemented as part of the "next-generation prefectures plan" (2016), entrusting the registration of CNI applications for prisoners to prefecture officers equipped with mobile collection devices (registration of the application, digitisation of supporting documents, fingerprint collection). A joint instruction from the Ministries of the Interior and Justice, signed on 28 July 2019 and issued on 9 August, specifies the terms of this procedure's implementation. Each prison is now required to draw up a local agreement with the relevant prefecture, setting out the timetable of interventions, the conditions for gathering information, the procedures for issuing the document, etc.

The CGLPL remains attentive to the deployment and implementation of these agreements.

2.1.4 *The non-regulation of night rounds: a threat to the health of prisoners*

Noting that night-sound surveillance through door viewers was disrupting – sometimes permanently – the sleep and therefore the health of prisoners, the CGLPL referred the matter to the Prison Administration Department (DAP) in September 2015. In February 2016, the DAP replied that a memorandum would be drafted to specify the conditions for carrying out this professional activity.

After numerous reminders, the CGLPL was informed, in January 2019, that the said memorandum had been published on 30 October 2018, introducing new guarantees as to due respect for the sleep of prisoners. For example, it states that night rounds "play a fundamental role in the prevention of escapes and acts of hetero-aggression and self-harm [but], for all that, [...] they should not

[52] *See 2018 Annual Report of the CGLPL, p. 136.*

harm the balance or health of detainees, in particular through repetitive waking-up during night duty not made strictly necessary by particular circumstances. […] [These rounds, in particular door-viewer checks], should be carried out discreetly [...]".

The objective of these rounds is also redefined as follows: "the aim of door-viewer checks is to ensure the absence of any abnormal situation that could give rise to fears of self-harm or hetero-aggression, material damage (in particular the setting of a fire) or an escape attempt. […] It is not a question of the officer providing absolute guarantees through these checks carried out in accordance with the rules of the art; it is a question of ensuring, through these visual checks, that there are no indications of such incidents and, if necessary, being able to report them to the management without delay".

Certain implementation terms are also set out and comply with some the recommendations issued by the CGLPL: "it is up to the institution's manager to determine on a case-by-case basis whether or not to systematically switch on the lights in cells during checks. If no suspicious elements are noticed by the warder, and if there is sufficient visibility, there is no need to turn on the light in the cell; only in case of doubt should the cell light be switched on by the patrol officer. If this is not sufficient to ascertain the condition of a prisoner, an additional check should be carried out to remove the doubt" and "the wearing of sports shoes, of a neutral colour, is permitted, by way of derogation, for the staff in charge of rounds in order to ensure their discretion".

> Although these new instructions represent progress in terms of respect for prisoners' fundamental rights, the CGLPL continues to receive complaints about the way in which these rounds are carried out. It therefore remains vigilant as to the actual actions taken in prisons in response to the DAP's instructions, as to the effective reassessment of the appropriateness of placements under specific supervision and, more generally, as to respect for prisoners' right to sleep and recovery, as it expressed in the thematic report it devoted in 2019 to night in places of deprivation of liberty.

2.1.5 *Respecting the rights of prisoners: medical secrecy and confidentiality of care during medical extractions*

On 10 January 2019, the Chief Inspector and the President of the National Order of Doctors (CNOM) jointly referred to both the Minister of Justice and the Minister of Solidarity and Health the difficulties associated with respecting the dignity of prisoners and the professional secrecy owed to them, particularly during medical extractions.

In its Opinion of 16 June 2015 on the treatment of detainees in healthcare institutions, the CGLPL deplored the many situations in which medical secrecy was not respected, particularly due to the presence of prison administration staff during consultations, examinations and sometimes even surgical operations. In accordance with the terms of Article 45 of the Prison Act of 24 November 2009[53], the CGLPL reiterated that respect for medical secrecy is a right for detained patients and that, pursuant to the provisions of Article R. 4127-4 of the Public Health Code[54], it constitutes an absolute duty for doctors, for whom it is an obligation. The CGLPL recommended that doctors be reminded of

[53] *"The prison administration shall respect prisoners' right to medical secrecy as well as the secrecy of consultations, in compliance with the provisions of the Public Health Code".*

[54] *"Professional secrecy instituted in patients' interests is an obligation on all physicians as established by law. Secrecy covers everything that has come to the knowledge of physicians in the exercise of their profession, i.e. not only what has been confided to them, but also what they have seen, heard or understood".*

their legal and ethical obligations in this respect. Numerous exchanges have been held with the National Order of Doctors to this end.

Generally speaking, the CGLPL recommended that medical consultations take place without the presence of an escort and that supervision be indirect (out of sight and hearing of the detained patient).

> Given the persistence of these violations, the CGLPL recommended once again, in its 2017 Annual Report, that measures to ensure respect for medical secrecy during medical consultations be the subject of a joint circular from the Ministries of Justice and Health.

However, although the action plan on the strategy for offenders launched in April 2017 by the Ministers of Justice and Solidarity and Health has enabled working groups to be set up on various topics, including somatic and psychiatric hospitalisation, the subject of medical extractions and the way they are organised does not appear in the plan. Moreover, the methodological guide on the management of offenders published on 19 December 2017 does not address these issues either, contrary to the comments made by the Ministries in response to the aforementioned Opinion of 16 June 2015.

> It must be noted that, like the CNOM's opinions, the CGLPL's recommendations are not taken into account and that a large number of individual situations brought to its attention reveal clear violations of medical secrecy and infringements of the right to health of prisoners.

Indeed, some prisoners refuse care on the grounds of prison administration officers being present during medical examinations, while others denounce the presence of officers during gynaecological examinations in total contradiction with the legal provisions. Such situations are not acceptable.

Therefore, in accordance with their respective missions and within the framework of the partnership agreement signed between them on 4 April 2014, the CGLPL and the CNOM have requested the creation of a think tank on these subjects under the authority of the Ministries of Justice, Health and the Interior in order to draw up new texts and put an end to these situations that seriously infringe people's rights.

In a letter dated 4 March 2019, the Minister of Solidarity and Health indicated that the national health strategy for offenders included "the drafting, in 2019, of a joint memorandum for healthcare and penal institutions, […] the creation of a working group on the rights of prisoners as users of the health system", and its inclusion in the roadmap on the health of offenders. At the time of writing this report, the said memorandum had still not been drafted.

2.1.6 *Contents and renewal of toiletry and cleaning kits*

Last year, the Chief Inspector once again referred to the Prison Administration Department the multiple problems reported by detainees pertaining to the contents of toiletry and cleaning kits as well as the means for distributing and replenishing them.

Previous discussions had already been held on these matters because of the disparate practices observed between institutions. In 2015, the CGLPL was informed that a national contract had been signed at the end of February 2015 and that a memo dated 31 March 2015 stipulated the applicable rules in this regard.

And yet, in many of the letters sent to the CGLPL in 2018 as well as in 2019, detainees in diverse institutions continue to report recurring difficulties in getting these kits replenished or obtaining all of the products that they should contain.

A response was received in December 2019 by the CGLPL, which will nevertheless continue to pay particular attention to referrals on this topic.

2.1.7 *Heat waves*

The heat waves in the summer of 2019 were an opportunity for the CGLPL to follow up on the recommendations already made in 2014 as part of an inquiry opened with the Prison Administration Department[55]. Given the specific situation of prisoners, the CGLPL had recommended that measures to combat extreme heat be implemented in prisons as soon as the need arose, independently of the launching of a prefectural alert under the national heatwave action plan. In response, the Prison Administration Department agreed, among other things, to study the possibility of developing an alert system specific to prisons.

> The CGLPL nevertheless continued to receive regular referrals on this subject, particularly during the summer of 2019. Depending on the institution, these testimonies reported difficulties in acquiring fans and getting bottled water as well as tensions caused by excessive heat in often overcrowded cells. The need to adapt the implementation of preventive measures to the prison context seems to remain relevant.

In this context, the CGLPL referred the matter to the Prison Administration Department in order to request transmission of the information reported by institutional managers. In response, it was indicated that the provisions of the circular on the fight against heatwave temperatures were being applied, with the prison administration reporting only rare difficulties in this area. However, the CGLPL intends to continue its discussions on this subject in order to put all these findings into perspective. In any event, it remains vigilant as to the follow-up action that will be taken by the prison administration, as difficulties linked to episodes of extreme heat are unfortunately likely to arise regularly.

2.2 Referrals still pending an answer

Other referrals bearing on nationwide concerns are more recent, and have not received an answer from one or all of the authorities contacted. This is the case for exchanges initiated with the Minister of Justice on the use of video conferencing in foreigners' rights litigation and on the difficulties faced by detainees during extractions to a health facility to receive treatment.

2.2.1 *The unprecedented deterioration of the situation of foreigners in detention centres for illegal immigrants*

In an open letter dated 26 June 2019, several associations drew the attention of the Minister of the Interior to the deterioration of the situation of foreigners in detention centres for illegal immigrants (CRAs), which they consider unprecedented.

Many of the observations made by these associations are in line with those expressed by the CGLPL and the Defender of Rights in the course of their respective missions, having been, on several occasions in recent years, called upon to give their opinion on the deterioration of the conditions in which foreigners are detained, the reduction in the procedural safeguards offered to them, and violations of their rights in this context.

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[55] *CGLPL, 2014 Annual Report, "Adaptation of the national action plan to the specific nature of prisons, within the framework of the fight against heatwave temperatures", p.35.*

Both the Chief Inspector and the Defender of Rights have therefore taken careful note of the response that the Minister of the Interior sent to the associations on 8 July 2019. Noting that, on several points, the Minister's response did not seem to take their recent recommendations into account, the Chief Inspector and the Defender of Rights jointly questioned the Minister of the Interior in a letter dated 24 July 2019.

On changes in the legislative framework of immigration detention

The Chief Inspector expressed reservations with regard to the provisions of Act no. 2016-274 of 7 March 2016 which, in order to bring domestic law into line with European requirements, intended to establish the use of house arrest as a principle. While detention was to be used only as a subsidiary measure, it feared that the excessive number of derogations provided for by the legislature would render the principle meaningless.

> However, since the entry into force of the Act of 7 March 2016, the steady increase in the number of places in detention has reinforced its fears. Thus, the announcement of the construction of 480 additional places by 2020 confirms, once again, the decision to give priority to immigration detention over other less coercive measures.

This trivialisation of the detention of illegal immigrants is all the more worrying as it is coupled with a constant tightening of the provisions relating to their deportation; Act no. 2018-778 of 10 September 2018 marked a new stage in this tightening[56].

The Chief Inspector expressed deep reservations about the provisions aimed at increasing the maximum period of detention to 90 days, considering that they risked having manifestly disproportionate consequences in view, on the one hand, of the importance of the fundamental rights in question and, on the other hand, of the small gain in efficiency that could be expected from such an extension.

On the healthcare of detained foreigners

Both the Chief Inspector and the Defender of Rights have also recently expressed their views on the worrying situation of sick foreigners placed in CRAs and on the urgent need to rethink the terms of their healthcare in detail[57]. However, the Minister of the Interior's response to the associations does not seem to take full account of the situation observed by the two institutions.

It states that "sick people in detention receive systematic and appropriate care". And yet, the observations made by the Chief Inspector following 61 CRA inspections since 2008 and three inquiries more specifically dealing with the health of detained foreigners reveal the significant difficulties encountered by the persons concerned in accessing the medical and nursing staff present in detention; these difficulties are linked to material barriers but also, in many CRAs, to insufficient medical and nursing presence.

These difficulties in accessing care are all the more alarming since, too often, the objective of implementing the deportation measure takes precedence over any real consideration for the state of health of the people concerned. Thus, the CGLPL is regularly and increasingly contacted regarding the situation of persons placed or maintained in detention centres even though their state of health is known to be fragile. Mental diseases, in particular, are extremely frequent and receive particularly poor care. In

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[56] *On this topic, see Opinion nos. 18-09 and 18-14 of the Defender of Rights.*

[57] *CGLPL Opinion of 17 December 2018 on the treatment of foreigners in detention centres for illegal immigrants published in the Official Gazette of 21 February 2019; Report of the Defender of Rights entitled* "Personnes malades étrangères: des droits fragilisés, des protections à renforcer" (Sick foreigners: weakened rights, safeguards to be strengthened) *published in May 2019.*

the absence of appropriate resources, mental diseases are often managed via security measures, in particular through the use of seclusion rooms. These shortcomings in the medical treatment of mental diseases contribute very largely to the deterioration of the conditions in which foreigners are detained.

> For these reasons, the two independent government agencies have informed the Minister of the Interior of their desire to allocate significant resources to strengthening medical and nursing presence within CRAs, and more particularly to the psychiatric care of detained foreigners, beyond simply strengthening psychological care when needs have been identified.

The CGLPL and the DDD also recommend reinforcing the accessibility of medical units in detention centres (UMCRAs) and would like for the use of professional interpreters during medical consultations to be organised rapidly in all centres, in accordance with the Minister's response on this point to the opinion of the Chief Inspector[58].

With regard to situations where the state of health of detained persons goes against them remaining in detention, it should be noted that the reminder in the letter from the Minister of the Interior of 8 July in response to the associations' letter, stating that the detention of these persons may be terminated at any time, does not take into account the weakness of the normative framework in this area, pointed out on several occasions by the two institutions.

For this reason, the CGLPL and the DDD reiterate their requests for legislative or regulatory provisions to be adopted to define the procedures to be followed in the event that a foreigner's state of health is incompatible with detention. In case of voluntary or involuntary hospitalisation in a psychiatric unit, the CGLPL and the DDD share the Minister's view that the detention measure cannot be maintained[59]. However, this is not the case in all *départements* and the effect of these hospitalisations on the detention regime should be formalised.

Lastly, the two institutions note that foreigners whose state of health is such that it could challenge their deportation find it difficult, in the context of immigration detention, to assert their right to protection against deportation. The procedure implemented since 1 January 2017, consisting in transferring management of the "sick foreigner" procedure from Regional Health Agencies (ARSs) to the OFII's medical department, has led to a significant reduction in the safeguards granted for this reason. In some cases, the doctor at the detention centre does not refer the matter to the OFII doctor, who is the only one competent to give an opinion on the seriousness of the state of health of the foreigners concerned and on their ability to access adequate care in their country of origin. Even when the OFII is contacted, the procedure remains very opaque.

The foreigner does not receive any information and their deportation still remains possible at any time. For these reasons, the CGLPL and the DDD recommend that measures be taken so that referral to the OFII's medical department has a suspensive effect on deportation; they also recommend improving the provision of information to foreigners likely to benefit from protection against deportation on account of their state of health. In particular, they should systematically be informed of the opinion issued by the OFII doctor responsible for assessing their state of health.

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[58] *Comments of the Minister of the Interior regarding the CGLPL opinion on the healthcare of foreigners in CRAs, also published in the Official Gazette on 21 February 2019.*
[59] *Ibid.*

On the detention of minors

The CGLPL has regularly reiterated its opposition in principle to the placement of children in detention centres for illegal immigrants, as such detention is a serious and disproportionate infringement of their fundamental rights[60]. On this point, the two institutions note that, contrary to what the Minister of the Interior suggests in his response to the associations, the placement of families with children in detention centres is far from being exceptional in practice. The number of families placed in CRAs, for the sole convenience of the administration, is indeed tending to increase, as shown by the figures published by the State-mandated associations. Thus, for 2019, 143 children had been detained in a CRA in metropolitan France as of 13 June. Overseas, the situation is even more worrying, particularly in Mayotte. In this *département*, no real alternative, less coercive than detention, is in fact organised prior to placement. In 2018, 1,221 children were thus detained in the Mahore centre. Moreover, the minors concerned are sometimes associated with adults who do not exercise any parental authority, with the sole aim of enabling the administration to place them in detention and then deport them.

Detention is never, under any circumstances, in the best interests of children. When a child is taken into detention with their parents to spend the night, escorted by a police officer after, in many cases, a stop at the police station, and then is removed the next morning to be taken to the airport, there is no doubt that the violence of being taken back to the border is all the greater. Detention in itself – even for a short period – has consequences for the well-being of children, even very young children, whatever the conditions of this detention. It leads to anxiety and depressive disorders, sleep disorders, and language and developmental disorders in children, such as those that may occur in a state of post-traumatic stress.

> This violence against children occurs even though, in almost half of cases where families with children have been placed in detention, the families have ultimately been released and their deportation has therefore not been effective. Furthermore, it appears that only a few prefectures are responsible for half of placements of families with children in CRAs, which shows that for the majority of prefectures, families with children can be deported without being detained. Lastly, it turns out that, more often than not, the sole purpose of detaining children is to facilitate the work of the administration and the practical organisation of deportation.

Thus, the CGLPL and the DDD firmly reiterate their recommendations to purely and simply ban the detention of children in CRAs. The one and only acceptable alternative to ensure the effective implementation of deportation measures taken against families with children is house arrest.

Lastly, the Minister of the Interior's attention was drawn to the situation of unaccompanied young foreigners whose status of minor is disputed. They are often placed in a CRA as soon as they are refused eligibility for child welfare (ASE) by the *département*, without a children's judge having ruled on their situation. Some individual complaints submitted to the Defender of Rights even mention minors who, although accepted into the ASE system, were placed in detention following an identity check. According to the associations, 339 young people declaring themselves to be unaccompanied minors were detained in CRAs in 2018. Decree no. 2019-57 of 30 January 2019 establishing the "minor assessment" file and modifying the assessment procedure for unaccompanied minors, currently subject to a review of legality by the Council of State, only reinforces fears that this type of situation will increase in frequency.

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[60] *CGLPL Opinion of 14 June 2018 on the placement of children in detention centres for illegal immigrants.*

In any event, the Chief Inspector maintains the recommendations made in her Opinion of 14 June 2018 on the placement of children in detention centres for illegal immigrants, namely:

> Considering that the placement of children in detention centres for illegal immigrants is contrary to their fundamental rights as it constitutes an attack on their psychological integrity, whatever their age and the duration of detention, the CGLPL maintains its recommendation that the detention of children be prohibited in CRAs and a fortiori in LRAs, as only the measure of house arrest can be taken against families accompanied by children.

2.2.2 *Period poverty of women in prison*

The CGLPL has been informed of the period poverty experienced by a number of women in prison due to difficulties in obtaining the necessary sanitary protection and hygiene products.

On the basis of the testimonies received and the observations made during its inspections of penal institutions taking in women, the CGLPL referred the matter to the Prison Administration Department to find out what action had been taken to remedy these shortcomings. Indeed, the CGLPL regularly notes during its inspections that hygiene kits, which in principle contain sanitary protection, are not systematically distributed to new arrivals or are incomplete, that the quality of the products distributed is uneven, that the persons concerned may feel uncomfortable about asking for them, that the products offered in the canteen – often limited to certain brands or models – do not meet the needs of each woman prisoner, and that the prohibitive cost of these products leads some of them to resort to alternatives that pose risks to their health. In this respect, the CGLPL once again called on the DAP to extend opportunities for women prisoners to receive feminine hygiene products in the context of visiting rooms, as security reasons are too often used against the persons concerned to refuse their entry.

> Considering that the distribution and purchasing system for basic feminine hygiene products currently in force in penal institutions undermines the dignity and physical integrity of women prisoners, the Chief Inspector calls for a review by the central administration with a view to giving women prisoners autonomous access to the hygiene products they need.

The CGLPL encourages the public authorities to consider setting up, at the very least, the monthly, free and sufficient distribution of basic hygiene products.

In this context, the CGLPL remains particularly attentive to the conclusions that will be issued by the working group announced by the Minister of Justice on this topic[61].

2.2.3 *The organisation of medical extractions in penal institutions*

The CGLPL has once again been informed of the frequent cancellation of medical extractions of prisoners, constituting an infringement of their fundamental right to access healthcare. A lack of vehicles, prison escort officers and possibly law enforcement officers is frequently mentioned as a reason for cancellation. As a result, medical units are unable to fulfil the medical prescriptions of some prisoners when they require further examinations and specialist consultations that can only be performed outside the institution. This situation is particularly acute in overcrowded prisons and when there are new prisoners whose state of health requires regular medical extractions (chronic diseases, the elderly, etc.).

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[61] *"Group aiming to re-examine the relevance and choice of products in the hygiene kit for destitute women and on the list of canteen products for all women prisoners". Parliamentary Question no. 18650 published in the Official Gazette of 28 May 2019.*

In line with the recommendations made in her Opinion of 16 July 2015[62], the Chief Inspector has asked the Minister of Justice to submit her comments on the main identified obstacles to the organisation of extractions and to describe what initiatives have been taken in this regard, possibly in conjunction with the Minister of Health.

2.2.4 *The rights of prisoners on hunger strike should be aligned with those of persons at liberty making the same choice: proposal to amend Article D.364 of the Code of Criminal Procedure*

Article 10 of the Act of 30 October 2007 allows the CGLPL to propose to the Government "any amendment to the applicable legislative and regulatory provisions".

Pursuant to this provision, the CGLPL proposed to the Minister of Justice a regulatory amendment to Article D.364 of the Code of Criminal Procedure.

This article, which stems from Decree no. 98-1099 of 8 December 1998, stipulates that: "If a prisoner goes on a prolonged hunger strike, they cannot be treated without their consent, except when their state of health is seriously deteriorating and only by medical decision and under medical supervision. This shall be reported to the authorities to be notified in the event of an incident under the conditions referred to in Article D.280".

During on-site inspections carried out at the national public health institution at the remand prison of Fresnes (EPSNF) and at the Raymond-Poincaré hospital in Garches in September 2017, relating to the situation of a prisoner on hunger strike for 69 days, the CGLPL noted difficulties in applying Article D.364 of the Code of Criminal Procedure[63].

In this case, the judicial authority considered that the State was entitled to demand forced feeding as provided for in Article D.364 "in view of the serious deterioration of the state of health (life-threatening condition, possible after-effects)"; the medical staff refused to do so on the grounds that it would have constituted a serious violation of the detainee patient's physical integrity – and of the rules governing their professional practice.

Following its on-site inspections, the CGLPL collected the opinion of the National Order of Doctors (CNOM), which considers, like the CGLPL, that the distinction established in Article D.364 of the Code of Criminal Procedure between a free hunger striker and an imprisoned hunger striker is not justified. The CNOM reiterates that "the principle of the individual's decision-making autonomy is clearly affirmed and Article L.1111-4 of the Public Health Code affirms the right of any person to refuse or not to receive treatment, regardless of whether they are detained or free".

Article 46 of Prison Act no. 2009-1436 of 24 November 2009 also reiterates that prisoners shall have access to the same quality of care as the general population. And yet, outside a place of deprivation of liberty, a hunger striker cannot be subjected against their will to hospitalisation or forced feeding. The World Medical Assembly (WMA) and the National Ethics Advisory Council (CCNE) prohibit all forms of forced feeding in this regard, unless "incompetent individuals have left no unpressured advance instructions" in the case of the former and "except in circumstances bordering on loss of consciousness" in the case of the latter.

Consequently, in order to ensure equal treatment between free hunger strikers and imprisoned hunger strikers, the CGLPL has asked the Government to repeal or amend Article D.364 of the Code of Criminal Procedure, so as to make its provisions – which were drafted in 1998 – consistent with

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[62] *On the treatment of detainees in healthcare institutions.*

[63] *See the inquiry report on the situation of a prisoner on hunger strike, published on the CGLPL website (https://www.cglpl.fr/2019/enquete-sur-la-situation-dune-personne-detenue-en-greve-de-la-faim/).*

those of Article L.1111-4 of the Public Health Code, which stem from the Act of 4 March 2002 on the rights of patients and the quality of the healthcare system. It recommends, in any event, affirming the principle that the will of a detained patient engaged in a prolonged hunger strike shall be respected.

The proposal to amend Article D.364 of the Code of Criminal Procedure is currently under consideration within the departments of the Ministry of Justice.

2.2.5 *The development of the use of video conferencing in foreigners' rights litigation*

In its 2016 Annual Report, the CGLPL had expressed its concerns regarding the extension of the use of video conferencing and reiterated its recommendations, according to which the use of such means may only be voluntary, subject to a decision that is always reversible by the judge and subject to the consent of the person concerned. It particularly pointed out that the use of video conferencing should not alter the public or confidential nature of hearings or affect lawyer-client privilege.

The CGLPL has been informed on several occasions of the use of video conferencing in detention centres for illegal immigrants (CRAs). Indeed, at the Rennes CRA, video conference hearings are organised for appeals before the Liberty and Custody Judge; similar reports have been submitted regarding the Toulouse-Cornebarrieu CRA for hearings with judges of the Toulouse Court of Appeal and the Bastia Court of Appeal, in December 2018 and January 2019. This past August, when a CGLPL team was inspecting the CRA in Oissel, it was explained to the inspectors that work was under way to turn an area into a video conferencing room in order to limit judicial extractions of detainees. The CGLPL was also informed that hearings with the Pau Court of Appeal were taking place by video conferencing from the Hendaye police station for persons detained in the city's CRA.

In addition, a decision of the National Court of Asylum (CNDA) of 17 December 2018 provided that appeals against the OFPRA's decisions lodged by persons residing in municipalities within the jurisdiction of the administrative courts of appeal (CAA) of Lyon and Nancy would take place in a CAA courtroom, linked to the CNDA by video conferencing. Following a lawyers' strike, the implementation of this measure was suspended and a mediator was appointed.

Furthermore, Act no. 2018-878 of 10 September 2018 for Managed Immigration, an Effective Right of Asylum, and Successful Integration removed the requirement for the applicant's consent to the use of video conferencing systems in disputes brought before the CNDA, those relating to the non-admission of foreign nationals to France on the grounds of asylum, and those contesting an obligation to leave French territory. These provisions were validated by the Constitutional Council, which considered, as it had already done on two occasions concerning the use of video conferencing in foreigners' rights litigation, that the guarantees provided by law were sufficient with regard to the right to a fair trial and rights of defence.

In this context, in order to be able to assess the effects of the use of video conferencing, the Chief Inspector sent a letter to the Minister of Justice asking her about the number of foreigners' rights litigation hearings that have taken place via video conferencing each year since 2015; she requested information about the type of litigation and the percentage of foreigners' rights litigation hearings that this represents, and about the measures envisaged with regard to the use of video conferencing before the CNDA. Lastly, the Chief Inspector asked the Minister of Justice whether the use of these hearing methods had been analysed by the Ministry of Justice's departments.

3. Follow-up on referrals revealing violations of rights: a few examples from 2019

3.1 Referrals relating to the management of patients hospitalised under the involuntary psychiatric care regime

3.1.1 *Access to short-term discharge arrangements*

The CGLPL has been contacted on several occasions regarding the difficulties that patients hospitalised at the request of a State representative face in benefiting from the short-term discharge authorisations provided for in Article L.3211-11-1 of the Public Health Code. These arrangements – which have replaced preliminary discharges – allow involuntary patients to benefit from two types of discharges: accompanied discharges of less than 12 hours, during which the patient is accompanied by one or more nurses, a family member or the trusted person, and unaccompanied discharges, the duration of which may not exceed 48 hours. The aim, according to the aforementioned article, is to promote the recovery, rehabilitation or social reintegration of the persons concerned, in particular when external steps are necessary to prepare for their release.

In the case of hospitalisation at the request of a State representative, the latter may oppose these discharge authorisations, by a decision that must be in writing and must be reasoned. And yet the CGLPL's attention is regularly drawn to prefectural practices described as restrictive, or which modify previous practices. There may be an increase in the number of refusals to accept mailings from the institution, or else requests for more documents or more frequent reports from nursing staff.

> These practices, when proven, are likely to infringe the fundamental rights of the patients concerned.

Firstly, they are likely to infringe their right to care, broadly understood as the right to access all activities and methods of care that allow their state of health to develop favourably. On this point, it should be emphasised that the prefect does not directly receive a request from the patient concerned: pursuant to Article L.3211-11-1 of the Public Health Code, the prefect is informed of the planned discharge by the director of the healthcare institution, who must attach a psychiatrist's favourable opinion to the letter. It is therefore not a question of granting or denying a request, but rather of allowing or denying a method of psychiatric care to be exercised. In this respect, overly restrictive prefectural practices pose practical difficulties for nursing staff who, despite their favourable analysis of a situation, have to make negative decisions that may be detrimental to the establishment or continuity of a therapeutic alliance.

More broadly, repeated or systematic denials by prefectural departments are also likely to undermine rights exercised among other things through these discharges; these include the right to maintain family ties, the right to prepare one's release, etc.

In the context of documentary checks concerning a patient's situation, the CGLPL requested comments from the relevant prefecture's departments as well as statistical information on its practices in this area. In response, the prefect invokes strict application of the provisions of the Public Health Code and points out that his decisions are subject to an individualised examination, which falls within his prerogatives. He also states that he is not in a position to draw up statistics, as he does not have any personal files on patients hospitalised at the request of his departments.

> While it is not disputable that it is the responsibility of the prefectural authority to ensure the maintenance of public order – within the limits of its prerogatives, it is up to the CGLPL to ensure that deprivation of liberty does not hinder respect for

> fundamental rights and that patients hospitalised involuntarily are treated as the subjects of rights that they are and remain in any event.

In the response it sent to the prefect, the CGLPL points out that the ability for patients hospitalised in involuntary psychiatric care to access progressive or short-term discharge arrangements is at the crossroads of several of their fundamental rights, the effectiveness of which the CGLPL has a duty to protect. Lastly, it reiterates that the creation of personal files should be distinguished from the keeping of statistics and that it is not only possible but indeed desirable to keep statistics in the specific context of these hospitalisations, in order to have a better informed view of medical and administrative practices from one place to another.

3.1.2 *The use of seclusion and its conditions of implementation*

Since its thematic report on seclusion and restraint in mental health institutions was published in 2016, the CGLPL has received regular referrals on this topic, both on the principle of seclusion and on its terms of implementation.

In 2019 for example, it was informed of a hospital in the South of France where the "room" used for seclusion purposes is windowless, poorly lit and poorly heated, with no sanitary facilities and no call button; its only furniture is a mattress on the floor. Patients who are placed there usually arrive from the emergency room and are described as "disruptive", agitated, possibly aggressive, and sometimes under the influence of alcohol. The referral described practices that involved forcibly taking them to this room where they were immobilised to be undressed and where they would receive an injection.

The CGLPL sent a letter to the management of the institution concerned in order to find out about the procedure and conditions for using this system and about the practical terms of its implementation.

In his reply, the director confirms the main characteristics of this room and places this practice in the context of a constant increase in the number of patients admitted from the emergency department – a circumstance he attributes more to the gradual disengagement of community medicine than to a real increase in the number of life-threatening emergencies. He also mentions the institution's difficulties in coping with this increase, while the psychiatric unit – itself facing major difficulties – only provides for the intervention of a psychiatrist for five half-days a week. This context, as the director points out, places the responsibility for managing the acute crises of people suffering from psychiatric disorders, in particular patients with chronic psychiatric disorders under the influence of alcohol, on the emergency department, which is the first line of defence.

Lastly, at the same time, a resurgence of violent situations in emergency units has been reported, particularly due to dissatisfaction resulting from their saturation – significant delays in care, fatigue, tension, burnout. Managing situations of violence, including those induced by psychiatric illness, puts to the test nursing teams who are insufficiently trained in this type of care.

Nevertheless, the director concludes that the architecture and layout of the emergency unit still do not enable these crisis situations to be managed any better; he indicates that he has plans to reorganise it. He also concludes that it is necessary to more broadly rethink these care services; he hopes that this redevelopment project will enable staff to reconsider their practices as part of a collective in-depth analysis.

> The situation described, both in the initial referral and in the response of the relevant hospital's management, is unfortunately not isolated and reflects a reality that the inspectors regularly observe during their inspections and when dealing with referrals. The response sent by the CGLPL to the institution's management provided an opportunity to present well-established recommendations,

> concerning both the terms of use of a seclusion room, calming room or any other closed individual cubicle intended to receive agitated persons, and the material conditions that these facilities should offer.

It was thus recalled that any seclusion room should respect the dignity of patients, i.e. be sufficiently spacious, be heated or air-conditioned as required, be equipped with sanitary facilities and a drinking water tap, and have a view of the outside. A call system should allow patients to signal their need for assistance. It should also be possible to have time markers (clock).

Moreover, the use of these arrangements should be part of a formalised protocol. It should be a measure of last resort, decided on by a psychiatrist; if the measure initially has to be taken by another doctor, in particular an emergency doctor, a psychiatrist should validate it as soon as possible. Lastly, this measure should be reasoned and individualised with regard to the patient's state of health, reassessed at regular intervals, and logged in a dedicated register, whose content should be analysed by professionals on a regular basis in order to improve practices. It is also noted that the use of seclusion should never be decided on to make up for an insufficient number of nurses or organisational shortcomings. Patients in seclusion should also be monitored by nursing staff on a regular basis.

It is also reiterated that any measure of seclusion in a place of detention is, in any event, likely by its very nature to infringe the fundamental rights of the persons concerned. Every effort should therefore be made to avoid such a measure and to calm the patients in question using any other means that do not require physical restraint. If, as a last resort, the decision must be made to place a patient in seclusion, this should not exceed the strictly necessary duration and the conditions of its implementation should at all times guarantee respect for the dignity and physical and psychological integrity of the patients concerned.

Lastly, in general, it is reiterated that the reception of patients, an essential link in psychiatric care, should be designed in connection with outpatient facilities and complete psychiatric hospitalisation units.

3.2 Undignified and discriminatory detention conditions for transgender people

In 2019, as in previous years, the CGLPL was contacted regarding the situation of several transgender persons deprived of liberty.

The referrals received mainly involved prisoners testifying to undignified and discriminatory detention conditions. They described dysfunctions that had already been pointed out by the CGLPL in an opinion on this issue published in the Official Gazette in 2010. Act no. 2016-1547 of 18 November 2016 on the modernisation of 21st century justice, whose Article 56 relaxed the criteria for obtaining a legal sex change, does not therefore appear to have been accompanied by any significant improvement in the treatment of transgender persons.

> In the first place, transphobia – on the part of fellow prisoners or prison officers, whether active or passive – exposes transgender people to increased violence. To avoid any risk of harm to their physical integrity, they are subject to solitary confinement measures, but these restrict their access to activities, education, work and any sort of social life, which has a significant impact on their psychological balance.

Furthermore, the gender-specific treatment they receive due to men and women being separated in detention institutions or wings involves searches by officers of the opposite sex and purchases in canteens from catalogues designed for people also of the opposite sex, which constitutes an attack on their identity, privacy and dignity.

Lastly, gender transitioning is accompanied by particular needs and also by wishes that are often overlooked, underestimated or even rejected by administrative or medical professionals. This often leads to unequal treatment versus that reserved for other prisoners, or even inhuman or degrading treatment (for example, forced commitment to a medical protocol to permanently remove genitalia).

The CGLPL therefore calls for the needs and rights of transgender people not to be sacrificed on the altar of existing norms and procedures. In the years to come, it will continue to be vigilant and proactive on this topic.

3.3 The effective exercise of rights of defence in places of deprivation of liberty

Regardless of the place of detention, the right to defend oneself is an essential right of persons deprived of liberty and its effectiveness is of paramount importance. A chapter of the CGLPL's 2012 Annual Report was devoted to it.

> From custody to prison, in psychiatric hospitals, and in detention centres for illegal immigrants, the right to defend oneself is theoretically guaranteed and there are well-established procedures. Detention, however, imposes constraints such that it constitutes an obstacle, or even a hindrance, to the exercise of this right.

With regard to penal institutions, the CGLPL is regularly contacted by prisoners who report difficulties in accessing their criminal files, which they cannot have in their cells, in application of the principle according to which documents mentioning the reason for detention cannot be kept in a cell. Similarly, persons deprived of liberty with remand prisoner status, even though they have the right to access the investigation file concerning them in electronic format, are often denied this access by the prison administration, particularly due to the lack of an available computer at the registry.

Problems involving the conditions in which prisoners are transferred as part of judicial transfers are also regularly reported. Late or sudden transfers, problems in transporting their personal belongings, delays in obtaining permission to call their relatives or their counsel, and their arrival in a new environment are all factors that represent constraints preventing them from resting or concentrating on their defence in the context of a trial. Lastly, the concrete ways in which detainees are treated during their trial – the conditions in which they are woken up, accommodated, transported from prison to court and then from court to prison, at times that do not allow them, for example, to be present for meals or exercise – should also be taken into account.

Patients hospitalised under the regime of involuntary psychiatric care benefit from access to the judge that has improved overall, with the vast majority of hearings now being held in health institutions. The effectiveness of the exercise of rights of defence could, however, be improved. For example, lawyers who wish to do so – perhaps, it is true, in short supply – have a very hard time getting in touch with their clients before the day of the hearing. And yet this is the price of the effectiveness and quality of their defence. The need to ensure a fair trial also requires that patients and their counsel have all the necessary documents at their disposal in time prepare their defence. Here, too, progress needs to be made.

In detention centres for illegal immigrants, as in other places of detention, the use of video conferencing systems is steadily increasing. The associated constraints and differences in the way these hearings are organised do not, to date, guarantee respect for the principles of rights of defence and a fair trial. The increase in glass docks in courtrooms has added another form of separation between the defendant and their judge; like others before it, the CGLPL can only express the strongest reservations regarding their appropriateness.

In view of all these difficulties, the CGLPL will remain vigilant as to respect for these fundamental rights.

3.4 Violations of the confidentiality of correspondence principle and suspicions of reprisals against detainees

> Article 4 of the Prison Act of 24 November 2009 stipulates that the possibility opened up by Article 40 of the Act for the prison administration to check and withhold mail sent or received by detainees does not apply to correspondence between detainees and the CGLPL. By virtue of this principle of confidentiality, the prison administration therefore cannot open, read, or withhold this correspondence.

And yet, in 2019, as in the previous year, the CGLPL has received numerous testimonies reporting non-compliance with this principle and describing events that are likely to infringe upon the provisions of Article 8-2 of the aforementioned Act, which state that "No penalty may be pronounced and no harm may result solely because of links established with the Chief Inspector of Places of Deprivation of Liberty or because of information or documents given to the latter relating to the performance of their duties".

In several institutions, letters that a prisoner had addressed to the CGLPL were opened by the prison administration and thus arrived open – some had not been closed again – at the CGLPL. For the year 2019 alone, this was the case for letters from at least 10 different prisons. Conversely, many detainees testify that their mail often, or even systematically, reaches them open, sometimes in an envelope closed with a piece of tape, other times with the words "opened by mistake" or without any explanation.

In one detention centre, a detainee indicates that their mail is regularly opened before being sent or delivered to them. Attached to their letter is a copy of an excerpt from the log of mail concerning them, which reveals that letters addressed to the Defender of Rights or the Interregional Directorate for Prison Services were opened "by mistake"; they provide the following comment: "the prison administration is in the habit [...] of opening confidential mail".

In one prison complex, a prisoner who wished to write to an inspector with whom they had spoken during an inspection of the institution reported that their mail had been torn up by warders who "promised misery" were they to file a complaint. Prior to this report, the same person had indicated to the CGLPL that they had sent it three unanswered letters. As these three letters were never received by the CGLPL, it requested the institution's comments on this situation. In return, the prison administration told it that no difficulties concerning the transmission of this prisoner's mail had been reported by the postal officer.

One person detained in a remand prison informed the CGLPL that a letter from the Defender of Rights had been given to them already opened, and that shortly after receiving it, the head of detention had summoned them to question them about the content of their exchanges with this authority.

In 2019, many such testimonies, cited here as examples, reached the CGLPL. Thus, it is still regularly required to remind detainees that, while the prison administration is able to check their correspondence, that whose confidentiality is guaranteed by law cannot be subject to any checks, specifying that any attempt to obtain a copy of it or to learn of its content is likely to undermine this principle.

In the vast majority of cases where inquiries are carried out in penal institutions from which testimonies of ignorance of this principle have been received, the prison administration responds that, on the contrary, the said principle is strictly respected by its departments, which it claims to be extremely vigilant in this respect. The CGLPL is therefore just as regularly required to remind the institutions concerned of the provisions of Article 4 of the Prison Act.

Moreover, year after year, the CGLPL is also obliged to stress the fact that all persons must be able to freely contact its departments without having to fear that this will result in a sanction, reproaches or any deterioration in their conditions of detention. In this respect, it has consistently recommended that the heads of the institutions concerned remind all their staff of this principle.

3.5 Access to computer equipment in detention

In the Official Gazette of 12 July 2011, the CGLPL published an opinion on access to computing equipment for detainees, in which it advised the prison administration to relax and harmonise the framework governing access to IT and online services for detainees.

As follow-up to the discussions that had led to this opinion, several on-site inspections were carried out[64], which led to the mailing and then publication[65] of a summary memo addressed to the Prison Administration Department in April 2016.

The CGLPL questioned the prison administration as to the actions it intended to take in response to the recommendations made in this memo, particularly in the context of the announced discussions on the revision of the Circular of 13 October 2009 regulating access to computers for offenders.

And yet, three years later, it appears that no new circular has been published taking into account the CGLPL's recommendations and that only memos have been issued to amend the regulations established in 2009, noting changes in technology facing the numerous restrictions mentioned in the circular[66] or introducing more controls and sanctions[67].

The persistence of testimonies addressed to the CGLPL concerning difficulties linked to the use of computers in detention is indicative of the prison administration's reluctance to embrace technological changes; it also reflects its security-oriented approach, which can infringe on the rights of detainees, such as property rights, the right to training, etc.

> In 2019, the CGLPL thus received more than 50 referrals[68] reporting difficulties related to computing. Eight inquiries were carried out on this theme. Most of these inquiries concerned withdrawals of authorisation to use computer equipment acquired by detainees from the prison administration[69], following checks revealing misuse with regard to the Circular of 13 October 2009.

In October 2019, the CGLPL referred to a detention centre director the matter of a detainee who, following an inspection of their computer equipment and after an adversarial debate, was notified of a decision to withhold it for three months, the return of their equipment at the end of this period being moreover subject to their consent to the formatting of their hard drive. While the IT circular

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[64] *Three on-site investigations were carried out, at the Melun detention centre in April 2012, the Toul detention centre in October 2012 and the Poitiers-Vivonne prison complex in November 2013.*

[65] *https://www.cglpl.fr/wp-content/uploads/2017/04/Enqu%C3%AAte-DAP-synth%C3%A8se-informatique.pdf*

[66] *Such as the Memo of 28 June 2018 on the rules for making video game consoles available to detainees, which cancels the provision of the IT circular according to which "the prison administration's departments are not legally entitled to modify the technical characteristics of the equipment acquired by detainees", in order to be able to remove WiFi cards from video game consoles.*

[67] *The Memo of 17 February 2016 on the inspection of computer equipment and media increases the frequency of inspections without, however, providing any guarantees as to the periods for which equipment may be withheld for these purposes. It also tightens and amplifies the follow-up given to these inspections whereas the CGLPL has requested a better description of failures and procedures implemented in the event that misuse or illicit or illegal data are revealed during an inspection.*

[68] *See chapter on "Assessment of the work of the CGLPL in 2019", in particular the analysis of the case referrals submitted to the CGLPL in 2019 in relation to the situations mentioned.*

[69] *Very expensive equipment devoid of all the technology prohibited by the Circular of 13 October 2009.*

authorises the deletion of illicit or illegal data, the formatting of hard drives is prohibited, in order to protect the copyright of the documents lawfully produced by the detainee. In the case in point, the person concerned had designed software, as part of their studies and in preparation for their release, in conjunction with the local education unit, as well as computer programs and scripts (including the creation of video games with a view to their marketing). Their hard drive also contained personal documents and various intellectual works (poems, songs, stories, etc.).

The CGLPL, for its part, recommends[70] that an exhaustive and detailed list of the data to be deleted be drawn up by the local IT security correspondent (CLSI), in order to enable detainees to give informed consent to their deletion; it also recommends, as far as possible, that this deletion be carried out by the detainee concerned, under the CLSI's supervision. The CGLPL is still waiting for the prison administration's comments on this topic.

In September 2017, the CGLPL also contacted a long-stay prison director regarding the removal for inspection of the computer equipment of a detainee pursuing university studies. The Prison Administration Director responded in March 2019 that this inspection had not hindered the smooth running of the prisoner's training, while acknowledging that they had not been able to use their personal computer for three weeks. On the other hand, in order to remedy this difficulty, the management of the contacted institution has introduced a procedure that consists in making a hard drive available to the detainees concerned for the time of the inspection. In view of the importance of education and training, particularly in detention where there are significant obstacles to accessing higher education, especially without Internet access, the CGLPL has recommended that this practice be extended to all penal institutions.

Having been informed of the situation of a person in a detention centre who had had their computer taken away, the CGLPL also requested the comments of the institution's director in February 2018. In response, the Prison Administration Department reported that the detainee had committed breaches of the IT circular – connection of a USB key, presence of films not yet marketed on their hard drive, use of software allowing VPN connections, and the removal of a security seal from the central unit – which had led the management to definitively withdraw their authorisation to use their computer equipment.

In response, the CGLPL considered that the choice of an adversarial debate with a view to withholding the equipment without a time limit was, in this case, insufficiently reasoned and that the decision for permanent withdrawal was disproportionate, given the non-characterisation of the serious risks run, and therefore infringed on the person's right of ownership. Indeed, the CGLPL considers that the permanent withdrawal of an authorisation to use computer equipment should be justified by the serious risks that the misuse observed during the inspection of the computer would pose to the good order and security of the institution. These risks should be supported by evidence other than simply the violations found, such as the profile of the person concerned, their behaviour, or any comments noted by prison staff. Without any characterisation of these risks, if the misuse reveals violations of regulatory provisions, which may be qualified as disciplinary offences, the specific sanction of deprivation of any device purchased through the administration may be applied for a maximum period of one month.

3.6 Minors in police custody

The CGLPL has been informed on several occasions of the situation of minors placed in police custody during strike movements or high-school demonstrations. These situations have been examined all the more carefully as the obvious constraints resulting from the fact of holding a large number of people

[70] *See the summary memo sent to the DAP in April 2016.*

in custody at the same time are likely to lead to infringements of their rights. The CGLPL referred the matter to the competent authorities and requested information and procedural elements. These checks confirmed that the collective nature of the arrests and of the subsequent placements in custody did not guarantee that the minors could effectively exercise all their rights, nor did it guarantee respect for their dignity, particularly in view of the material conditions in which they were received and guided in the police station.

The exercise of the minors' rights of defence also suffered as a result. On this point, the public prosecutor's office has stated that "given the exceptional and insurmountable circumstances that were the subject of a report attached to each of the proceedings and were described orally by the judicial police officers (OPJs) during their first contact with the duty judge", the notification of the custody measures and the related rights could not be immediate. It cannot be disputed that these circumstances delayed the organisation of the interrogations and the lawyers' interventions.

> Generally speaking, the CGLPL can only question the principle of these collective arrests, which make it materially impossible to guarantee that all of the interested parties' rights are respected. In any event, these circumstances make it all the more essential that the effective assistance of a lawyer be guaranteed to any person who so requests, *a fortiori* in the case of a minor.

In the current state of the law, Article 4-IV of Order no. 45-174 of 2 February 1945 concerning the intervention of a lawyer in the context of minors in custody refers to Article 63-4-2 of the Code of Criminal Procedure and therefore to ordinary law. In other words, for minors, as for adults, "the first hearing [...] cannot begin without the presence of the lawyer chosen or appointed by the court before the expiry of a two-hour period following the notice, sent in accordance with the conditions set out in Article 63-3-1, of the request made by the person in custody to be assisted by a lawyer". This article, which stems from the Act of 18 November 2016 on the modernisation of 21st century justice, transposes Directive (EU) 2016/800 on the establishment of procedural safeguards for children who are suspects or accused persons in criminal proceedings.

The Directive requires that Member States ensure "that children are assisted by a lawyer […] in order to allow them to exercise the rights of the defence effectively" (Article 6.2), "without undue delay once they are made aware that they are suspects or accused persons" (Article 6.3). Assistance by a lawyer is defined as the right to "meet in private and communicate with the lawyer representing them, including prior to questioning by the police or by another law enforcement or judicial authority" (Article 6.4.a.).

Article 6.7 of the Directive considers the case where no lawyer is present as follows: "where the child is to be assisted by a lawyer in accordance with this Article but no lawyer is present, the competent authorities shall postpone the questioning of the child, or other investigative or evidence-gathering acts provided for in point (c) of paragraph 4, for a reasonable period of time in order to allow for the arrival of the lawyer or, where the child has not nominated a lawyer, to arrange a lawyer for the child". This article should be interpreted in the light of the following article, which circumscribes the possibilities for temporary derogations "in exceptional circumstances, and only at the pre-trial stage, […] to the extent justified in the light of the particular circumstances of the case, on the basis of one of the following compelling reasons: where there is an urgent need to avert serious adverse consequences for the life, liberty or physical integrity of a person; where immediate action by the investigating authorities is imperative to prevent substantial jeopardy to criminal proceedings in relation to a serious criminal offence."

> With regard to the effective exercise of children's rights of defence, as defined by the Directive, referring the intervention of a lawyer in custody to the common regime is likely to infringe children's right to assistance by a lawyer.

The principle of effective assistance for minors, both at the time of and prior to their hearing, should encourage the judicial authorities and bar associations to guarantee the presence of a lawyer for

the children concerned within a reasonable time, in order to prevent the measure from being prolonged unnecessarily. The high number of custody measures, authorised by the judicial authority, cannot in itself constitute sufficient grounds for de facto restricting access of these children to their counsel. In any event, equating this reasonable time period with the time period set for adults in custody does not sufficiently protect the right of minors to benefit from the effective assistance of a lawyer.

The CGLPL referred the matter to the Minister of Justice and recommended modifying the terms of Article 4-IV of Order no. 45-174 of 2 February 1945 to bring it into line with the aforementioned provisions of Directive (EU) 2016/800. It is still waiting for an answer.

3.7 The drunk tank regime

The Chief Inspector's attention has been drawn to the regime for placement in a drunk tank governed by Article L.3341-1 of the Public Health Code.

It emerges from the referrals received and the inspections carried out by the CGLPL that, as the law currently stands, a person placed in a drunk tank cannot avail themself of the guarantees attached to the custody regime, in particular the right to inform a third party and the right to a medical examination. It is true that several infra-legislative texts govern the terms under which a medical examination may be carried out in this context; however, these provisions are not intended to establish a right that can be exercised by the person placed under this regime, but rather, in some cases explicitly, they aim to protect law enforcement officers against the potential consequences of an erroneous assessment of the person's state of health.

In its 2012 Annual Report, the CGLPL noted "differences in practice with regard to the deferment of rights due to the person's behaviour: certain OPJs rely on outward and manifest signs of inebriation, which they describe in their police reports, others measure the quantity of alcohol on arrival at the police station, but not always at the time when the person concerned is assumed to have regained their senses. It is rare to find formal instructions – memoranda issued internally or by the State Prosecutor's Office – – specifically fixing a level of alcohol above which notification of rights should be postponed and, correlatively, the level within which it should take place".

> The Chief Inspector considers it necessary to ensure that persons placed in drunk tanks are guaranteed respect for their fundamental rights, including the right to a medical examination and the right to notify a third party at the outset of the measure. A maximum period of detention should also be set, which could be limited to 12 hours, as recommended in the Joint Report of the Inspectorates-General of the Administration, Social Affairs, Judicial Services and National Gendarmerie on Evaluation of the procedure for public intoxication dated February 2008[71].

It was in this context that the Chief Inspector referred the matter to the Minister of Justice in order to find out, in particular, what legal regime could be envisaged to fill this legal void, which is at the root of violations of the rights of persons deprived of liberty.

[71] *Evaluation report on the procedure for public intoxication, Inspectorate-General of the Administration, Inspectorate-General of Social Affairs, Inspectorate-General of Judicial Services, Inspectorate-General of the National Gendarmerie, February 2008.*

4. On-site and document-based verifications performed in 2019

Pursuant to the second paragraph of Article 6-1 of the amended Act of 30 October 2007 establishing the CGLPL, "Where the facts or the situation brought to its attention fall within its jurisdiction, the CGLPL may carry out inspections, where necessary, on-site". The on-site verifications are conducted by the inspectors in charge of the referred cases. Inspectors in charge of missions sometimes also take part in on-site verifications, in particular when specific needs are involved (e.g. verifications requiring the presence of a physician).

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

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

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

From January to December 2019, the CGLPL performed four on-site verifications – three of which were carried out unannounced. The fourth was announced three days prior to the inspectors' arrival.

Some of them required observations to be made swiftly on-site with no prior adversarial talks with the responsible authority. In the announced on-site verification, the information gathered from an adversarial procedure conducted beforehand by post did not enable the CGLPL to gain an objective picture of the situation.

4.1 The treatment of detainees convicted of terrorist acts at the Lille-Lesquin CRA (Nord)

Three inspectors went to the Lille-Lesquin detention centre for illegal immigrants (CRA) on 15 and 16 April 2019, for an investigation into the treatment of foreign detainees convicted of acts of terrorism. The latter may be detained for up to 210 days, "in a space reserved for them", pursuant to Articles L.552-7 and R.553-4-1 of the Code for Entry and Residence of Foreigners and Right of Asylum (CESEDA).

The Lille-Lesquin CRA is the only CRA in France authorised, since 2012, to take in these people. Nine people have been taken in in this capacity since 2014. They stayed there from a few hours to 180 days, the maximum period of detention until the entry into force, on 1 January 2019, of provisions allowing this period to be extended to 210 days, in application of a procedure noted by the inspectors – in the absence of guidelines from the central administration – as being insufficiently controlled by the prefectures and the officers responsible for its implementation.

Since the completion of work in January 2019, the Lille-Lesquin CRA has had a dedicated area with three bedrooms, a dining room, two offices for interviews and a fully fenced courtyard, similar to a punishment wing yard in a penal institution, where an exercise bike is the only activity offered to the detainees. They also have no contact with the other people detained in the CRA, and on several

occasions the unit has been occupied for several weeks by only one person, who was then in a situation of complete seclusion, which can now last up to seven months.

Apart from possible visits and transport for hearings to renew the detention measures, everything is done to ensure that the detainees never need to leave the dedicated area: the UMCRA, the Order of Malta and officers from the French Office for Immigration and Integration (OFII) travel on request to meet the people detained there. The security arrangements are significant and are the subject of an individual – but not individualised – memo implemented by the head of the centre upon each arrival.

No adaptation of treatment is planned in view of the long duration of the stay in detention: no specific activities, no psychological support, etc.

> Detainees, who, it should be noted, have served the sentence imposed on them, are virtually deprived of all human contact and are subject to more restrictive seclusion, control and security measures than those applied in the penal institutions where they were previously incarcerated.

Under these conditions, the Chief Inspector can only underline the multiple infringements of the fundamental rights of persons detained under Articles L.552-7 (4) and R.553-4-1 of the CESEDA: infringement of the right to information, the right to appeal, freedom of movement, dignity, privacy, the right to maintain family ties and the right to safety.

Insofar as there is nothing to prevent the necessary steps to deport the persons concerned from being taken during their imprisonment, it is particularly important to question the actual duration of this detention in light of the principle that any measure of deprivation of liberty shall be justified by the principle of necessity, as it is by its very nature an infringement of the fundamental rights of individuals, as the CGLPL has constantly reiterated since its creation. The report from this inspection was sent to the head of the institution, who made known their views, and to the Minister of the Interior.

4.2 Management of a deaf prisoner at the Fresnes prison complex (Val-de-Marne)

Two inspectors went to the Fresnes prison complex in April 2019 in order to meet with a deaf and dumb person whose case had been referred to the CGLPL. They were accompanied by a professional sign language interpreter (listed by the Paris Court of Appeal).

Mr C. arrived at the Fresnes prison complex in August 2016, following his indictment in criminal proceedings. Upon arriving, he encountered immense difficulties in understanding the workings of the institution, despite his mastery of the written word. During his three years of temporary detention, he has never been able to benefit from the assistance of a professional sign language interpreter, nor has he benefited from psychological follow-up, despite his repeated requests, supported both by his counsel and by the judge in charge of the investigation, who had written a letter to the head of the institution on this subject. The beginning of his incarceration took place in an extremely anxiety-provoking atmosphere for Mr C. who, thanks to his constant efforts, gradually managed to find a place within his division. On the day of the on-site verifications, he was identified by the management team – as he was unable to be identified by any of the warders, whose turnover has undermined efforts to raise awareness of Mr. C.'s disability. The inspectors paid particular attention to the conditions in which Mr C.'s trial was being prepared. He was unaware, for example, that he could request access to his criminal file, which is kept at the registry.

Following these on-site verifications, in order to gain a better understanding of the difficulties encountered by Mr C. in exercising his rights of defence, the inspectors attended the hearings of his criminal trial on two occasions. Although the content of the debates was beyond the CGLPL's jurisdiction, the inspectors questioned the use of sign language interpreting in the context of these

hearings and its compliance with the principles set out in the Directive of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings. The French Association of Sign Language Interpreters and Translators, which has also taken up this issue, denounces in particular, under the association's code of ethics and conduct, the simultaneous interpretation of the debates by two interpreters (for the defence on the one hand, and for the civil parties on the other) and the occasional presence of an interpreter in the dock of the accused; it expresses its concern about the intervention of persons "acting as interpreters".

Following the opinion on taking into account situations of loss of autonomy due to age or physical disability[72], the examination of Mr C.'s case will be the subject of an on-site verification report that will be sent to the head of the institution. This report will also be an opportunity to review similar situations and to make recommendations concerning the management of deaf people in detention and respect for their fundamental rights.

4.3 Maintenance of an individual in a detention centre for illegal immigrants despite a medical certificate stating that his state of health is incompatible

Having been informed of the situation of an Afghan national who had been detained in a detention centre for illegal immigrants (CRA) for more than one month despite a medical certificate stating that his state of health was incompatible with detention, the CGLPL carried out an on-site verification. On 26 and 27 March 2019, two inspectors and a trainee went to the CRA to investigate the conditions of treatment of Mr A., aged 26, who had arrived in France in March 2018. Apprehended at the prefecture at the beginning of February 2019, he was immediately placed in the CRA, in an individual room used by the head of the centre to accommodate people with reduced mobility.

According to the information communicated to the CGLPL, Mr A. was disabled due to the after-effects of a serious leg injury and could neither move around without crutches nor autonomously carry out everyday tasks. He depended on help from others, especially to eat his meals, get dressed and maintain personal hygiene. He also suffered from various ailments, some of which were related to the condition of his leg, and complained that he was not receiving appropriate medical care. In particular, it was stated that although Mr A. had been under regular medical supervision before his placement in detention, he had been prevented, since his arrival at the CRA, from honouring several medical appointments and, above all, from going to hospital to undergo a major surgical operation that had been planned for a long time, as several documents in his file attested.

The exchanges that took place during this inspection determined that his situation was known to the head of the CRA who had taken it into account, in particular by assigning him to a room accessible to people with reduced mobility and authorising him, for example, to eat his meals in his room with the help of another detainee. Concerning healthcare, despite the diligence of the UMCRA's head doctor, all the medical and nursing staff informed the inspectors of their difficulties in providing care to a growing number of people placed in detention despite serious diseases, particularly with regard to continuity of care.

These inspections also provided a new opportunity to assess the practical difficulties faced by detainees whose state of health seems incompatible with the conditions of detention. In this particular case, the first JLD who had to deal with Mr A.'s situation had "[invited] the administration to have the person concerned examined by the head of the CRA's medical unit in order to determine whether his state of health [was] compatible with the detention and deportation measure". The UMCRA's head doctor had then issued a certificate on 6 February 2019 stating that Mr A.'s state of health was

[72] *CGLPL Opinion on the consideration of situations of dependence due to age or disability in penal institutions. Official Gazette of the French Republic of 22 November 2018.*

incompatible with the conditions of detention. A certificate stating that Mr A.'s state of health was incompatible with deportation was also sent to the OFII on 26 February. Copies of these documents were given to the person concerned and the head of the CRA, while the originals were sent to the OFII doctor. The latter had issued two identical decisions, on a pre-printed form, establishing that Mr A.'s state "[required] medical care", whose absence "should not lead to exceptionally serious consequences" and that "based on the information in the file and on the date of the opinion, the person concerned's state of health [could] allow him to safely travel to the country of return". The JLDs subsequently contacted during Mr A.'s detention would only refer to the issue of his state of health when referring to these decisions.

> This situation is unfortunately a perfect illustration of the persisting difficulties and disparities in practices described in the CGLPL's Opinion of 17 December 2018 on the healthcare of foreigners in CRAs, part of which is devoted to the incompatibility of the state of health of detainees with conditions of detention.

In particular, there is a great deal of confusion as to the jurisdiction of the OFII doctor to rule on the compatibility of a person's state of health with their continued detention: although the applicable texts do not attribute this mission to them in any way, the interviews conducted by the inspectors during this inspection, and numerous cases referred to the CGLPL, show that they do not systematically decline jurisdiction when they receive a request to this effect. However, their answer, should one be given, is not a relevant response, since it only concerns compatibility with deportation, an assessment which, according to the CESEDA, does indeed fall within their remit. Even so, in the case of Mr A., the prefecture, the head of the centre and the judicial authorities have generally taken note of this position to justify his maintenance in the CRA.

These on-site verifications were also an opportunity to gather information about the vulnerability assessment, set up by the Act of 20 March 2018 and extended by the Decree of 14 December 2018 (Art R.553-13 II of the CESEDA). Here again, the units questioned on this topic admitted to understanding neither its meaning nor its scope. Moreover, this assessment, in Mr A.'s situation, was not followed by any particular effect, as the OFII considered that his "vulnerability factor" was not of a medical nature. In this case, the unit's mediator was therefore responsible for preparing it: a form was filled in, as dictated by the person concerned, and then sent to the head of the centre, the prefecture and the central OFII. The inspectors have been unable to gather any information on the action taken in response to this mailing: neither the doctor (who, within the CRA in question, also draws up the vulnerability certificates requested of him) nor the OFII officer have been informed. Nor has the person concerned been provided with any reply or a copy of the assessment (transmission expressly prohibited by an OFII instruction of July 2018).

The report will therefore provide an opportunity to take up the recommendations contained in the opinion on the healthcare of foreigners in CRAs and should be accompanied by two referrals from the Ministries of the Interior and Health. Mr A., for his part, will have been detained, under the conditions described, for more than two months before being deported.

4.4 Conditions of solitary confinement for a person detained in the Villepinte remand prison

In November 2018, the CGLPL received a report concerning the situation of a detained man placed in administrative solitary confinement under the emergency procedure, the day after his arrival at the Villepinte remand prison. It was stated that, during the first three weeks after his incarceration, he had not had access to a telephone, had not had any outside visits and had not received a visit from the doctor – which is compulsory under Article R.57-7-63 of the Code of Criminal Procedure.

The CGLPL was also informed of his conditions of detention, likely to undermine respect for the inherent dignity of the human person, as it was indicated that he had not been given any warm clothing and that he had been forced to eat with his fingers, in the absence of cutlery.

On 21 November 2018, the CGLPL referred the matter to the management of the Villepinte remand prison in order to collect its comments and a number of documents relating to this situation. In February 2019, it received information from the Prison Administration Department, which did not, however, provide an objective view of the facts that had been brought to its attention.

As a result, inspectors went to the Villepinte remand prison to carry out on-site verifications. In particular, they found that the detainee had been kept in the new arrivals' wing for the first three weeks of his detention. A report will be drawn up based on the observations made, possibly accompanied by recommendations, in particular concerning the treatment of persons subject to a solitary confinement measure outside the solitary confinement wing.

Chapter 5

Assessment of the work of the Chief Inspector of Places of Deprivation of Liberty in 2019

1. Relations with public authorities and other legal entities

1.1 President of the Republic

As is the case every year, the Chief Inspector of Places of Deprivation of Liberty met with the President of the Republic to hand him her annual report. On this occasion, she gave him her assessment of the state of places of deprivation of liberty and shared her analysis of the Act on Justice Programming and Reform, already passed, which was promulgated a few days after this meeting.

1.2 Government and administrations

The CGLPL's annual report for 2018 was presented to the Prime Minister.

The Minister of Justice and the Minister of Solidarity and Health also received the Chief Inspector for the presentation of her annual report. Moreover, the Chief Inspector met with the Minister of Justice to discuss the issue of prison regulation. On taking up her duties, she also received the new adviser to the Minister of Justice for prison matters.

However, it remains unfortunate that, despite repeated requests, the Minister of the Interior did not show any interest in the issue of the fundamental rights of persons deprived of liberty, despite his responsibility for detention centres and facilities for illegal immigrants, waiting areas and police and gendarmerie custody facilities; he also never received the Chief Inspector.

The Chief Inspector or her staff also held several interviews with the departments reporting to these authorities.

For example, three meetings were held with the Prison Administration Director; one was to discuss the main current issues of his department and take stock of its exchanges with the CGLPL, another was a presentation of the DAP's reorganisation to the whole CGLPL team and the third was more specifically devoted to the handling of radicalisation in prisons. Two meetings also took place with the Inspectorate-General of Justice, one as part of a thematic mission on assessing the guidance and treatment of juvenile detainees in minors' wings and prisons for minors, while the other was more institutional and aimed at discussing the working methods of the two institutions. The director of the recently created Community Service Agency also came to present this institution.

The Secretary General of the CGLPL also met with the General Directorate for Healthcare Provision of the Ministry of Health regarding actions taken in response to the CGLPL's recommendations and with the Border Police Directorate to discuss the extension of the period of immigration detention from 45 to 90 days.

Lastly, following the visit to France of the Council of Europe's Committee for the Prevention of Torture, the CGLPL took part in feedback meetings with the Minister of Justice, the Minister of Health and the Minister of the Interior, represented by the Secretaries of State attached to them.

1.3 Parliament

In Parliament, the annual report gave rise to several presentations: first to the President of the Senate, and then to the Committee of Laws of the National Assembly and the Committee of Social Affairs of that Assembly. The MPs' interest in the fundamental rights of persons deprived of liberty is to be welcomed. The institution's 2018 annual report was also sent to the President of the National Assembly.

Numerous hearings were also held at the request of MPs.

At the Senate:

- by the rapporteur for opinion of the Committee of Laws on the appropriations of the "protection of rights and freedoms" programme in the finance bill for 2020;
- by the rapporteur for opinion of the Committee of Laws on the appropriations of the "prison administration" and "judicial youth protection" programmes in the finance bill for 2020;

At the National Assembly:

- by the information mission of the Committee of Social Affairs on the territorial organisation of psychiatry;
- by the special rapporteur of the immigration, asylum and integration mission for the Finance Committee;
- by the news flash mission of the Committee of Social Affairs on the financing of psychiatry;
- by the information mission of the National Assembly's Committee of Laws on the fundamental rights of protected adults.

Lastly, the Secretary General was heard by a working group of the Economic, Social and Environmental Council on the reintegration of prisoners and the exercise of their social rights.

1.4 Courts

In addition to their formal hearings, in which she regularly participates, the Chief Inspector met with the high courts on two occasions: the Court of Cassation for a symposium on "The changing model of juvenile criminal justice" and the Council of State for a hearing as part of a study on all the contentious rules governing rights litigation for foreigners and asylum seekers in France.

1.5 Independent agencies

The Chief Inspector took part in the seminar for delegates of the Defender of Rights intervening in prisons and then met with the Children's Defender for the Defender of Rights and the Deputy Defender of Rights in charge of ethics in the field of security. The Secretary General met with his counterpart from the Defender of Rights before taking part in a debate organised by this institution following the screening of the film "Des hommes" shot at the Baumettes prison complex in Marseille.

The Chief Inspector also met with the President of the College of the National Authority for Health (HAS) to review exchanges between the two institutions. In addition, at the request of the HAS, the CGLPL contributed to the development of the procedure of university and general hospital certification by the HAS by proposing criteria for the evaluation of health units in prisons which, until now, have not been certified.

Lastly, upon taking office, she received the new President of the National Consultative Commission on Human Rights.

1.6 Organisations representing professionals

Regarding professionals working in places of deprivation of liberty, the Chief Inspector met with the new Vice-President of the National Order of Doctors; together, they reviewed the implementation of the agreement binding the CGLPL to this association.

The presentation of the CGLPL's annual report was also, like every year, an opportunity to meet with all the trade unions and professional bodies connected with places of deprivation of liberty: judges, staff of the prison administration and the Prison Rehabilitation and Probation Service, judicial youth protection staff, doctors and nursing staff working in prisons, psychiatric professionals, and police staff. Lastly, a meeting of associations working for the benefit of persons deprived of liberty was organised for the presentation of this report.

1.7 Associations

Numerous exchange meetings were held with associations, such as:

- the French Lawyers' Union (SAF) and the Association of Lawyers for the Defence of Prisoners' Rights (A3D);
- the French section of International Prison Watch (OIP-SF);
- the National Association for Prison Visitors (ANVP);
- all associations involved in defending the rights of detainees;
- the National Interfederal Union of Private Non-Profit Health and Social Works and Organisations (UNIOPSS);
- the National Association for Border Assistance for Foreigners (Anafé);
- the National Association for External Assessors on the Disciplinary Committee of Penal Institutions (ANAEC);
- the Federation of Associations for Reflection-Action, Prison and Justice (FARAPEJ).

Exchanges with associations are a valuable source of information for the CGLPL. Through their intimate knowledge of deprivation of liberty and their warning capacities, associations directly contribute to monitoring respect for the fundamental rights of persons deprived of liberty.

1.8 Education and training actions

Training on fundamental rights for professionals working in the field of deprivation of liberty is an essential dimension of preventing torture and cruel, inhuman and degrading treatment. It is for this reason that the CGLPL and the National School of the Judiciary have signed an agreement on terms and conditions for traineeships for the school's students and for continuing training for CGLPL staff, on the CGLPL's involvement in the training provided by the school, and on exchanges between the two institutions' documentation centres.

The CGLPL spoke multiple times and on a variety of occasions in training organisations and at symposia.

In training courses for public officials:

- at the National School of the Judiciary as part of the training of justice auditors;

- at the school for gendarmerie officers as part of their initial training;
- at the National School of Prison Administration for the initial training of Prison Rehabilitation and Probation Counsellors and prison lieutenants;
- at the National School of the Judiciary for continuing training sessions on "Prison in questions" and "Involuntary psychiatric care";
- at the training centre of the Ministry of the Interior, as part of a training course on "new employees assigned to the border police".

At symposia:

- "The Prison Act after 10 years" organised by the Faculty of Law of Reims;
- "Prison Act: turning point or outcome" organised by the National School of Prison Administration;
- "Balancing sentences: from prison to probation" organised by the National Institute for Higher Studies on Security and Justice;
- "Thirty years of psychiatric reforms – for what future?" organised by the Centre Pompidou's public information library;
- "The prison issue in France" organised by Lycée Gustave Eiffel in Bordeaux;
- "Prison law" organised by the National Council of Bars;
- "Civic psychiatry: from dream to reality" organised by the association *Les invités au festin* in Besançon.

In university training or activities:

- awarding of Master's 2 degrees in "Criminology" at University of Paris 2 Panthéon-Assas, whose graduating class had chosen to be sponsored by the CGLPL;
- study day on the fundamental rights of foreigners deprived of liberty and study day on the work of detainees in the framework of the "*Droits debout*" university certificate of the Catholic University of Lyon;
- conference-debate on the theme of "Imprisonment and alternatives: punish or rehabilitate?" organised by the Sorbonne Human Rights Association (University of Paris 1 Panthéon-Sorbonne);
- conference on prison environments organised by the law students' association of the Faculty of Law of Strasbourg;
- involvement in the Master's degree in "International and European fundamental rights litigation" of the University of Versailles.

Vocational training:

- "The administrative authorities and the ECHR in penal matters" for lawyers volunteering at the criminal office of the Paris Bar;
- "Prison and mental health" organised by the Paris Bar Association;
- Inter-UMD 2019 days organised by the Cadillac hospital;
- Training day on "Psychiatric patients" organised by the Marseille Bar;
- "Conference on medical information, management control and finance in psychiatry" and "Study day on patients' rights and freedoms" organised by the Association of Public Service Mental Health Institutions (ADESM);

- Study day on "The risks of clinical care" organised by the Hauts de France scientific association of public service psychiatrists in Lille.

Lastly, the CGLPL is sometimes invited to public debates. For example, it was invited to the debate on "Prisons: why can't France improve prison conditions?" on the occasion of the *Assises de la citoyenneté* organised by *Ouest-France* in Rennes, and to a public meeting of the Observatory for the detention of foreigners on the theme of "The right to inspect places of detention" in Paris.

2. The work of the Chief Inspectorate's scientific committee

The CGLPL's scientific committee met three times through 2019, on 29 March, 21 June and 26 November.

As it has done ever since its creation in 2016, under the honorary presidency of Mireille Delmas-Marty, Honorary Professor at the *Collège de France*, this committee invited researchers and professionals working in the CGLPL's fields of expertise to closed-door meetings in the presence of permanent and external inspectors. These meetings are held at the CGLPL's head office for half a day. The purpose of these meetings, which are neither repeated nor published, is to provide an opportunity, after presentations by guests, all of whom are volunteers, to continue to reflect together on the subjects that have been at the heart of the daily work of the CGLPL's members throughout the year.

The subjects chosen relate to the different places of deprivation of liberty covered by inspections and thematic reports. Foreigners in detention centres for illegal immigrants, prisoners, patients placed under restraint in psychiatric hospitals – both adults and minors – are, along with State officers and the various professionals responsible for their supervision and care, in constant contact with the inspectors. They contribute their testimonies, skills and thoughts. In order to help the CGLPL to better understand them, and to put into perspective the comments collected and the analysis of the inspected situations, dialogue with academics and practitioners from the judicial, penal and medical worlds is particularly valuable.

As the meetings organised by the scientific committee have progressed, new speakers have joined the initial core group of guests, enriching both the themes and the points of view covered. Prior to each meeting, documentation is prepared with the inspector in charge of the scientific committee and the head of the documentation department: books, forums, articles from journals, legal texts, case law, and filmed and audiovisual documents are shared between the inspectors and their guests.

On 29 March 2019, the first meeting of the year welcomed Ms Christine Lazerges, former President of the CNCDH as a permanent member. The subject chosen was the treatment in detention of persons prosecuted or convicted for acts related to a terrorist undertaking. To cover this topic on which the CGLPL had already published two reports in 2015 and 2016 and was preparing a third one, the following were specially invited: Gilles Chantraine (sociologist, researcher at the CNRS, University of Lille), who has conducted research on "radicalisation assessment wings in French prisons" for the Prison Administration Department, Céline Ballerini, judge in Marseille, former President of the 16th chamber of the Paris Criminal Court in charge of terrorism cases, and Ouisa Kies, sociologist, co-manager of the action-research carried out in the Fleury-Mérogis and Osny remand prisons, which served as the basis for the treatment programmes implemented for the detainees concerned.

On 21 June, when the CGLPL had just published a thematic report on "fundamental rights and prison overcrowding" and the Chief Inspector had just made proposals in favour of a prison regulation system, sociologist Didier Fassin shared with the inspectors the details of a mission in which he was participating in the United States at the request of the Governor of the State of New Jersey to reduce the use of imprisonment. Alain Blanc, Vice-President of the French Association of Criminology, judge and former Deputy Prison Administration Director, also raised the subject of long sentences.

On 26 November, the theme chosen did not concern a particular category of place of deprivation but was intended to open a more general discussion on the difficulties encountered in defending fundamental rights. Are we going back in time? Are fear and withdrawal – whether individual or collective – taking precedence over reason? Several important public statements – notably two articles published in *Le Monde*, one by Mireille Delmas-Marty on "society of vigilance" and the other by François Héran, Chair of Migrations and Societies at the *Collège de France*, on the need for the country's leaders to speak reason and not fear with regard to immigration – served as a basis for discussions. Christine Lazerges also spoke about surreptitious rule-of-law regressions, as did Benjamin Stora, historian and President of the Museum of the History of Immigration.

3. International relations

3.1 Monitoring the enforcement of judgements against France by the European Court of Human Rights

In 2019, the CGLPL has been involved in monitoring the enforcement of two judgements of the European Court of Human Rights (ECHR), the Yengo v. France judgement (21 May 2015) and the Duval v. France judgement (26 May 2011), both of which deal with issues related to conditions of detention and treatment in penal institutions.

In Yengo v. France, the ECHR condemned France on the basis of Article 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), on the ground that there was no effective remedy under French law, at the time of the facts of the case, to enable a detained person to obtain an end to the inhuman or degrading nature of their conditions of detention in the Nouméa prison complex (overcrowding, lack of hygiene, lack of privacy). After the judgement became final in 2015, the French government presented an action report in 2017, setting out the individual and general measures taken with a view to the proper execution of the judgement and enabling, in its opinion, the case to be closed. In particular, the government introduced measures to reduce prison overcrowding, such as increasing the number of places in detention and implementing alternatives to detention. The CGLPL and the National Consultative Commission on Human Rights (CNCDH) sent the Court joint observations, demonstrating that the problems raised by the Yengo ruling were persisting despite the measures presented by the government. The two institutions highlighted the non-existence of an effective preventive remedy and the ineffectiveness of public policies aimed at combating overcrowding in prisons, referring to the observations made in the field, particularly as part of the emergency recommendations published in the Official Gazette concerning the Fresnes and Rémire-Montjoly penal institutions, both suffering from chronic overcrowding.

The CGLPL sent the ECHR a new contribution, this time as part of monitoring the execution of the Duval v. France judgement of 26 May 2011, in which the Court condemned France on the basis of Article 3 of the ECHR because of the degrading treatment suffered by the applicant in the context of the medical extractions to which he was subjected during his detention. He underwent several medical examinations, some of them intimate, while handcuffed and shackled at the ankles, and in the presence of prison staff. This ruling became final in 2011, and the French government presented its action report to the Committee of Ministers in 2017; it later revised it in 2019. Regarding general measures, the Government presented the efforts made to streamline the implementation of security arrangements during medical extractions and consultations for detained persons: memoranda, training for relevant personnel, work carried out by inter-ministerial working groups, measures to improve coordination and information-sharing between health and penal authorities, project on the operation of Interregional Secure Hospital Units (UHSIs), "Health of offenders" strategy, etc. In the light of all these elements, the Government considers that the judgement has been executed. Considering, on the contrary, that these measures are insufficient for the execution of the Duval judgement to be regarded

as satisfactory, the CGLPL sent the Committee of Ministers a contribution based on the findings made during the field visits carried out over the past three years. In general, the CGLPL stresses the vague nature of most of the elements presented by the government, which did not submit for analysis any concrete data on the achievements of the various working groups mentioned, nor did it indicate any follow-up to the creation of certain tools intended to remedy violations of the rights of detainees in the context of medical extractions. With regard more specifically to the use of means of restraint in the context of medical extractions, the CGLPL indicates that the reports of inspections carried out since 2017, i.e. subsequent to the first action report and its opinion of 2015 on the treatment of detainees in healthcare institutions, that the violations observed are still relevant: the initial assessment of the escort level applicable to a detainee is not always carried out in an appropriate manner: it is not very individualised and is rarely reassessed during detention; above all, the use of means of restraint is almost systematic and often disproportionate. Numerous excerpts from inspection reports support these findings. With regard to the preservation of medical secrecy and in particular the issue of prison or police officers being present during medical consultations, the CGLPL also underlines the observations made in the field by its teams which contradict the arguments set out by the government. The lessons learnt from the 58 inspection visits carried out since 2017 have thus led it to reaffirm the findings already set out in its 2015 opinion stating that, in the majority of cases, the members of the escort remain present during medical consultations, in disregard of medical secrecy and the privacy of the detainee, including during particularly sensitive and invasive examinations, and that, during these consultations, detainees regularly remain handcuffed or even shackled.

3.2 Participation in the pre-session of the UN Committee on the Rights of Persons with Disabilities

In 2020, the UN Committee on the Rights of Persons with Disabilities will for the first time examine France with regard to its implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD). As France ratified the CRPD in 2010, it submitted its first periodic report to the Committee in 2016, two years after the deadline, explaining how it is implementing the CRPD's principles. In order to enable the Committee to prepare for the review in full knowledge of the facts, preparatory work was initiated in 2019, calling on human rights institutions and civil society actors to submit their comments.

In this context, the CGLPL submitted to the UN Committee a contribution presenting its findings in relation to the CRPD's articles applying to persons deprived of liberty; it also included questions to be put to the French government. With regard to hospitalisation in mental health institutions, the findings were mainly focused on the lack of freedom of movement (especially for legally voluntary patients), restrictions imposed in patients' daily lives, the absence of judicial review for decisions or situations restricting freedoms, infringements of children's rights (hospitalisation in adult units, placement in seclusion, lack of access to education), the use of seclusion and restraint, and the lack of regulation for the use of electroconvulsive therapy.

With regard to penal institutions, the main issues addressed were the unsuitability of facilities for physical disability (taking up the terms of the opinion published in 2018 on taking into account situations of loss of autonomy due to age or physical disability), the incarceration of people suffering from mental disorders, and the use of forced injections.

Lastly, the cruel lack of care for people with mental disorders in detention centres for illegal immigrants, as well as the low level of statements of incompatibility with detention measures for people with physical disabilities were also highlighted, aggravated by the extension of the detention period since 1 January 2019.

On 23 September 2019, the CGLPL went to the pre-session organised in Geneva by the Committee on the Rights of Persons with Disabilities in order to be heard and to present its

contribution, alongside the Defender of Rights, the CNCDH and associations defending the rights of persons with disabilities. France's actual review will be held in Geneva in the spring of 2020.

3.3 Promoting alternatives to hospitalisation in psychiatry

The CGLPL participated in a workshop on scientific research related to the "Open dialogue" method, organised by the Italian National Research Council and the Foundation for Excellence in Mental Health Care in Rome. Since the 1980s, open dialogue (OD) has reorganised the care of patients suffering from schizophrenia around treatment meetings held by a multidisciplinary team of carers according to the problems presented by the patient. The aim of these meetings is to open a *dialogic discussion* in order to develop a new reading of the situation during the session and to decide on a treatment plan that will be constantly adjusted based on the needs of the patient and their relatives.

Although not based on neuroscience, "open dialogue" is paradoxically the most scientifically researched psychiatric treatment method in the world, and despite this research, the results of the approach are disputed. Even so, the results concerning the 3,000 patients monitored since the 1990s have been significant, with fewer hospitalisations, fewer neuroleptics (only 30% of patients), and fewer disability benefits. The research project is currently studying the long-term effects of this care. The method is currently used in different parts of the world, including Switzerland, California, Italy, Estonia, Germany, Denmark, Australia, Japan, Greece and Portugal. Funds have been allocated by the "Foundation for Excellence in Mental Health Care" so that the research may be applied to several countries in order to obtain comparable data, using the same model.

3.4 Regional meetings

Several events took place in 2019 concerning fundamental guarantees during the first hours of detention. The "Does torture prevention work?" research project, commissioned in 2016 by the Association for the Prevention of Torture (APT) and undertaken by British researchers, identified that the very first hours of detention are the time when ill-treatment is most likely to occur. Therefore, the guarantees of access to a lawyer, access to a doctor and notification of a third party, usually the family, are particularly crucial rights and their effectiveness should be thoroughly checked. The European Committee for the Prevention of Torture (CPT) has played an important role in the implementation of these guarantees since its first years of operation. Therefore, on the occasion of its 30th anniversary in November 2019, several events were organised at the Council of Europe in Strasbourg. For example, a meeting between National Preventive Mechanisms (NPMs) against torture was an opportunity to discuss the issue of monitoring these guarantees from the very first hours of detention. Then a second meeting extended to human rights NGOs focused on various national experiences regarding access to a lawyer during the first hours of custody and practices enabling this right to be more effective. These events were organised by the APT, the independent human rights bodies division of the Council of Europe and the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR).

Previously, an exchange had been held on the functions of national human rights institutions (NHRIs) in relation to the procedural rights of suspects and defendants in criminal proceedings. This meeting was organised by the Ludwig Boltzmann Institute and the Hungarian Helsinki Committee in Budapest in February 2019. The discussions highlighted various avenues for strengthening the role of NHRIs and fed into the writing of a guide entitled *Renforcer les droits des suspects et accusés dans les procédures pénales – le rôle des institutions nationales des droits de l'homme* (Strengthening the rights of suspects and defendants in criminal proceedings – the role of national human rights institutions) which will be published in 2020.

In addition, the Council of Europe conducted a training seminar in March 2019 on the issue of inspecting places of detention where children may be deprived of their liberty. This day was an

opportunity to review the standards applicable to the detention of children as well as the methodology for conducting visits of centres and interviews. Most of the participants were representatives of Children's Ombudsmen, and the CGLPL was invited to share its experience in this field.

For the 10th anniversary of the appointment of the Public Defender of Rights as the Georgian NPM, a regional meeting on the impact of NPMs was organised in Tbilisi, under the auspices of the United Nations, Penal Reform International and the Open Society Georgia Foundation. For its 10th anniversary, the Georgian NPM asked the experts who had conducted the "Does torture prevention work?" study (see above) to assess the impact of its action, so that it could learn lessons for the future. Based on their conclusions, the national and international representatives were able to discuss effective preventive methods of action and challenges still facing the Georgian NPM.

Furthermore, a regional meeting was held in The Hague, the Netherlands, to address the issue of victims of crime in temporary detention and immigration detention; it was organised by the NGOs Redress and Fair Trials. This meeting took place as part of a project on the application of Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, in the context of detention, where people generally lack access to information and means of communication with the outside world, while at the same time facing a high level of violence. The aims of the meeting were to identify practical challenges to the implementation of their rights and to identify solutions. The debates provided input for the writing of a report entitled *Accès à la justice pour les victimes de crimes violents subis en détention préventive et rétention administrative* (Access to justice for victims of violent crimes suffered during temporary detention and immigration detention), which was published at the end of 2019.

Lastly, the CGLPL took part in a session organised before the UN Committee against Torture at the request of the International Federation of Action by Christians for the Abolition of Torture (FIACAT); it addressed the importance of civil society's role in monitoring places of deprivation of liberty, particularly mental health institutions. The CGLPL highlighted its effective cooperation with many associations in all types of places of deprivation of liberty, through regular meetings and more informal contacts throughout the year. In the field of mental health, the CGLPL reiterated the close links it has established with associations, mainly of user representatives. As these are places whose purpose is to provide care, where individuals are not always free to speak their mind, the presence of more associations giving patients a voice would be a significant development.

3.5 Visit of the European Committee for the Prevention of Torture

The Council of Europe's Committee for the Prevention of Torture (CPT) carried out its seventh periodic visit in France from 4 to 18 December 2019. It visited police, penal and psychiatric institutions. Once again, the CGLPL worked closely with the CPT. The CGLPL received the delegation at the beginning of the visit and was involved in the meetings during which preliminary comments were submitted to the Ministries of Justice, Solidarity and Health, and the Interior.

3.6 At the bilateral level

At the bilateral level, the CGLPL was involved in several training actions. First of all, it co-facilitated the training of members of the Tunisian and Senegalese NPMs on fundamental guarantees in the first hours of detention. This training organised by the Association for the Prevention of Torture was an opportunity for discussions and exchanges of practices to take place, as well as field visits to a police station and a remand prison in Dakar. In addition, the CGLPL deepened its links with the Romanian NPM, by welcoming one of its members during a visit to a psychiatric institution. This study visit was also organised by the APT. The CGLPL was also able to meet the members of a Palestinian delegation in charge of implementing the terms of OPCAT and creating a legal and operational framework for the creation of the Palestinian NPM. The Palestinian Authority ratified OPCAT in 2018. Lastly, a CGLPL

team accompanied its British counterparts from Her Majesty's Inspectorate of Prisons for England and Wales (HMIP) to visit the detention facilities under British authority located in Calais, Coquelles and Dunkirk.

4. Cases referred

Article 6 of the Act of 30 October 2007 as amended establishing the Chief Inspector of Places of Deprivation of Liberty provides that "*any natural person, as well as any legal entity with the task of ensuring respect of fundamental rights, can bring to the attention of the Chief Inspector of Places of Deprivation of Liberty facts or situations that are likely to come within its remit*".

Article 6-1 of said Act provides that when natural or legal persons bring facts or situations to the attention of the CGLPL, which they consider to constitute an infringement or risk of infringement of the fundamental rights of persons deprived of liberty, the CGLPL may conduct verifications, on-site if necessary.

The inspectors in charge of the referrals, delegated by the Chief Inspector for conducting on-site verifications, benefit from the same prerogatives as at the time of inspections: confidential interviews, access to any useful document necessary for properly understanding the situation brought to the knowledge of the CGLPL and access to all of the facilities.

When these inspections have been completed and after having received the observations of the competent authorities with respect to the denounced situation, the Chief Inspector may make recommendations to the person responsible for the place of deprivation of liberty concerned. These observations and recommendations may be made public.

The year 2019 was marked by the persistence of significant delays in (and the absence of) responses from the central administration to requests for observations addressed to the heads of penal institutions.

Furthermore, while the rate of case referrals relating to health institutions has stabilised at over 11%, the rate relating to immigration detention has increased to over 4% (although this is up by almost 30% compared to 2018).

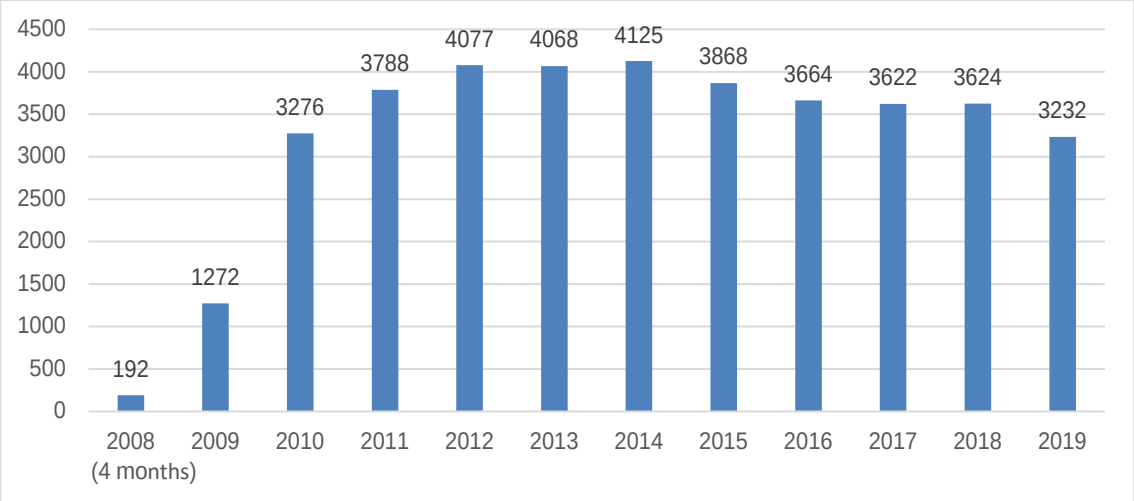
The percentage of case referrals from relatives of persons deprived of liberty has also increased, reaching its highest rate since 2011 at 13.37%, which represents an increase of 20% compared to 2018.

4.1 Analysis of the cases referred to the CGLPL in 2019

4.1.1 *The letters received*

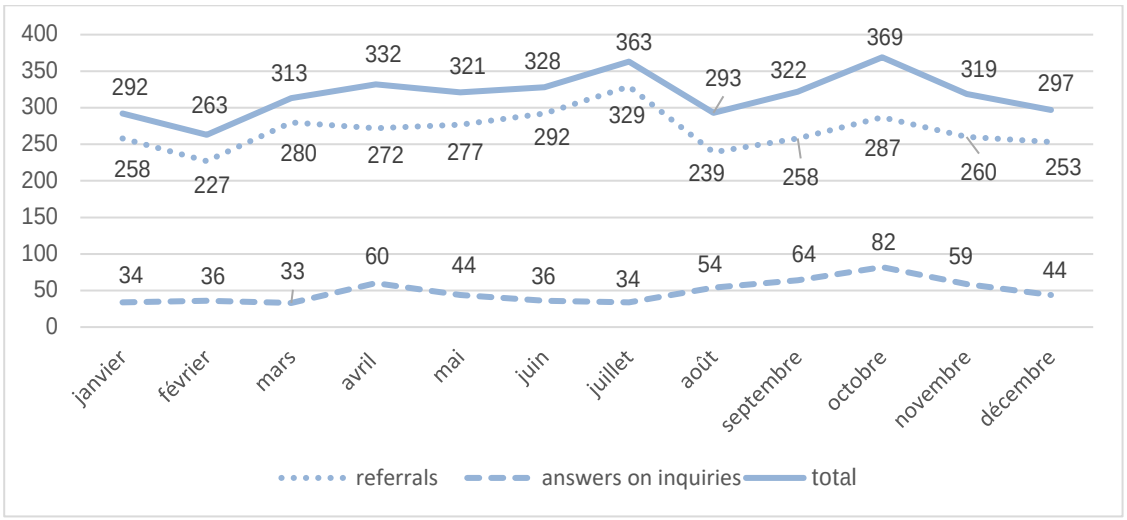
Overall volume of the number of letters sent to the CGLPL per year

The number of case referrals is down slightly compared to 2018 (-10.82%). Out of all the referral letters received between 1 January and 31 December 2019, an average of two (2.09) concerned the same person's situation.



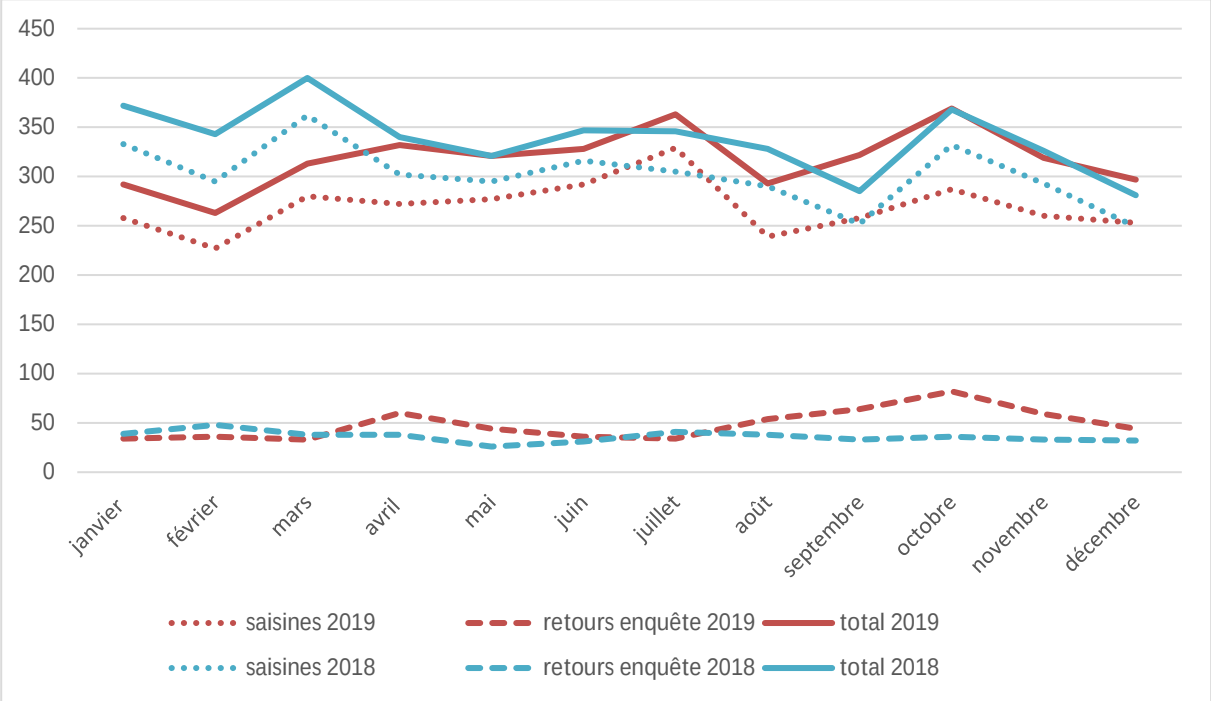
With the exception of letters bearing on the situation of someone whose identity has not been given or the situation of a group of individuals deprived of liberty, the 1,545 individuals concerned by referrals in 2019 include 1,319 men (85.37%) and 226 women (14.63%), a distribution equivalent to that of 2018.

Monthly trends in numbers of letters received [73]



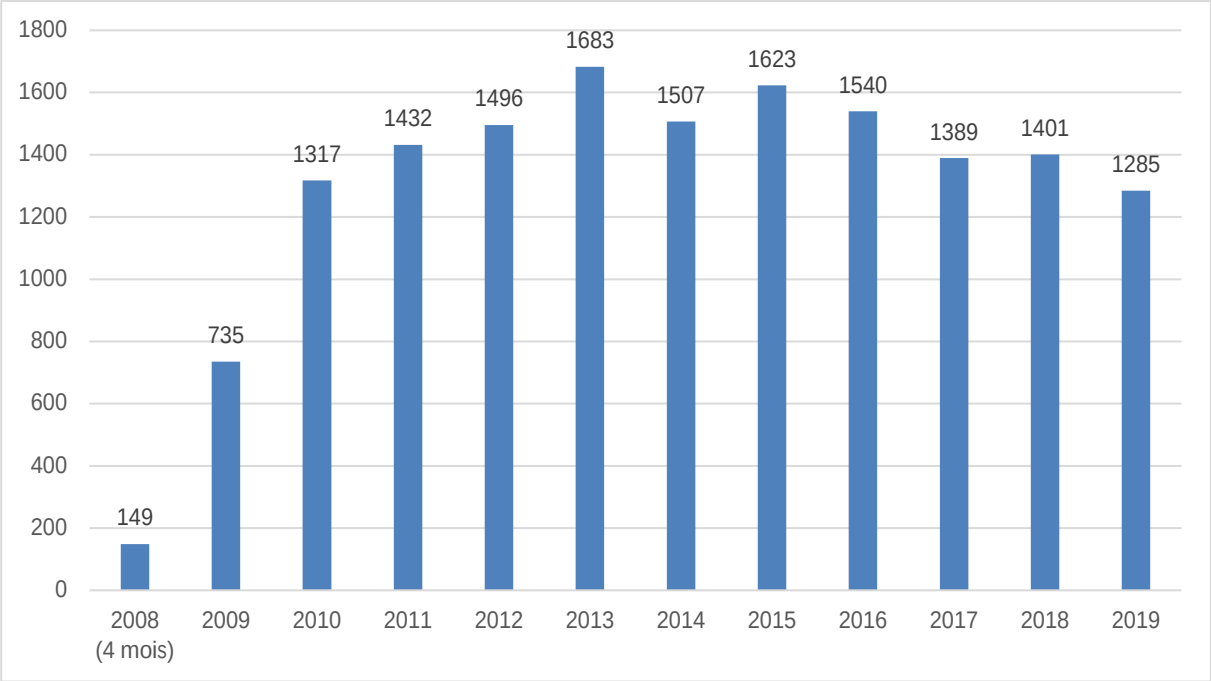
[73] *The number of letters received corresponds to the cases referred to the CGLPL, as well as the responses made by the authorities with which the CGLPL took these cases up within the context of verifications. A total of 3,812 letters reached the CGLPL in 2019, compared with 4,057 in 2018, representing a 6% drop.*

CComparison of the number of letters received 2018/2019



4.1.2 *Persons and places concerned*

Number of persons deprived of liberty (or groups of persons) concerned[74] by cases referred to the CGLPL for the first time



[74] *The distribution is as follows: 1,082 individuals identified (904 men and 178 women), 164 groups and 39 unknown persons.*

Distribution of cases by category of person referring them and nature of the institution concerned

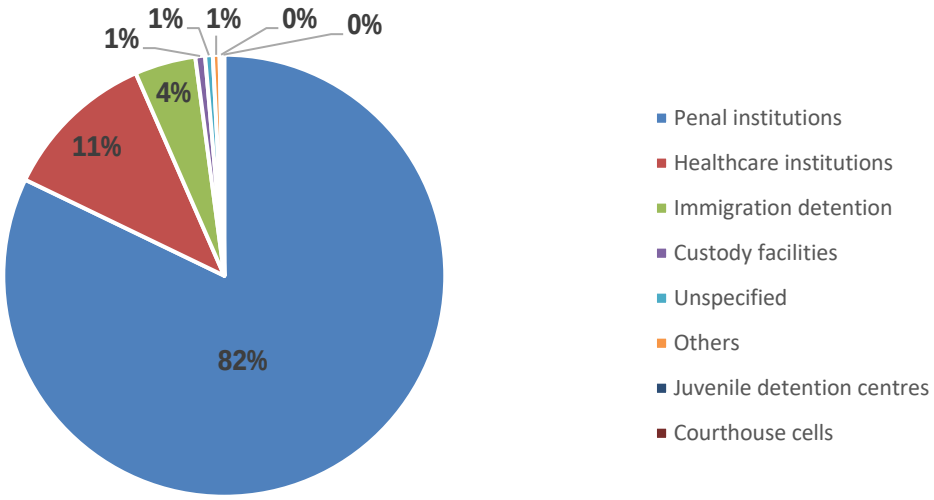
	Person concerned	Family / relatives	Lawyer	Association	Other[75]	Physicians / medical staff	IGA	TOTAL	Percentage
PENAL INSTITUTIONS	**1943**	**364**	**139**	**57**	**123**	**10**	**19**	**2655**	**82.15%** of PDLs
MA and qMA - remand prison and remand prison wing	762	155	90	25	49	3	10	1094	41.21% of PIs
CD and qCD - long-term detention centre and long-term detention centre wing	590	79	23	9	32	1	3	737	27.76%
CP - prison with sections incorporating different kinds of prison regimes (wing not specified or other[76])	327	80	10	10	22	4	4	457	17.21%
MC and qMC - long-stay prison and long-stay prison wing	215	44	12	5	15	1	1	293	11.04%
Hospitals (UHSA, secure room, UHSI, EPSNF)[77]	35	2	1	1	1	1	0	41	1.54%
Unspecified PI / All	10	3	3	7	2	0	1	26	0.98%
EPM - prison for minors	3	1	0	0	2	0	0	6	0.23%
CSL and qSL - open prison and open wing	1	0	0	0	0	0	0	1	0.04%
HEALTHCARE INSTITUTIONS	**266**	**51**	**4**	**5**	**9**	**27**	**3**	**365**	**11.29%** of PDLs
EPS - public psychiatric institution	180	38	2	3	5	19	3	250	68.49% of HIs
EPS - public health institution psychiatric department	58	7	2	0	1	4	0	72	19.73%
UMD - unit for difficult psychiatric patients	16	6	0	0	1	0	0	23	6.30%
EPS – unspecified / all	11	0	0	2	2	3	0	18	4.93%
Private institution with psychiatric treatment	1	0	0	0	0	1	0	2	0.55%
IMMIGRATION DETENTION	**16**	**5**	**9**	**93**	**14**	**1**	**6**	**144**	**4.46%** of PDLs
CRA - detention centre for illegal immigrants	16	5	9	84	11	1	5	131	90.97% of ID
ZA - waiting area	0	0	0	6	1	0	0	7	4.86%
LRA - detention facility for illegal immigrants	0	0	0	2	2	0	1	5	3.47%
ID - other	0	0	0	1	0	0	0	1	0.69%
CUSTODY FACILITIES	**8**	**1**	**10**	**0**	**1**	**0**	**3**	**23**	**0.71%** of PDLs

[75] The "other" category includes 42 participants, 23 individuals, 14 fellow persons deprived of liberty, 10 staff members, 9 professional organisations, 9 "other", 8 MPs, 8 unknown persons, 7 Prison Rehabilitation and Probation Counsellors (CPIPs), 6 referrals from the President of the Republic, 6 institution directors, 5 own-initiative referrals, 4 senators and 3 judges.

[76] Including 19 referrals concerning National Assessment Centres (CNEs).

[77] Including 35 referrals concerning a UHSA, 3 concerning secure rooms, 2 concerning a USHI and 1 concerning the EPSNF.

CIAT - police stations and headquarters	8	1	9	0	1	0	2	21	91.30% of custody facilities
BT - territorial gendarmerie	0	0	1	0	0	0	1	2	8.70%
UNSPECIFIED	**13**	**2**	**0**	**2**	**1**	**0**	**0**	**18**	**0.56% of PDLs**
OTHER[78]	**5**	**9**	**1**	**0**	**0**	**1**	**0**	**16**	**0.49% of PDLs**
JUVENILE DETENTION CENTRES	**0**	**0**	**1**	**0**	**6**	**0**	**0**	**7**	**0.22% of PDLs**
COURT CELLS	**0**	**0**	**4**	**0**	**0**	**0**	**0**	**4**	**0.12% of PDLs**
TOTAL	**2251**	**432**	**168**	**157**	**154**	**39**	**31**	**3232**	**100%**
PERCENTAGE	**69.65%**	**13.37%**	**5.20%**	**4.86%**	**4.76%**	**1.21%**	**0.96%**	**100%**	



Category of place concerned	Statistics drawn up on the basis of the letters received as a whole[79]								
	2011	2012	2013	2014	2015	2016	2017	2018	2019
Penal institution	94.15%	93.11%	90.59%	90.28%	88.91%	85.45%	84.15%	84.05%	82.15%
Healthcare institution	3.48%	4.24%	5.88%	6.40%	6.75%	10.10%	10.27%	11.34%	11.29%
Immigration detention	0.71%	1.10%	1.18%	1.21%	2.33%	2.51%	3.84%	3.06%	4.46%
Custody facilities	0.29%	0.74%	0.61%	0.80%	0.83%	0.87%	0.47%	0.69%	0.71%
Unspecified	0.42%	0.47%	0.42%	0.39%	0.54%	0.44%	0.64%	0.36%	0.56%
Other	0.79%	0.12%	1.16%	0.70%	0.26%	0.44%	0.22%	0.36%	0.49%
Juvenile detention centre	0.05%	0.15%	0.12%	0.19%	0.31%	0.16%	0.30%	0.03%	0.22%
Cells	0.11%	0.07%	0.04%	0.03%	0.07%	0.03%	0.11%	0.11%	0.12%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%

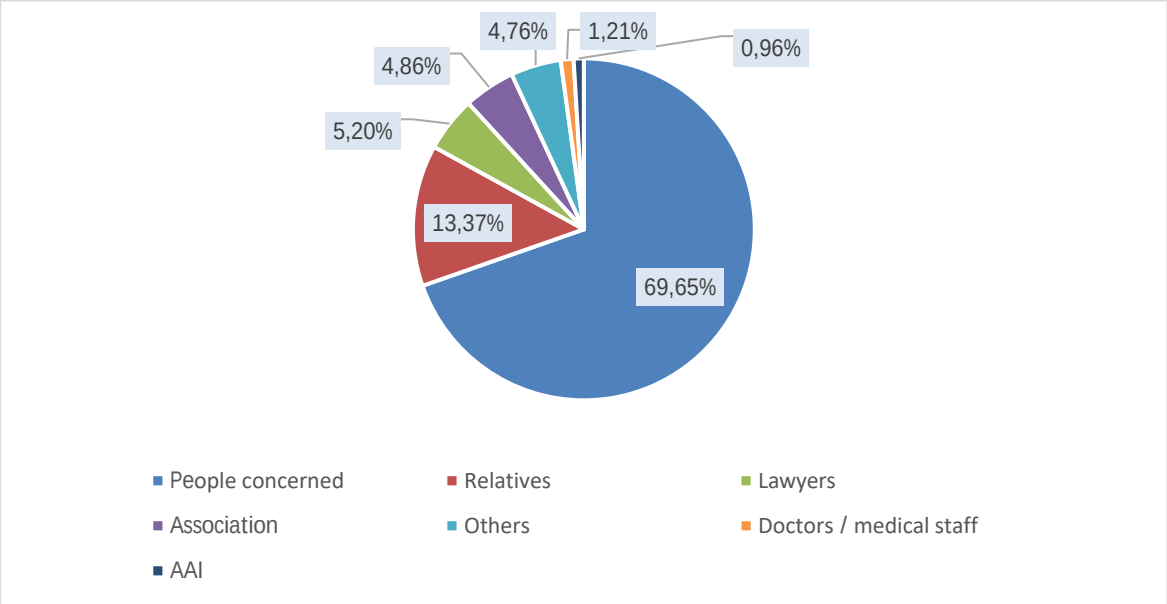
[78] *Including 3 letters related to EHPAD care homes and retirement homes.*

[79] *This table does not present the statistics drawn up in 2009 and 2010, which were based on the 1st referral letter and not on all of the letters received..*

In 2019, the increase in referrals concerning healthcare institutions observed since 2016 has stabilised, with such referrals accounting for 11% of the total. The proportion of referrals from the people concerned by hospitalisation remains high (266 letters received versus 251 in 2018, i.e. a 5.98% increase).

The percentage of referrals bearing on immigration detention has increased, exceeding 4%, with associations remaining the main source (93 letters received, so 64.58% of referrals concerning this category).

With respect to penal institutions, the proportion of referrals sent by the relatives of detainees has increased (364 letters versus 281 in 2018, i.e. an increase of 29.54%), while referrals from the persons concerned, while still in the majority, are slightly down (1,943 letters received versus 2,346 in 2018, or decrease of 17.18%).



Category of persons referring cases to the inspectorate	Statistics drawn up on the basis of the letters received as a whole[80]								
	2011	2012	2013	2014	2015	2016	2017	2018	2019
Person concerned	77.61%	77.90%	75.57%	71.10%	73.42%	69.92%	70.71%	72.79%	69.65%
Family, relatives	9.37%	10.94%	12.81%	13.04%	10.75%	12.5%	11.79%	9.91%	13.37%
Lawyer	2.85%	3.68%	2.58%	3.49%	4.70%	4.61%	4.64%	5.08%	5.20%
Association	3.02%	2.97%	2.93%	4.39%	4.29%	5.18%	6.52%	5.41%	4.86%
Physician, medical staff	1.24%	0.76%	1.20%	1.25%	0.70%	1.45%	0.90%	1.24%	1.21%
Independent government agency	0.79%	0.81%	0.96%	1.79%	1.40%	2.16%	1.33%	1.02%	0.96%
Other (fellow prisoner, participant, private individual, etc.)	5.12%	2.94%	3.95%	4.94%	4.74%	4.18%	4.11%	4.55%	4.76%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%

The rise in referrals from relatives of persons deprived of liberty, all places combined, is significant in 2019 (432 letters received versus 359 in 2018, i.e. an increase of 20.33%).

[80] *This table does not present the statistics drawn up in 2009 and 2010, which were based on the 1st referral letter and not on all of the letters received..*

There has also been a decrease in the number of referrals from the persons concerned (2,251 letters received versus 2,638 in 2018, i.e. a drop of 14.67%), lawyers (168 letters received versus 184 in 2018, i.e. a drop of 8.70%) and other IGAs (31 letters received versus 45 in 2018, i.e. a decrease of 31.11%) as well as a stabilisation in the number of referrals from medical staff (39 letters received versus 37 in 2018, i.e. an increase of 5.41%) and from associations (154 letters received versus 165 in 2018, i.e. a decrease of 0.57%).

4.1.3 *The situations raised*

Distribution of cases referred according to the primary grounds and type of person referring the case

For each letter received, primary grounds and secondary grounds for referral of the case are given. The last column of the table below shows the percentage of occurrence of different types of grounds, taking the reasons for referral of cases as a whole (without distinguishing between primary and secondary grounds). For example, although the main grounds for referrals concerning difficulties with psychiatric hospitals appear to be procedural issues (24.80%), these grounds only account for 13.89% of all the problems addressed to the CGLPL between 1 January and 31 December 2019 with a bearing on psychiatry.

In view of the small number of letters received concerning police custody facilities and juvenile detention centres, the primary grounds for the referral of cases presented below only concern penal institutions, healthcare institutions and immigration detention.

Healthcare institutions receiving involuntary patients: primary grounds according to to the category of person referring the case

Order of grounds 2019	Psychiatric hospital grounds	Person concerned	Family / relatives	Physicians / medical staff	Other[81]	Association	Total	% 2019	% 2018	% all grounds combined (primary and secondary) 2019
1	PROCEDURE	76	14	1	1	1	**93**	24.80%	34.72%	

	Access to medical records	4	1	0	0	0	5			
	Relations with general practitioner	2	0	0	0	0	2			
	Other	2	0	0	0	0	2			
4	SOLITARY CONFINEMENT	16	5	5	3	1	**30**	8%	9.29%	7.63%
	Duration	6	3	1	1	0	11			
	Conditions	6	1	3	1	0	11			
	Grounds provided	4	0	1	1	0	6			
	Other	0	1	0	0	1	2			
5	ASSIGNMENT	13	12	3	1	0	**29**	7.73%	4.89%	4.82%
	Assignment to inappropriate unit	5	6	2	0	0	13			
	Readmission after UMD	3	3	0	0	0	6			
	Assignment to UMD	3	1	1	0	0	5			
	Other	2	2	0	1	0	5			
6	PATIENT/STAFF RELATIONS	22	1	0	0	0	**23**	6.13%	4.65%	8.14%
	Confrontational relations	17	0	0	0	0	17			
	Disrespect	3	1	0	0	0	4			
	Use of force	2	0	0	0	0	2			
7	LEGAL INFORMATION AND ADVICE	13	2	2	2	1	**20**	5.33%	-	5.11%
	Exercise of remedies	9	2	0	0	0	11			
	Preservation of privacy	1	0	1	0	0	2			
	CDHP referral	0	0	1	0	1	2			
	Other (welcome booklet, lawyer access, etc.)	3	0	0	2	0	5			
8	MATERIAL CONDITIONS	5	3	2	1	0	**11**	2.93%	5.62%	8.42%
	Hygiene upkeep	1	0	2	0	0	3			
	Clothing	1	1	0	0	0	2			
	Food	2	0	0	0	0	2			
	Other (accommodation, television, etc.)	0	2	0	1	0	3			
-	UNSPECIFIED	13	0	0	1	0	**14**	3.73%	3.41%	1.08%
-	OTHER GROUNDS[82]	35	8	10	7	1	**61**	16.27%	18.10%	27.14%
	Total	271	55	28	16	5	**375**	100%	100 %	100%

In 2019, the three primary grounds for referring a case regarding health institutions are procedures, preparation for release and access to healthcare.

Since 2010, the main primary grounds has been procedures – particularly dispute of hospitalisation.

In 2019, all grounds taken together, the main ones are access to healthcare, procedures and material conditions. Since 2016, access to healthcare and procedures have been in the first positions.

As in 2018, the persons concerned as well as their families and relatives primarily referred cases to the CGLPL about procedures, and medical staff about placement in solitary confinement.

[82] *Letters concerning the other grounds are not enough in number to be significant. They pertain to relations with the outside world (7), staff working conditions (7), relations between patients (6), internal order (6), handling of requests (5), relations with the CGLPL (5), activities (4), restraint (4) and other grounds (17).*

Immigration detention: primary grounds according to the category of person referring the case

Order of grounds 2019	Immigration detention grounds	Association	Person concerned	Lawyer	Other[83]	Total	% 2019	% 2018	% all grounds combined (primary and secondary) 2019
1	ACCESS TO HEALTHCARE	17	1	2	7	**27**	18.75%	10.38%	21.74%
	Access to somatic care	5	0	2	2	9			
	Access to psychiatric care	6	0	0	3	9			
	Other (access to specialist care, hospitalisation, compliance with treatment, etc.)	6	1	0	2	9			
2	PREPARATION FOR RELEASE	18	1	2	1	**22**	15.28%	6.60%	7.43%
	Unfit for detention (health condition)	15	1	2	1	19			
	Other (administrative formalities, etc.)	3	0	0	0	3			
3	PROCEDURE	14	3	0	0	**17**	11.81%	23.58%	10.51%
	Dispute of procedure (judicial, administrative, other)	11	3	0	0	14			
	Other	3	0	0	0	3			
4	MATERIAL CONDITIONS	7	3	2	5	**17**	11.81%	16.04%	16.67%
	Food	5	1	0	1	7			
	Accommodation	1	1	1	1	4			
	Hygiene	1	1	0	1	3			
	Other	0	0	1	2	3			
5	DETAINEE/STAFF RELATIONS	2	3	0	6	**11**	7.64%	4.72%	5.98%
	Violence	2	3	0	5	10			
	Confrontational relations	0	0	0	1	1			
6	DEPORTATION	10	0	0	1	**11**	7.64%	5.66%	3.80%
7	LEGAL INFORMATION AND ADVICE	6	1	1	0	**8**	5.55%	11.32%	6.34%
	Right of asylum (time frame, procedure, etc.)	2	0	1	0	3			
	Other (access to lawyer, etc.)	4	1	0	0	5			
8	SELF-HARMING BEHAVIOUR	6	0	0	1	**7**	4.86%	-	6.52%
	Suicide/attempted suicide	5	0	0	1	6			
	Hunger/thirst strike	1	0	0	0	1			
-	OTHER GROUNDS[84]	12	4	3	5	**24**	16.66%	21.70%	21.01%
	Total	92	16	10	26	**144**	100%	100%	100%

[83] *The "other" category includes includes 6 referrals from an IGA, 5 referrals from families or relatives, 3 referrals from senators, 3 referrals from MPs, 3 referrals from judges, 2 referrals from private individuals, 1 own-initiative referral, 1 referral from a participant and 2 other referrals.*

[84] *Letters concerning the other grounds are not enough in number to be significant. They pertain to solitary confinement (4), internal order (4), relations with the outside (3), relations between detainees (2), visits by external authorities (2), activities (1), room assignment (1), working conditions of law enforcement officials (1), medical extractions (1), unspecified grounds (1) and other grounds (4).*

In 2019, the three primary grounds for referring a case regarding immigration detention are access to healthcare, preparation for release (and mainly unfitness for detention due to state of health) and procedures. In 2018, these grounds were procedures, material conditions and legal information and advice.

All grounds taken together, the main ones are access to healthcare, material conditions and procedures, like in 2018.

Penal institutions: primary grounds according to the category of person referring the case

The last column of this table lists the percentage of different grounds when the reasons for a particular letter are considered as a whole (one letter may contain one or more reasons), rather than the primary grounds only, as before. Accordingly, regarding relations between detainees and staff, although this reason accounts for 10.92% of the primary grounds for letters received between 1 January and 31 December 2019, this percentage goes down if its positioning is considered in light of all the reasons, when it only represents 8.32% of all the difficulties brought to the CGLPL's attention in 2019. The percentage of the third primary grounds for referral, relations with the outside world, is even more frequent when all of the reasons are looked at together, accounting for 11.73% of all difficulties brought to the CGLPL's attention in 2019.

Order of grounds 2019	Penal institution grounds	Person concerned	Family / relatives	Lawyer	Other[85]	Association	IGA	Total	% 2019	% 2018	% all grounds combined (primary and secondary) 2019
1	ACCESS TO HEALTHCARE	207	67	14	29	7	1	**325**	12.20%	10.97%	11.61%
	Access to somatic care	61	29	4	4	1	0	99			
	Access to specialised healthcare	39	10	4	3	3	1	60			
	Access to hospitalisation	38	11	0	7	1	0	57			
	Access to psychiatric care	22	7	2	1	0	0	32			
	Other (medical certificates, consent to treatment, access to medical record, etc.)	47	10	4	14	2	0	77			
2	PRISONER/STAFF RELATIONS	225	40	11	8	6	1	**291**	10.92%	7.80%	8.32%
	Confrontational relations	110	14	3	1	2	0	130			
	Violence	57	17	8	5	3	0	90			
	Disrespect	33	4	0	1	0	0	38			
	Discrimination/racism	17	5	0	0	1	0	23			
	Other	8	0	0	1	0	1	10			
3	RELATIONS WITH THE OUTSIDE WORLD	185	64	16	13	6	2	**286**	10.73%	9.66%	11.73%
	Correspondence	75	7	5	4	1	1	93			
	Telephone	52	7	2	1	4	0	66			
	Access to visiting rights	26	24	2	3	0	0	55			

[85] The "Other" category includes includes 38 participants, 20 individuals, 14 fellow prisoners, 10 physicians, 7 professional organisations, 7 staff members, 7 "other", 7 unknown persons, 7 CPIPs, 6 referrals from the Office of the President of the Republic, 4 own-initiative referrals, 3 directors, 3 MPs and 2 senators.

	Visiting room conditions	19	20	7	3	1	0	50			
	Other (marriage, family visiting rooms and UVFs, etc.)	13	6	0	2	0	1	22			
4	TRANSFER	197	46	15	2	0	1	**261**	9.79%	10.94%	6.28%
	Requested transfer	126	34	5	0	0	0	165			
	Conditions of the transfer	31	5	4	2	0	0	42			
	Administrative transfer	15	4	3	0	0	1	23			
	Other (including international transfer)	25	3	3	0	0	0	31			
5	MATERIAL CONDITIONS	166	17	6	20	7	7	223	8.37%	10.94%	10.64%
	Accommodation	60	6	4	7	4	4	85			
	Canteens	37	5	1	3	1	1	48			
	Hygiene/upkeep	29	4	1	6	1	2	43			
	Food	24	0	0	3	0	0	27			
	Other (television, cloakroom/search, etc.)	16	2	0	1	1	0	20			
6	PREPARATION FOR RELEASE	147	25	9	10	5	1	197	7.39%	5.86%	7.22%
	Adjustment of sentences	58	13	7	6	1	0	85			
	SPIP/Preparation for release	30	5	0	0	1	1	37			
	Administrative formalities	22	1	1	2	1	0	27			
	Permission to take leave	24	2	1	0	0	0	27			
	Other (deportation procedure, relations with external bodies, etc.)	13	4	0	2	2	0	21			
7	INTERNAL ORDER	128	34	17	5	5	2	191	7.17%	7.76%	9.61%
	Discipline	43	10	5	4	4	0	66			
	Body searches	42	14	7	0	0	1	64			
	Other (cell searches, use of force, security devices, etc.)	43	10	5	1	1	1	61			
8	PROCEDURES	90	14	9	9	2	0	124	4.65%	6.03%	4.04%
	Dispute of procedure	47	10	3	8	1	0	69			
	Execution of sentences	24	4	3	1	0	0	32			
	Other (revelation of grounds for imprisonment, procedural questions)	19	0	3	0	1	0	23			
9	ACTIVITIES	101	5	5	5	2	0	118	4.43%	5.18%	7.88%
	Work	62	4	2	3	0	0	71			
	IT	20	0	1	0	0	0	21			
	Other (education, training, sociocultural activities, etc.)	19	1	2	2	2	0	26			
10	RELATIONS BETWEEN PRISONERS	80	10	4	1	2	1	98	3.68%	4.91%	3.34%
	Physical violence	43	4	2	0	0	1	50			
	Threats/racketeering/theft	16	4	2	0	1	0	23			
	Confrontational relations	13	2	0	0	0	0	15			
	Other	8	0	0	1	1	0	10			
11	INTERNAL ASSIGNMENT	70	5	5	2	1	2	85	3.19%	3.34%	2.53%
	Cell assignment	26	2	2	1	0	1	32			
	Differentiated regime (including Respecto)	30	1	1	0	0	0	32			
	Other ("new arrivals" wing, loss of property, etc.)	14	2	2	1	1	1	21			
12	SOLITARY CONFINEMENT	53	12	3	1	3	0	72	2.70%	3.08%	2.17%

	Solitary confinement duration	20	4	1	1	1	0	27			
	Conditions in the confinement wing	14	5	0	0	1	0	20			
	Other (solitary confinement on judicial grounds, de facto solitary confinement, incompatibility, etc.)	19	3	2	0	1	0	25			
13	LEGAL INFORMATION AND ADVICE	46	3	12	4	3	0	68	2.55%	2.55%	2.36%
	Access to lawyers	14	1	9	0	1	0	25			
	Interpreting assistance	8	0	2	1	1	0	12			
	Other (social rights, access to personal data, means of remedy, etc.)	24	2	1	3	1	0	31			
14	OVERSIGHT (CGLPL – request for interview)	57	3	1	1	0	1	63	2.36%	2.82%	1.16%
15	FINANCIAL SITUATION	51	1	1	2	1	0	56	2.10%	2.29%	2.48%
	Personal account	17	1	0	1	1	0	20			
	Taking poverty into account	12	0	1	1	0	0	14			
	Other (allowances, money orders, civil parties, savings, etc.)	22	0	0	0	0	0	22			
16	SELF-HARMING BEHAVIOUR	36	6	7	6	1	0	56	2.10%	1.67%	2.03%
	Hunger/thirst strike	16	1	3	0	0	0	20			
	Suicide/attempted suicide	7	2	1	5	1	0	16			
	Thoughts of self-harm	11	1	1	0	0	0	13			
	Other (self-harm, death, etc.)	2	2	2	1	0	0	7			
17	PROCESSING OF APPEALS	32	4	1	0	3	0	40	1.50%	1.41%	3.98%
	Absence of response	26	4	1	0	1	0	32			
	Other (hearings, response time, etc.)	6	0	0	0	2	0	8			
-	OTHER[86]	75	10	3	17	6	0	111	4.16%	2.79%	2.60%
	TOTAL	1946	366	139	135	60	19	2665	100%	100%	100%

In 2019, the primary grounds for referring a case regarding penal institutions are access to healthcare, relations between prisoners and staff and relations with the outside world. In 2018, access to healthcare was also in the lead, followed by material conditions, transfers and relations with the outside world.

In 2019, all grounds combined[87], the primary grounds are relations with the outside world, access to healthcare and material conditions. Although placed in a different order, these were the same primary grounds in 2017 and 2018.

Furthermore, note that the number one reason for cases being referred to the CGLPL by the persons concerned is relations with staff; families and relatives primarily refer cases about access to healthcare, and lawyers about internal order. Referrals from IGAs primarily concern material conditions, as do referrals from associations which also refer cases about access to healthcare.

[86] *The "Other" category includes 59 "other" letters, 23 letters concerning extractions (medical and judicial), 17 for an unspecified reason, 7 concerning religious practices, 3 concerning staff working conditions and 2 concerning voting rights.*
[87] *i.e. the primary and secondary grounds included.*

4.2 The consequences

Overall data

4.2.1 *Type of letters sent*

	Type of action taken	Total 2019	Percentage 2019	Percentage 2018
Verifications (Article 6-1 of the Act of 30 October 2007)	Referral of case to the authority by letter	574	24.91%	23.90%
	Number of on-site verification reports sent[88]	3	0.13%	0.53%
Sub-total		**577**	**25.04%**	**24.43%**
Responses given to letters not having given rise to the immediate opening of an inquiry	Request for details	863	37.46%	34.33%
	Information	641	27.82%	27.98%
	Other (consideration for visit, passed on for reasons of competence[89], etc.)	155	6.73%	9.25%
	Lack of competence	68	2.95%	4%
Sub-total		**1727**	**74.96%**	**75.57%**
TOTAL		**2304**	**100%**	**100%**

As part of the verifications undertaken, the CGLPL sent the following letters between 1 January and 31 December 2019:

- 577 letters to the authorities concerned (as compared to 647 in 2018);
- 442 letters to persons having referred cases, informing them of the verifications conducted (551 in 2018);
- 277 letters to authorities to which the cases were referred, informing them of actions taken in order to follow-up on the verifications (322 in 2018);
- 208 letters to persons having referred cases, informing them of actions taken in order to follow-up on the verifications (281 in 2018);
- 419 reminder letters (878 in 2018);
- 152 letters to persons having referred cases, informing them of reminders issued (577 in 2018).

The CGLPL thus sent 3,802 letters between January and December 2019 (as compared to 5,257 in 2018), i.e. an average of 317 letters per month (as compared to 438 in 2018).

The decrease in the number of reminders sent out in 2019 (which had doubled in 2018) should be considered in light of the follow-up procedure set up by the Prison Administration Department (DAP), which informs the CGLPL, at regular intervals, of the progress made in processing responses to letters of enquiry sent to heads of prisons. This centralisation follows a memo implemented on 26 July 2017[90] which led to longer response times and a particularly high rate of "non response", which remains problematic in 2019.

[88] *Two on-site verification reports were sent to three authorities concerned.*
[89] *Including 59 to the Defender of Rights.*
[90] *This DAP memo provides that, for individual referrals to the CGLPL, the Prison Administration Director shall now be the only party to sign off on responses.*

In 2018, the proportion of verifications addressed to prison directors was 53%. 70% of these verifications were still pending a response on 31 December 2019[91]. More than one-third of the verifications sent in 2018 also remained unanswered.

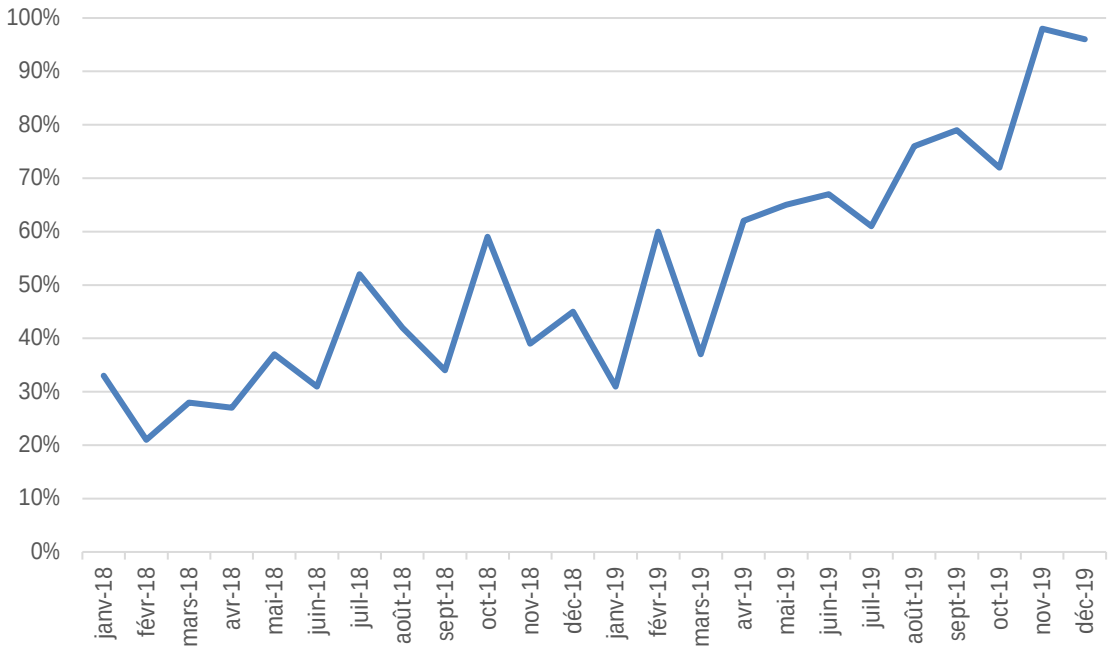
While a slight decrease in the rate of "non response" can be noted (this rate was 82% as of 31 December 2018), it remains very high, especially as the average response time over the last two years has been nine months (with a 51% "non response" rate), whereas it was three months in 2017, when these responses came directly from heads of prisons.

Date	No. of prison management inquiries	No response[92]	% with no response	Average time to receive a response from DAP
January 2018	33	11	33%	400 days (13 months)
February 2018	34	7	21%	266 days (9 months)
March 2018	32	9	28%	355 days (12 months)
April 2018	52	14	27%	351 days (11.5 months)
May 2018	35	13	37%	352 days (11.5 months)
June 2018	32	10	31%	351 days (11.5 months)
July 2018	31	16	52%	312 days (10 months)
August 2018	40	17	42 %	338 days (11 months)
September 2018	35	12	34 %	285 days (9 months)
October 2018	22	13	59 %	278 days (9 months)
November 2018	23	9	39 %	206 days (7 months)
December 2018	22	10	45 %	232 days (7.5 months)
January 2019	16	5	31 %	229 days (7.5 months)
February 2019	25	15	60 %	177 days (6 months)
March 2019	24	9	37 %	179 days (6 months)
April 2019	29	18	62 %	147 days (5 months)
May 2019	23	15	65 %	117 days (4 months)
June 2019	30	20	67 %	71 days (2 months)
July 2019	23	14	61 %	62 days (2 months)
August 2019	21	16	76 %	44 days (1.5 months)
September 2019	24	19	79 %	59 days (2 months)
October 2019	25	18	72 %	26 days (1 month)
November 2019	41	40	98 %	*Not applicable*
December 2019	25	24	96 %	*Not applicable*
Total	**697**	**354**	**51 %**	**267 days (9 months)**

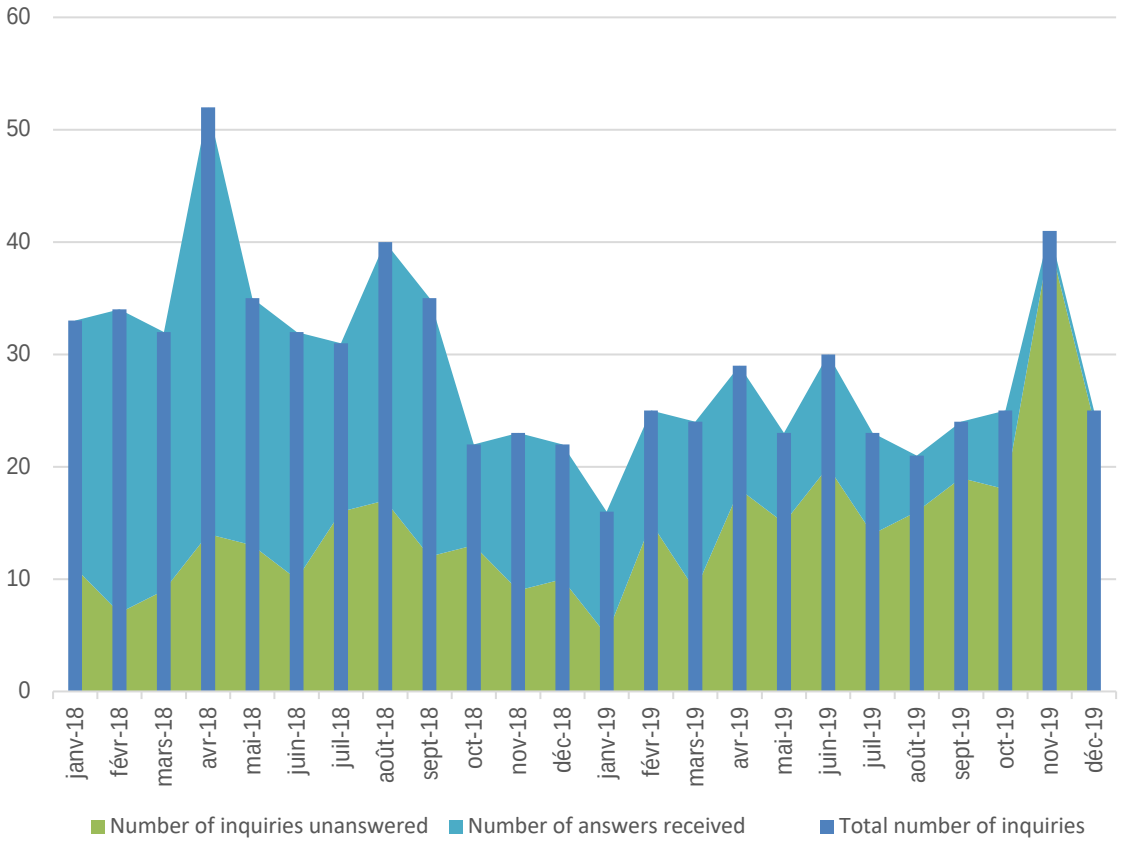
[91] *Over the last six months of the year, so since July 2019, 82% of the 159 verifications sent to prison directors have not received any response.*

[92] *Some inquiries were closed with no further action taken.*

Percentage of inquiries that have gone unanswered



Verifications addressed to prison directors (2018-2019)



Time required for the CGLPL to respond (letters sent between January and December 2019)

As of 31 December 2019, the CGLPL had replied to 499 letters of referral addressed to it during 2018 (i.e. 15% of its replies) and to 2,801 letters that arrived in 2019 (i.e. 85% of its replies).

Length of response time	Number 2019 (Jan. – Dec.)	% 2019	Number 2018 (Jan. – Dec.)	% 2018
0-30 days	913	21.90%	1507	33.44%
30-60 days	928	22.26%	1007	22.35%
More than 60 days	1459	35%	1310	29.07%
Response pending	719	17.25%	516	11.45%
Cases not taken up[93]	149	3.57%	166	3.68%
TOTAL	**4168**	**100%**	**4506**	**100%**

For letters replied to in 2019, this reply was received within 60 days for 44.16% of them. In 2018, this rate was 55.79%. The average response time in 2019 is 62 days (i.e. two months). In 2018, this response time was 49 days (i.e. 1.6 months).

4.2.2 *Verifications with the authorities*

In view of the institutions concerned and the issues raised in the cases referred[94], requests for observations and documents are, in most cases, sent to prison directors and physicians working in health blocks and regional mental health departments for prisons (SMPRs).

Category of authorities called upon as part of the verifications

Type of authority referred to	Number of referrals	Percentage 2019	Percentage 2018
Head of institution	**372**	**64.58%**	**68.32%**
Prison director	306	(53.12%)	(59.04%)
Director of a hospital facility	36		
Director of a detention centre/facility for illegal immigrants or a waiting area	23		
Police station	5		
Gendarmerie	1		
Other director	1		
Medical staff	**103**	**17.88%**	**18.08%**
Physician in charge of health block, SMPR	89	(15.45%)	(16.54%)
Physician in a detention centre for illegal immigrants	11		
Other physician	3		
SPIP	**30**	**5.21%**	**3.25%**

[93] *The fact that a case is not taken up does not systematically mean that no action will be taken as regards the issue raised; it refers to letters for which a response is not given directly to the person, either because the sender has wished to remain anonymous, or because the person has been released in the meantime, his/her referral becomes irrelevant or s/he did not wish to receive a response. Verifications can nevertheless be initiated based on a case that is not taken up.*

[94] *See above, analysis of the cases referred to the CGLPL.*

DSPIP	16		
Satellite office	14		
Central administration	**25**	**4.34%**	**2.47%**
DAP	22		
Other central management	3		
Decentralised management	**22**	**3.82%**	**4.33%**
Prefecture	8		
ARS	6		
DISP	4		
Other	4		
Minister	**10**	**1.74%**	**2%**
Minister of Justice	8		
Minister of Health	1		
Minister of the Interior	1		
Judge	**9**	**1.56%**	**1.24%**
Other	**5**	**0.87%**	**0.31%**
TOTAL	**576**	**100%**	**100%**

Inquiry case-files

When the situation brought to the CGLPL's attention calls for verifications with an authority, an inquiry case file is opened. This can lead to one or more inquiry letters being sent out to one or more authorities; as such, the number of files newly opened is less than the number of inquiry letters generated in the year. The start of the inquiry corresponds to the date on which the letter giving rise to these verifications is received, and the end of the inquiry to the dispatch dates of the letters informing the persons referring the cases of the action taken and of the analysis to the authorities referred the information which they have brought to the attention of the CGLPL.

In 2019, 342 new inquiry case-files were opened (versus 442 in 2018), of which 52 were closed as of 31 December 2019 (versus 79 in 2018). Among the inquiry case-files that were opened earlier:

- 365 were still in progress as of 31 December 2019 (versus 172 on 31 December 2018)[95];
- 196 had been closed during the year (versus 231 in 2018).

The following statistics pertain only to the inquiry case-files that were newly opened (unless specified otherwise).

TTypes of persons referring cases leading to the opening of case-files

Category of persons	Total 2019	% 2019	% 2018
Person concerned	198	57.89%	66.74%
Family / relatives	44	12.87%	8.14%
Association	29	8.48%	8.14%
Lawyer	27	7.89%	8.60%

[95] *To be compared with the low response rate to the inquiries sent in 2018 to heads of prisons: 36% of the 2018 inquiries were not answered in 2019 (see 1.2.1 Overall data).*

Private individual	14	4.09%	-
Own-initiative referrals (CGLPL)	11	3.22%	1.81%
Other	7	2.05%	3.39%
Physicians/medical staff	4	1.17%	2.05%
Other IGA referral	4	1.17%	-
Fellow person deprived of liberty	4	1.17%	1.13%
Total	**342**	**100%**	**100%**

Types of institutions concerned

Place of deprivation of liberty	Total	% 2019	% 2018
Penal institution	**286**	83.63%	88.24%
MA – remand prison (or remand wing)	122		
CD – long-term detention centre (or long-term detention centre wing)	71		
CP – prison with sections incorporating different kinds of prison regime (or unspecified wing or other)	61		
MC – long-stay prison (or long-stay prison wing)	19		
All	7		
EPM – prison for minors	4		
Hospitals (UHSAs, secure rooms)	2		
Immigration detention	**25**	7.31%	5.66%
CRA – detention centre for illegal immigrants	25		
Healthcare institution	**24**	7.02%	5.20%
EPS – public psychiatric institution	12		
EPS – public health institution psychiatric department	8		
UMD – unit for difficult psychiatric patients	2		
EPS – all	2		
Custody facilities	**6**	1.75%	0.68%
CIAT – police stations and headquarters	3		
BT – territorial gendarmerie	3		
Court cells	**1**	0.29%	
Other	**-**		0.22%
Total	**342**	100%	100%

Average length of inquiries

248 inquiry case-files were closed between January and December 2019 (versus 310 in 2018). The average length of time taken by inquiries was 12 months (versus 11 months in 2018).

The increase in inquiry times should be considered in light of the delay in responses received on the part of prison directors with regard to verifications (see §1.2.1 on overall data).

Duration	Number of case-files 2019	Percentage 2019	Cumulative percentage 2019	Cumulative percentage 2018
Less than 6 months	51	20.56%	20.56%	26.45%
From 6 to 12 months	84	33.87%	54.44%	68.39%
More than 12 months	113	45.56%	100%	100%
Total	**248**	**100%**	**100%**	**100%**

Primary grounds upon which verifications were taken up with the authorities

The CGLPL may request observations concerning various different issues from authorities to which cases are referred. However, the CGLPL defines each inquiry case-file on the basis of the primary grounds for verification.

Primary grounds with regard to health institutions receiving involuntary patients

Psychiatric hospital grounds	Total
Solitary confinement (conditions, grounds, other)	6
Legal information and advice (notification of rights, referral to CDHP)	4
Access to **healthcare** (access to medical records, somatic care)	2
Material conditions (hygiene/upkeep, wearing of pyjamas)	2
Assignment (inappropriate unit)	2
Relations between patients (physical violence)	2
Other (**incident** management, **IT**, **restraint**, preliminary **discharge**, relations with the **outside world**, processing of **appeals)**	6
Total	**24**

Primary grounds concerning immigration detention (centres, facilities or waiting areas)

Immigration detention grounds	Total
Material conditions (food, accommodation, hygiene, etc.)	6
Solitary confinement (duration, etc.)	3
Unfit for detention (health condition)	3
Self-harming behaviour (suicide, hunger strike)	2
Access to **healthcare** (monitoring of chronic diseases, access to somatic care)	2
Relations with the **outside world** (visiting rights, telephone)	2
Other (means of **remedy**, **room assignment**, use of **means of restraint**, dispute of **procedure**, staff **violence**, other)	7
Total	**25**

Primary grounds concerning penal institutions

Penal institution grounds	Total
Access to **healthcare** (somatic, specialist, psychiatric, etc.)	45
Relations with the **outside world** (access to visiting rights, telephone, etc.)	37
Material conditions (accommodation, hygiene/upkeep, canteens, etc.)	36
Internal order (discipline, body searches, security devices, etc.)	27

Activities (work, IT, education/training, sports, etc.)	25
Relations between **prisoners** (threats/racketeering/theft, physical violence, etc.)	17
Transfer (requested, administrative, conditions of transfer, etc.)	17
Solitary confinement (grounds, conditions, duration, etc.)	15
Preparation for **release** (administrative formalities, adjustment of sentences, etc.)	13
Prisoner/staff relations (violence, confrontational relations)	10
Extractions (medical, judicial, conditions, cancellations, etc.)	9
Legal information and advice (legal information, access to personal data, etc.)	8
Internal **assignment** (assignment to a cell, differentiated regime, etc.)	7
Self-harming behaviour (suicide/attempted suicide, etc.)	6
Procedures (dispute of procedure, permission to take leave, etc.)	5
Processing of **appeals** (hearings, absence of response)	4
Other (financial situation, right to vote, etc.)	5
Total	**286**

Fundamental rights concerned in inquiry case-files by type of place of deprivation of liberty

Fundamental rights	Penal institution	Immigration detention	Healthcare institution	Custody facility	Total 2019	% 2019	% 2018
Physical integrity	52	7	4	1	**64**	18.71%	16.25%
Dignity	43	7	6	4	**60**	17.54%	18.51%
Access to healthcare and prevention	53	5	1		**59**	17.25%	20.09%
Maintenance of family ties, relations with the outside world	35	1	1	1	**38**	11.11%	13.09%
Legal information and advice	12	3	3	1	**19**	5.56%	3.17%
Access to work, activity, etc.	16		1		**17**	4.97%	4.51%
Moral integrity	14		2		**16**	4.68%	2.93%
Property rights	12				**12**	3.51%	1.58%
Freedom of movement	5	2	5		**12**	3.51%	1.58%
Integration/preparation for release	10				**10**	2.92%	4.74%
Confidentiality	10				**10**	2.92%	2.93%
Equal treatment	9				**9**	2.63%	3.39%
Right to information	5		1		**6**	1.75%	0.45%
Right of defence	2				**2**	0.58%	3.61%
Privacy	2				**2**	0.58%	0.45%
Right to individual expression	2				**2**	0.58%	0.23%
Unjustified detention	1				**1**	0.29%	0.23%
Right to vote	1				**1**	0.29%	-
Other	2				**2**	0.58%	2.26%
Total	**286**	**25**	**24**	**7**	**342**	**100%**	**100%**

The case-files newly opened in 2019 primarily concerned, for healthcare institutions and custody facilities, respect for the dignity of persons deprived of liberty; the same applies for detention facilities

for illegal immigrants, on an equal footing with respect for physical integrity. The fundamental right cited most often for penal institutions remains access to healthcare.

The six main fundamental rights on which the newly opened inquiries focused this year are more or less the same as in 2017 and 2018: respect for physical integrity, respect for dignity, access to healthcare, maintaining family ties, access to activities and work and, more than in 2018, legal information and advice.

4.2.3 *Verification findings at the closing of the case-file*

For the fifth year in a row, the CGLPL is able to give indications on the findings of the verifications carried out with the authorities with which cases are taken up. In order to report these findings, a distinction has been drawn between any violations of fundamental rights, the results obtained for the person concerned and action taken as regards the authorities.

The following data show that violations occurred (even partially) in 58.87% of the inquiry case-files (versus 55.16% in 2018).

In 40.72% of case files, the problem has been resolved: either for the person, or for the future, or in a partial manner (versus 48.07% in 2018).

Lastly, as regards the actions taken, the Chief Inspector sent recommendations to the authorities called upon in 20.97% of cases (versus 19.68% in 2018). Corrective measures resulting from the inquiry addressed by the CGLPL to the authorities concerned were taken in 9.27% of cases (versus 11.93% in 2018). No special follow-up was given by the Chief Inspectorate in 47.98% of inquiry case-files (versus 47.10% in 2018), either because no violation of a fundamental right was proven, or because the person deprived of liberty was transferred or released and the fundamental right in question could not be dissociated from their individual situation, or because the response was received too late and thus gave rise to no follow-up.

Out of the 248 case-files closed in 2019, the following results were obtained:

Results of the inquiry		Number of case-files	% 2019	% 2018
Violation of a fundamental right	Violation not proven	102	41.13%	44.84%
	Violation proven	92	37.10%	33.87%
	Violation proven partially	54	21.77%	21.29%
Total		248	100%	100%
Result for the person deprived of liberty	Unknown result	57	22.98%	21.61%
	Not applicable	56	22.58%	20.64%
	Problem solved	46	18.55%	21.94%
	Problem partially solved	35	14.11%	13.55%
	Problem not solved	34	13.71%	9.68%
	Problem solved for the future	20	8.06%	12.58%
Total		248	100%	100%
Actions taken up by the Chief Inspector with the authorities concerned	No particular follow-up	119	47.98%	47.10%
	Call for vigilance	54	21.77%	21.29%
	Recommendations:	52	20.97%	19.68%
	heeded	*2*		
	not heeded	*0*		
	unknown results	*50*		

	Corrective measure taken by the authority or implementation of a best practice	23	9.27%	11.93%
Total		248	100%	100%

5. Visits conducted in 2019

5.1 Quantitative data

Visits per year and per category of institution

Categories of institutions	Total no. of institutions[96]	2008-2013	2014	2015	2016	2017	2018	2019	TOTAL	including institutions visited once[97]	% visits over no. of institutions
Custody facilities	**4,059**	**296**	**55**	**58**	**52**	**48**	**53**	**60**	**622**	**564**	
– including police[98]	673	193	27	32	22	24	35	28	361	308	**13.89%**
– gendarmerie[99]	3,386	85	24	22	26	24	17	31	229	228	
– other[100]	ND	18	4	4	4	-	1	1	32	28	
Customs detention[101]	**179**	**25**	**11**	**5**	**2**	**3**	**4**	**1**	**51**	**49**	
– including courts	11	2	1	-	1	-	1	-	5	4	**27.37%**
– ordinary law	168	23	10	5	1	3	3	1	46	45	
Court jails/cells[102]	**197**	**64**	**4**	**9**	**10**	**11**	**7**	**8**	**113**	**105**	**53.30%**
Other[103]	**-**	**1**	**-**	**-**	**-**	**-**	**-**	**-**	**1**	**1**	**-**
Penal institutions	**185**	**179**	**31**	**27**	**26**	**21**	**22**	**22**	**328**	**200**	
– including remand prisons	81	92	14	12	10	8	8	11	155	97	**108.11%**
– prisons	57	35	8	9	7	8	8	4	79	48	
– detention centres	25	25	4	3	5	1	2	3	43	27	

[96] The number of institutions changed between 2018 and 2019. The figures shown below were updated for penal institutions (as of 1 October 2019).
[97] The number of follow-up visits is respectively one in 2009, five in 2010, six in 2011, 10 in 2012, seven in 2013, 36 in 2014, 61 in 2015, 52 in 2016, 41 in 2017, 54 in 2018 and 51 in 2019.

[98] Data provided by the IGPN and the DCPAF, comprising custody facilities of the DCSP (496), the DCPAF (57) and the police headquarters (120), updated in December 2017.
[99] Data provided by the DGGN, January 2018.
[100] These are facilities of the central directorates of the national police (PJ, PAF, etc.).
[101] Data provided by customs, updated in February 2015. Four customs detention facilities are common to them and have not been recorded among the customs detention facilities under ordinary law.
[102] The cases in which the cells or jails of the TGI and those of the courts of appeals are located at the same site are not taken into account.
[103] Military detention facilities, etc.

– long-stay prisons	6	7	1	-	1	2	1	1	13	7	
– prisons for minors	6	7	2	2	1	1	3	3	19	6	
– open prisons	9	12	1	1	2	1	-	-	17	14	
-EPSNF	1	1	1	-	-	-	-	-	2	1	
Immigration detention	**101**	**71**	**9**	**14**	**6**	**11**	**8**	**5**	**124**	**75**	
– including detention centres for illegal immigrants	24	38	6	7	1	6	4	4	66	31	**74.26%**
– LRA[104]	26	19	2	4	2	1	-	-	28	22	
– ZA[105]	51	14	1	3	2	4	4	1	29	21	
– Other[106]	-	-	-	-	1	-	-	-	1	1	
Deportation measure	-	-	**3**	**4**	-	**5**	**4**	-	**16**	**16**	-
Healthcare institutions[107]	**432**	**123**	**15**	**34**	**43**	**44**	**38**	**47**	**344**	**305**	
– including CHS	270	37	6	6	14	13	11	21	108	99	
– CH (psychiatric sector)		22	2	15	11	18	10	11	89	84	
– CH (secure rooms)	87	33	3	6	15	13	14	13	97	87	**70.60%**
– UHSI	8	7	1	4	-	-	-	-	12	7	
– UMD	10	10	-	3	-	-	-	1	14	10	
– UMJ	47	9	-	-	-	-	1	-	10	9	
– IPPP	1	1	-	-	-	-	1	-	2	1	
– UHSA	9	4	3	-	3	-	1	1	12	8	
Juvenile detention centres	**52**	**46**	**9**	**9**	**7**	**5**	**9**	**7**	**92**	**52**	**100%**
GRAND TOTAL	**5205**	**805**	**137**	**160**	**146**	**148**	**145**	**150**	**1691**	**1367**	**82.08%**[108]

[104] *The data indicated here comes from the 2016 joint report on detention centres and facilities for illegal immigrants drawn up by the six associations working in immigration detention centres. Detention facilities for illegal immigrants adjoining border police custody facilities were inspected in 2018 but counted under the category custody facilities.*

[105] *The number of 51 waiting areas is a rough estimate and should not be taken literally: almost all detained foreign nationals are held in the waiting areas of the airports of Roissy-Charles-de-Gaulle and Orly.*

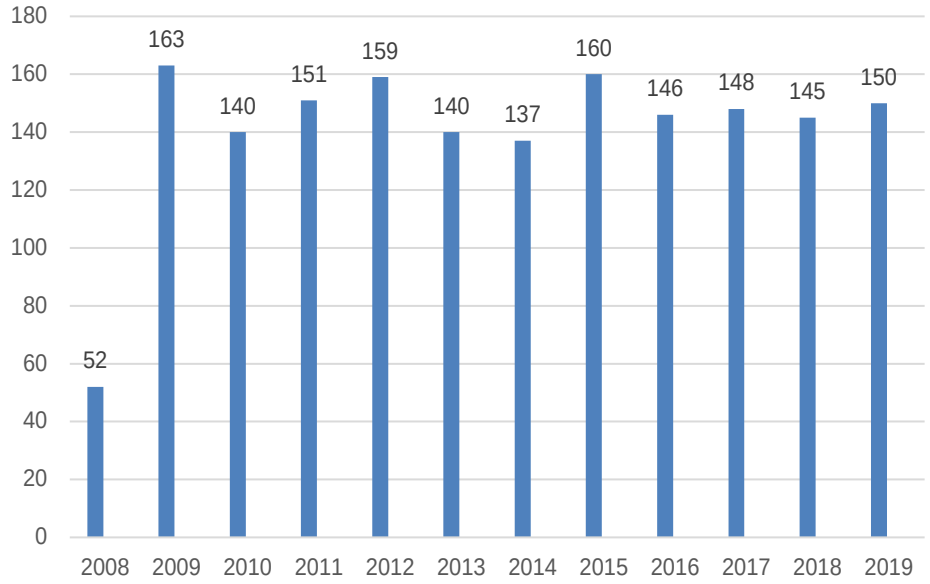
[106] *In October 2016, the CGLPL monitored the operations to dismantle the Calais Jungle Camp.*

[107] *Data provided by the DGOS for psychiatric institutions with the capacity to receive involuntary patients at any time of the day or night, for hospitals having secure rooms and for UMJs (December 2014).*

[108] *The ratio is not calculated with the total of institutions visited at least once between 2008 and 2019, indicated in the previous column, but for the visits from which visits to custody facilities, customs detention facilities, court jails and cells and military detention centres, as well as the monitoring of deportation procedures, were subtracted; i.e. 632 visits for a total of 770 places of deprivation of liberty.*

5.1.1 *Number of visits*

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Number of visits	52	163	140	151	159	140	137	160	146	148	145	150



5.1.2 *Average length of visits (in days)*

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Juvenile detention centre	2	3	4	4	3.25	3.56	3.56	3.29	3.20	3.44	3.57
Court jails and cells	1	2	2	1.5	2	1.75	1.56	1.10	1.37	1	1.25
Penal institution	4	4	5	5	5	5.20	5.67	6.19	5.86	6.09	5.23
Custody facilities	1	2	2	2	2	2.33	1.93	1.49	1.79	1.58	1.27
Immigration detention	2	2	2	3	5[109]	3.11	2.57	3.50	2.82	2.75	2.60
Customs detention	1	2	1	1.5	2	1.95	2.20	1	1	1.25	1
Healthcare institution	2	3	3	4	4	4.52	4.20	3.45	4.07	3.84	4.68
Deportation procedure	-	-	-	-	-	2	1	-	1.6	1.25	-
Average	2	3	3	3	3	3.33	3.04	3.12	3.11	2.99	3.07

In 2019, the inspectors spent:

- 220 days in hospitals (versus 146 in 2018);
- 115 days in detention facilities (versus 134 in 2018);
- 76 days in custody facilities (versus 84 in 2018);
- 25 days in juvenile detention centres (versus 31 in 2018);
- 13 days in immigration detention (versus 22 in 2018);

[109] *Only the waiting area of Roissy was visited in 2013, over a five-day period.*

- 10 days in jails and cells of courts (versus seven in 2018);
- one day in a customs detention centre (versus five in 2018);
- zero days on deportation procedures (versus five in 2018).

i.e. a total of 460 days in places of deprivation of liberty (versus 434 in 2018).

5.2 Nature of the visits (since 2008)

	Custody facilities, TGI cells, customs, etc.		**Juvenile detention centres**		**Healthcare institutions**		**Penal institutions**		**Detention centres and facilities, waiting areas**		**Total**
	Unann.	Sched.	Unann.	Sched.	Unann.	Sched.	Unann.	Sched.	Unann.	Sched.	
2008	20	0	0	0	0	5	2	14	7	4	**52**
2009	69	0	5	3	6	16	18	22	24	0	**163**
2010	60	2	8	0	8	10	13	24	11	4	**140**
2011	57	1	10	1	25	14	17	15	11	0	**151**
2012	96	0	7	0	13	9	14	11	9	0	**159**
2013	81	0	12	0	13	4	28	1	1	0	**140**
2014	70	0	8	1	11	5	18	12	12	0	**137**
2015	70	2	8	1	13	21	7	20	18	0	**160**
2016	64	0	7	0	21	22	6	20	5	1	**146**
2017	62	0	5	0	17	27	0	21	15	1	**148**
2018	62	2	9	0	14	24	0	22	11	1	**145**
2019	69	0	7	0	14	33	3	19	5	0	**150**
Total	**780**	**7**	**86**	**6**	**155**	**190**	**126**	**201**	**129**	**11**	**1691**

In all, 75.46% (1,276) of institutions were visited unannounced and 24.54% (415) in a scheduled manner. These percentages are to be adjusted according to the type of institution concerned. Visits conducted unannounced thus comprise the following percentages:

- 99.11% with regard to police custody facilities, court cells and customs;
- 93.48% with regard to juvenile detention centres;
- 92.14% with regard to detention centres for illegal immigrants, waiting areas and deportation procedures;
- 44.93% with regard to healthcare institutions;
- 38.53% with regard to penal institutions.

This distribution between scheduled and unannounced visits varies little from one year to the next. In principle, it obeys a simple rule:

- visits to complex institutions in which persons deprived of liberty can spend several years are scheduled, unless there are grounds to do otherwise, since this way, the CGLPL can benefit, as soon as it arrives, from a documentary case-file and a meeting attended by the institution's main managers;

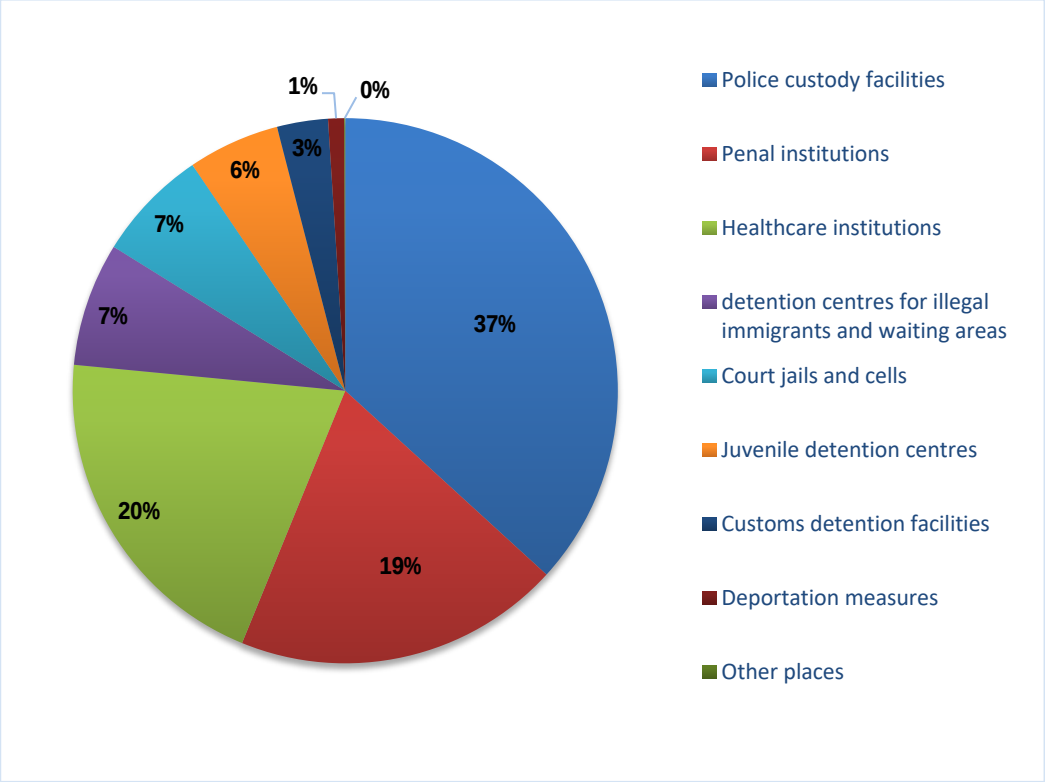
- on the other hand, visits to small institutions in which persons deprived of liberty spend only brief periods are, in principle, unannounced.

5.3 Categories of institutions visited

A total of 1,691 visits have been conducted since 2008. They are distributed as follows:

- 36.78% concerned police custody facilities;
- 20.34% concerned healthcare institutions;
- 19.40% concerned penal institutions;
- 7.33% concerned detention centres and facilities for illegal immigrants and waiting areas;
- 6.68% concerned court jails and cells;
- 5.44% concerned juvenile detention centres;
- 3.02% concerned customs detention facilities;
- 0.95% concerned deportation measures;
- 0.06% concerned other places.

This distribution does not change much from one year to the next because past history plays an important role here.



6. Resources allocated to the Chief Inspectorate in 2019

CGLPL figures at a glance

- 56 members of staff, including 33 permanent employees (with 2 vacancies)
- 87% officers in charge of inspection duties, including:
  - 18 permanent inspectors;
  - 7 inspectors in charge of processing case referrals;
  - 26 external inspectors, with public service collaborator status.
- 7% management staff
- 5% officers in charge of executive secretarial or support duties
- 60% are women and 40% are men
- 55 years old: average age (47.5 years old for permanent employees)
- 4 and a half years of seniority on average
- 71% of staff arrived between 2014 and 2018
- 5.2m in overall budget (4.2m in staff appropriations and 1m in operating appropriations)

6.1 Stable human resources since 2015

The Finance Act for 2015 enabled the creation of three additional jobs owing to the new areas of competence bestowed by the legislation. The creation of two additional jobs had been anticipated in the 2015 management strategy and confirmed in the 2016 management strategy, bringing the institution's employment ceiling to 33 FTEs.

To ensure the performance of missions, the institution also works on a collaborative basis with 26 external inspectors.

6.1.1 *Human resources: permanent positions and external staff, trainees and casual employees in 2019*

Permanent positions and external staff

In 2019, the institution experienced a slightly higher turnover rate given the deadlines for the secondment of staff recruited in significant numbers in 2015.

At the beginning of the year, two inspectors, respectively from the advisory bodies of administrative courts and administrative courts of appeal and Chief Superintendents of the French National Police Force, were recruited to replace two Chief Superintendents who had retired. These two former permanent inspectors have chosen to continue their collaboration with the institution with the status of external staff.

The Assistant Director for Legal Affairs, administrative attaché, assigned to a normal working position within the institution, moved to a management position at the Ministry of the Interior and was replaced by an official of the same profession, previously assigned to the Ministry of Justice.

The Director for Legal Affairs and an inspector, judges posted at the CGLPL, joined the judicial mobility movement at the end of their postings in order to resume the exercise of judicial functions. They were replaced by two women from the same profession.

An inspector, posted to the institution upon its creation from the profession of Director of Prison Services, joined the services of the Inspectorate-General of Justice. He will be replaced on 1 January 2020 by a Director of Prison Services as well.

A Director of Judicial Youth Protection also returned to her original administration mid-year. She will be replaced in 2020 by an officer from the same profession.

Six external inspectors ended their collaboration with the CGLPL in 2019. Six external inspectors were recruited (one former Police Superintendent, previously a permanent inspector, one former lawyer, one former hospital director, one gynaecologist, formerly a medical inspector of public health, one journalist and one independent worker, assessor at the national asylum commission).

Trainees and contract workers on short-term missions

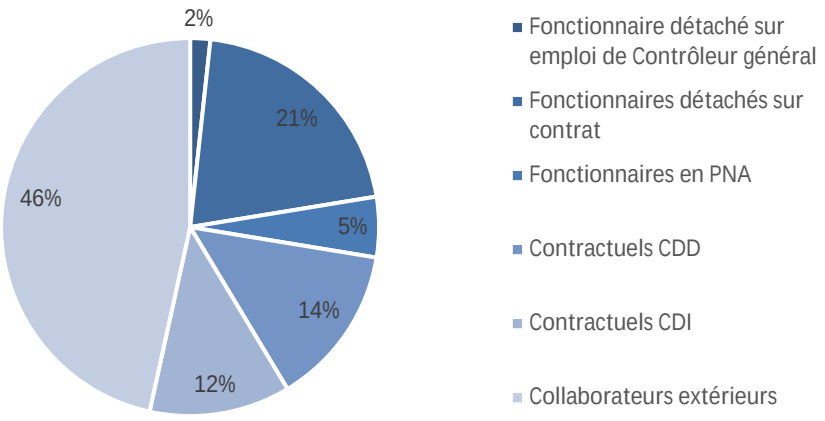
Over the course of the year, the CGLPL welcomed 11 trainees from civil service schools, professional training institutions and French universities.

	Professional training institutions	Civil service schools (ENM, ENAP, IRA)	Universities
Number of trainees received	6	3	2

Three casual contract workers were recruited in succession in 2019 to replace a vacant secretarial position, to process the referrals of individuals deprived of liberty and to draft minimum recommendations by type of place of deprivation of liberty.

6.2 Social assessment data

Statuses of the CGLPL's employees



The institution has 33 permanent positions. At the end of 2019, two inspector positions are vacant. Twenty-six inspectors have the status of external staff.

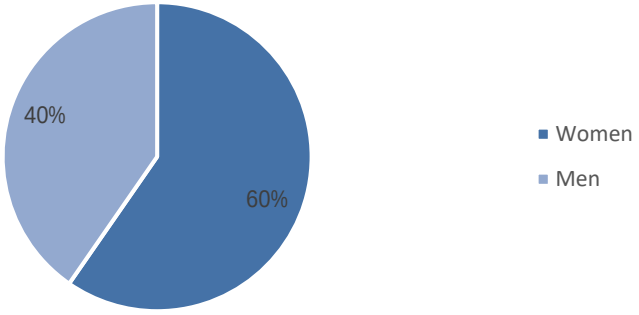
In 2017, the regulatory consolidation of the status of the position of Chief Inspector safeguarded the legal situation of the authority running the institution.

The highest proportion of permanent staff are civil servants posted on contracts – primarily assigned to inspection duties. This is because posting on contract is the only management option that ensures the independence of civil servant inspectors with regard to the managing ministries of their profession, which often exercise authority or supervision over the places of deprivation of liberty which are subject to the institution's scrutiny.

Three civil servants – Government department attachés – have been placed in normal working positions. In charge of legal support or coordination duties, these civil servants perform tasks within the institution in keeping with the special status of their profession.

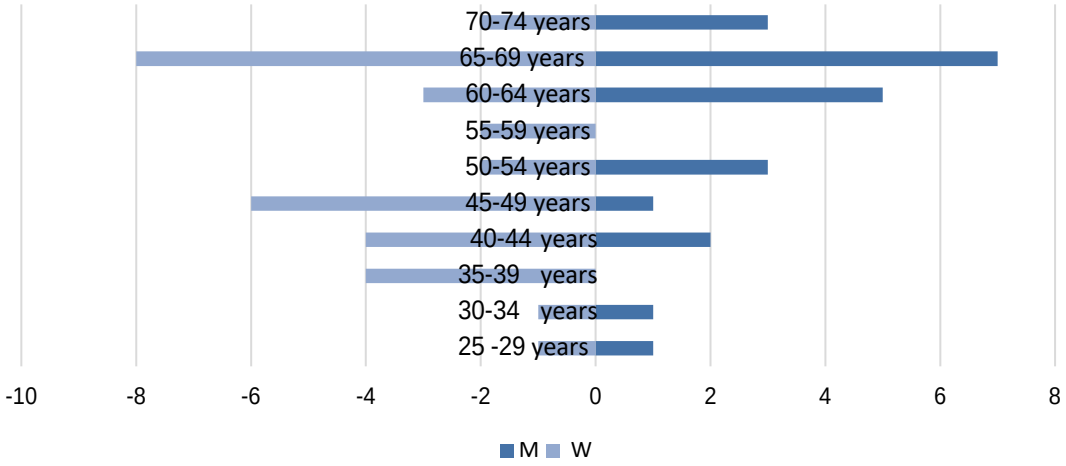
Contract workers are mainly recruited as legal experts or inspectors in charge of case referrals or to roles for which there are few qualified civil servants (international relations and communications in a professional environment associated with human rights).

Gender distribution among all staff members



Most CGLPL staff members are women. Distribution among inspection duties is fairly equal (22 women for 20 men) and 75% of executive positions are occupied by women.

Pyramid of ages of all staff



The social assessment of the institution does not always distinguish data bearing on officials appointed for permanent positions from data concerning the institution's external staff, insofar as they form a working community where external staff members are fully recognised for their participation in the institution's work.

TTurnover and absenteeism among permanent staff

Year	2015	2016	2017	2018	2019
Staff turnover rate	18%	6%	11%	14%	15%

The staff turnover rate, which was high in 2015 due to the creation of jobs and has gradually changed during the term, indicates the institution's sound capacity to renew its workforce and equip them with skills that are in demand on the public job market.

Rate of absenteeism in 2019 (sickness and work accidents)	
Total	1.19%
Contract workers	0.48%
Civil servants	1.79%

The rate of absenteeism for 2019 does not call for comment. The number of absences due to sickness decreased in 2019 compared to the previous year.

2019 training

Training	No. of days	No. of participants	Cost
ENM training			
Determining and adjusting sentences	5 days	2	Free of charge
Prison in question	5 days	2	Free of charge
Foreigners and judicial judges	4 days	1	Free of charge
The three monotheisms	5 days	1	Free of charge
Introduction to political philosophy	5 days	3	Free of charge
Involuntary psychiatric care	3 days	3	Free of charge
Preparation for civil service competitions			
Preparation for IRA/IGPDE competitions	extensive training	1	€295.00
University programmes			
University degree in "International criminal courts and organisation", University of Nanterre	extensive training	1	€1,728.00
Language courses			
English immersion week	5 days	2	€400.00
Training for new inspectors			
In-house training	1 day	5	Free of charge

As the CGLPL enjoys free access to certain training programmes at the National School for the Judiciary as part of a partnership in which the institution undertakes to introduce judges to inspection duties within the framework of continuing education, and as it favours in-house training modules carried out by experienced inspectors, the institution's training budget is fairly small. Two training courses were partially financed in 2019 under the personal training account (university programmes and language courses). A new in-house training plan will be initiated in 2020 for new inspectors.

6.3 Multiannual growth in financial resources

The year 2019 is the last full year of work of the current Chief Inspector of Places of Deprivation of Liberty, whose term expires on 16 July 2020. Therefore, after discussing 2019 budget implementation, changes in the institution's financial resources over the last five years (2015-2019) will be reviewed.

6.3.1 *Resources generally stable in 2019 as compared to 2018*

Appropriations in €m	2019			
	Line 2 Staff appropriations		Excluding line 2 Operating appropriations	
	Wage bill	Employment ceiling	CAs	PAs
Appropriations voted in the initial Finance Act	4.211	34	0.740	1.140
Appropriations available	4.202	34	0.719	1.107
Appropriations used	3.918	32	0.796	1.140
Utilisation rate	93%	94 %	1.11%	103%

Under the 2019 Finance Act, the programme manager granted an additional position, as a technical correction, without a payroll allowance. However, this supplementary employment allowance was not necessary under the management strategy. This additional position may allow for the future recruitment of casual staff for one-off assignments.

Wage bill utilisation for 2019 was stable compared to the previous year – even down slightly – due to high frictional vacancy.

With regard to operating appropriations, the commitment authorisation amount was revised downwards by the programme manager since the appropriations allocated in previous years were largely in surplus. In fact, more than one-third of the CGLPL's annual expenditures on site rents and charges have been incurred since 2015. On the other hand, the budget granted in 2019 was a bit tight and did not allow for multi-year commitments to operating expenditures.

The 2019 budget was increased by €40,000 (in terms of commitment authorisations and payment appropriations) by an amendment to the Finance Act for the financing of the system for increasing travel expenses.

In addition, the CGLPL carried out an exceptional operation to make the hosting of its computer data more reliable, in particular with regard to the requirements of the GDPR; for this purpose, a new appropriation request had been placed under the finance bill for 2019 but had not been accepted in the context of the government's trade-offs.

This operation included the following actions:

- switching the CGLPL's Intranet, the "virtual office" of its mobile inspectors, which is currently managed and hosted by an external service provider, from pooled hosting to dedicated hosting, and implementing data security guarantees;
- improving the reliability of internal hosting for the CGLPL's data and the data of its "ACROPOLIS" business application, focusing on old and obsolete hardware and licences that needed to be changed. External backups of ACROPOLIS data are conducted by the Intranet provider in the shared hosting space;

- creating a secure site-to-site link between the CGLPL's head office and the external host in order to secure exchanges between the two sites, and implementing the single identification procedure for all of the CGLPL's digital tools.

This €100,000 operation was partly financed through the management strategy and with exceptional funding from the programme, more specifically for commitment authorisations. It will need to be extended in 2020 by other, less costly IT modernisation operations (computer renovation and website redesign).

6.3.2 *Overview of the institution's financial management since 2015*

Jobs and wage bill appropriations stabilised since 2016

The Act of 26 May 2014 amending the Act of 30 October 2007 establishing a Chief Inspector of Places of Deprivation of Liberty has authorised scrutiny over the enforcement in practice of procedures for deporting foreign nationals up until their handing-over to the State of destination and established a right to an on-site visit of the people deprived of liberty who referred a case to the institution. The CGLPL has therefore seen an extension in its areas of competence which justified a certain increase in its staff over the 2015 financial year, completed in 2016, as well as an extension of its premises so as to accommodate additional workstations and lay out suitable meeting rooms.

In terms of staff expenses and jobs, the institution benefited from five new jobs created by the 2015 and 2016 Finance Acts on account of the new areas of competence bestowed by the Act of 26 May 2014. The institution's employment ceiling was increased as a result of these measures from 28 FTEs in 2014 to 33 in 2016.

The institution has a relatively significant wage bill for its employment ceiling insofar as it mainly recruits category A and A+ civil servants, who are highly experienced. Every year, around 5% of allocated appropriations are not used owing to frictional vacancy.

All 33 FTEs were filled by 2015. However, the employment ceiling has not been used up in full each year, due to frictional vacancy for some jobs as part of the institution's natural staff turnover.

Year	Employment ceiling voted	Jobs used
2015	31	28
2016	33	31
2017	33	31
2018	33	32
2019	34	32

Changes in wage bill appropriations and their utilisation are shown in the table below:

Change in the utilisation of wage bill appropriations					
Year	Wage bill appropriations voted in €m	Wage bill appropriations opened in €m	Wage bill appropriations used in €m	Rate of utilisation of opened appropriations	Change in utilisation vs. previous year
2015	3.769	3.750	3.264	87%	5%
2016	4.109	4.089	3.876	95%	19%
2017	4.085	4.065	3.911	96%	1%
2018	4.185	4.164	4.048	97%	4%
2019	4.211	4.202	3.918	93%	-3%

In 2015 and 2016, the institution's wage bill increased for the full-year coverage of five new jobs created in 2015. These jobs were created in 2015 but produced their full-year effect in 2016, resulting in a very significant increase in the utilisation of appropriations for that year.

In 2017, the CGLPL's appropriations decreased due to its participation in efforts to streamline public expenditures imposed under Programme 308. Not all of the appropriations allocated annually are spent in full, in particular due to sometimes long frictional vacancy for the recruitment of posted civil servants.

In 2018, the appropriations allocated under the Finance Act included two job transformation measures:

- the creation of a position of Chief Inspector of Places of Deprivation of Liberty in order to secure the legal situation of this authority.
- the granting of permanent status to a contract worker under the Sauvadet scheme.

The use of appropriations for 2018, up 4% versus the previous year, was mainly the result of these two job transformation measures. In addition, the institution's budget assumed an accrual for the 2017 financial year (the reimbursement of a quarter of staff provision).

In 2019, wage bill use appears to down due to the absence of accruals for the previous financial year and some frictional vacancy.

Generally speaking, the change in wage bill utilisation from one year to the next is also the result of two factors.

The age and job-skill coefficient is often positive, including at the recruitment level (recruitment of profiles with a higher category level or experience). With regard to trends in compensation for existing staff, efforts have been made since 2015 to upgrade the compensation of contract workers as part of the triennial compensation review.

Compensation for external inspectors, who participate in the institution's activities as public service employees, has increased since 2015, as shown in the table below, due to a measure to increase ceilings and scales of compensation to better remunerate their participation in the institution's life: attendance at meetings of the institution's members (monthly plenary meetings, biannual seminars) and at training courses, as well as participation in the groups in charge of writing thematic reports (Order of 27 January 2015 modifying the compensation limits for the CGLPL's external staff and Decision of 6 February 2015 setting the scale of allowances paid to the CGLPL's external staff).

	2015	2016	2017	2018	2019
Allowances for external staff	€174,375	€219,530	€241,270	€218,563	€231,505

Moreover, the number of external staff members increased between 2015 and 2016 (it rose from 21 to 26 external inspectors but remained stable thereafter).

Tight management of operating appropriations since 2015

Change in operating appropriations from 2015 to 2019									
Year	**CA appropriations voted in the Finance Act in €m**	**CA appropriations opened in €m**	**CA used in €m**	**Change in CA utilisation vs. previous year**	**PA appropriations voted in the Finance Act in €m**	**PA appropriations opened**	**Change in appropriations opened vs. previous year**	**Payment appropriations used**	**Change in PA utilisation vs. previous year**
2015	0.995	2.567	2.310	27%	1.075	1.044	4%	1.033	22%
2016	1.036	0.947	0.642	-72%	1.115	1.020	-2%	1.053	2%
2017	1.018	0.899	0.617	-4%	1.104	0.972	-5%	0.983	-7%
2018	1.018	0.988	0.723	17%	1.098	1.065	10%	1.057	8%
2019	0.740	0.719	0.796	8%	1.140	1.107	4%	1.140	8%

Compared with the wage bill, the institution's operating appropriations are relatively restricted in light of its workforce and activities, which entail extensive mobility on the part of inspectors. Operating expenditure is marked by a high level of rigidity, leaving little room for manoeuvre: expenditures on rented properties, which are unavoidable, account for over 1/3 of total expenditures. Mission expenses, which are difficult to reduce, make up another third.

The institution only has room for manoeuvre on a small proportion of expenditures, including general operating costs, entertainment expenses and data processing, as well as on funding of highlights of institutional life (seminars).

In 2015, in view of the increase in its staff numbers, the Chief Inspector of Places of Deprivation of Liberty extended its premises by leasing meeting facilities at 16/18 quai de la Loire in Paris, where the institution already occupied office space on the first floor. The high level of CA use was due to the commitment to the new six-year lease (€2.271m), on an extended surface area. This commitment was made possible by the carry-over of CA appropriations and the recycling of part of the commitment from the old lease. The new lease was granted with a three-month rent-free period, which made it possible to finance building work to fit out the new premises (€90,000 in CA and PA). The significant increase in the use of payment allocations was mainly the result of this lease on an extended surface area.

In addition, the use of staff travel expenses was very sustained (PA use of €0.277m, up 20% versus 2014 budget implementation), due to the increase in the number of inspectors, more frequent travel by the inspectors in charge of referrals to carry out on-site verifications, and the development of missions to inspect deportation measures for foreigners, which are quite expensive in that they involve travelling on international flights. Lastly, the number of missions increased considerably: 160 missions were carried out in 2015, versus 137 in 2014.

Operating appropriations to the institution in the form of payment appropriations steadily decreased over the 2015 to 2017 period, due to budget regulation measures imposed over the course of the financial year in 2016 and 2017.

In 2016, from a structural point of view, the CGLPL was affected by the full-year growth of its structure (+5 jobs, or +17%), which produced its full effects on operating expenditures, especially rental expenditures, since the extension of premises carried out in 2015 was not the subject of any new payment allocation measures. The CGLPL also had to assume deferrals of rental charges and institutional charges since the company managing the building had incorrectly invoiced the provisions for charges in 2015 and forgot to re-invoice the office tax.

The highly rigid structure of operating expenditures leaves little room for manoeuvre. Expenditures on rented properties, which are unavoidable and not subject to arbitration, account for more than one-third of total expenditures. One-third of appropriations are allocated to the funding of 150 inspection missions per year, in a context of expenditure that tends to be increasing (increase in the flat rate of hotel reimbursement per night from €60 to €70 in 2017, increase in rail transport costs). The institution only has room for manoeuvre on a small proportion of expenditures, including general operating costs, entertainment expenses and data processing, as well as on funding of highlights of institutional life (seminars). In view of a budgetary regulation measure that eliminated all room for manoeuvre, the institution benefited from the programme's support to complete the budget year and meet end-of-management-strategy payment deadlines.

In 2017, the anniversary colloquium for the Act that created the institution (for a total of €38,000), which was held on 17 and 18 December, was funded out of management savings, with some external financing (in particular for international guests' travel expenses, by the Ministry for Europe and Foreign Affairs). However, the financing of this colloquium generated a shift in expenses over the 2018 financial year, particularly for staff travel expenses in November and December and for general operations.

The CGLPL experienced a sounder management strategy in 2018 with a reduction in the appropriations set aside at the beginning of the management period, which made it easier to manage the budget than in the 2016 and 2017 financial years. The programme's manager enabled the CGLPL to mobilise part of its reserve for management contingencies to clear the cost difference from 2017, in a context of budgetary difficulties.

Management in 2019 has not posed any particular problems, except for an excessive reduction in the commitment authorisation budget, which excludes any multiannual commitment by the institution to management expenditures, sometimes necessary in the context of accessing pooled inter-ministerial contracts. An exceptional IT upgrade operation was made possible (€90,000) thanks to management savings, the use of the precautionary reserve and the programme's exceptional contributions, particularly for commitment authorisations.

Thus, since 2016, amid an appropriations shortfall and due to its highly rigid operating expenses, the institution has had to make every effort to streamline its expenditure in order to keep within the appropriations budget allocated, including:

- keeping the general operating expenses budget at levels below that of 2014, before expansion of the institution's workforce and notwithstanding the increase in postal charges and the cost of translating referral letters;
- a close watch on consumption of mission expenses, with economising on accommodation expenses and anticipation of airfares – not easy to do, however, in the context of accompanying forced repatriations of foreigners.

The procurement procedures (MAPA) conducted in 2018 by the CGLPL to cater to needs that are not met by shared procurement (media monitoring and cleaning of premises) have brought down the cost of these services compared with previous contracts. Renewal of the media monitoring contract enabled 12% savings to be obtained on the former contract, and renewal of the cleaning contract enabled 15% savings. The savings made, modest in absolute value (€4,000 in all), have been reassigned to priority expense items, including IT and securing the CGLPL's information systems.

Chapter 6

"To the Chief Inspector..."

Letters received

Involuntary psychiatric care

"To the Chief Inspector,

I am writing to draw your attention to my situation:

(...) I am 36-years old and I have a 5-year-old child. I've been in hospital since my daughter was little, (...) I was already sick, but I didn't realise it.

(...) I ended up going to the UMD of *A*. I stayed there for 4 years.

I was taking medication and had weekly medical interviews. I played football at *B.* (we would walk there with 2 nurses). I would go to my uncle's house, take part in bowling parties, and go out for dinner.

Then my discharge from *A*. was decided on by the expert doctors. Since my mother was moving to my brother's unoccupied flat in *C.*, I joined the psychiatric unit in the *C.* sector.

I have been in the psychiatric clinical unit for 10 months and my rights have completely disappeared. I'm even denied, because I'm in SPDRE, any outings to the institution's cafeteria, even accompanied by two nurses.

I've contacted the Liberty Judge. I've received a second opinion once over a 10-month period. I spend my days in the unit between my bed, the TV room and the dining room.

I just have the right to receive visits and talk on the phone. This is fortunate, because my daughter calls me twice a month.

I feel better, I understand what happened to me, and I am taking care of myself.

It's hard and despairing at the same time to wait – but what for what?"

Detention conditions

"To the Chief Inspector,

I am writing to bring to your attention the following: the lack of assistance and lack of organisation in the remand prison, the substandard human relations and living conditions in the cells, and the hygiene encountered on a daily basis (...).

I regularly find myself unable to access the telephone – the booths in the exercise yards are out of order and access to those in the building depends on the goodwill of the prison staff who are tired due to understaffing. Usage schedules for the booths are rarely respected. Teaching periods are always cut short by 10 to 15 minutes or even not respected. As regards the state of the cells, the situation is appalling for the country of human rights: there are parasites, crumbling walls, rotten mattresses, and old and dilapidated taps; also, bedsheets are cleaned irregularly. The state of the collective showers is no better, characterised by mould and a layer of dirt on the walls. As for the state of the roof leading to the exercise yard, it has a compact layer of waste where rats walk around, and a smell worthy of a rubbish dump. These conditions are not humane for my country and end up destroying my morale; what do I have to do for a bit of dignity?

Thank you very much"

Consequences of lack of preparation for reintegration

"Subject: Acknowledgement, and about the most recent death at B.

Adeline Hazan

Chief Inspector of Places of Deprivation of Liberty

First of all, I would like to thank you for your support over the last few years. The help you have provided has been invaluable, and I hope that in the future, other prisoners will be able to count on your assistance.

My time here is almost up. On the 19th of August I will be a free man once again.

In response to your letter (...), they made me suffer for a long time before giving me the parcel. Concerning my mail, I was able to see the Defender of Rights. Your intervention allowed me to obtain my mail without any problems.

At B, there are lots of problems. The first is the money that accounting takes from us. Since September 2018, they've said I owe €53.42 in medical expenses. But I've received the support stockings in question, so if they weren't paid for, how did I receive them? A lot of money disappears from prisoners' accounts. We don't know where are money is.

Since I've been at B, there have been several deaths and the last one was a huge wake-up call. (...) A prisoner set fire to his cell to denounce the cruel lack of rehabilitation assistance (...), the SPIPs in question don't help prisoners reintegrate. It's ridiculous. Only the chaplains provide a concrete solution for the rehabilitation of prisoners. The newspapers say that (...) it's a rehabilitation model. That's false – totally false. That's why the prisoner set himself on fire – to point out this failing system of rehabilitation. If you have no family, and no friends to help you, you end up homeless, with nothing.

They sold me a dream with their AFPA test. It wasn't followed by any training (...).

Fortunately I'm getting out soon, because this whole system drives the weak-minded crazy, so their best way out is in a body bag, to avoid a greater form of suffering than being detained – loneliness. For prisoners, the street is a nightmare, and so most of them do everything they can to return, because in a detention centre you have a bed, electricity, water and even heating in winter, and of course 2 meals a day, plus the possibility to work a bit.

Whereas outside the world seems so big – we tend to lose our footing, because there's no rehabilitation.

I have follow-up planned after my detention, but I have no address for it. My SPIP clearly said that she couldn't do anything at all. I sincerely think (this is my personal opinion) that it's convenient for them not to rehabilitate prisoners. In that way, they're sure that you'll have to do everything possible to go back to prison. Tell me, where's the rehabilitation process? B is really a scam. All you have to do is scratch the surface and you'll find many problems.

Yours faithfully"

Treatment conditions for minors in a juvenile detention centre

"Ms Hazan,

The CEF in (...) has already closed [several times]. There are always problems in the centre – major hygiene problems in the kitchen, recurrent fights between young people, and young people who are beaten up by others and injured. Nothing is ever done to resolve the situation.

Young people often run away, and there are doors and fire installations that no longer work. Therefore, the young people are not safe. Nothing is ever done to fix this situation. Knives are often found in the CEF, just about everywhere, and nothing is done to resolve the situation.

Drug trafficking takes place in the institution, and nothing is done to resolve the situation. On the surface, everything seems fine, but when you look closer, alarming situations occur again and again without anyone wondering about the daily lives of the young people. The situation is serious.

Thank you, Ms Hazan, for reading this letter, which should be taken as a warning for a CEF in which deprivation takes up much more space than freedom and where the rights and safety of young people are forgotten.

Sincerely"

Treatment conditions in a detention centre for illegal immigrants

"Subject: Requesting support from the CGLPL for arbitrary and abusive detention

Hello, my name is N. I was born (...) in Iraq and am being detained at the detention centre for illegal immigrants in (...). I would like to denounce a serious arbitrary and abusive decision made by the Prefect against me.

On 20 December, I went before a commission for expulsion from French territory. When I received the summons, I specified that I was to be assisted by my lawyer, to defend my fundamental rights. But they had me appear without any defence and without a lawyer. They didn't even give me the floor to speak. This was an infringement and violation of my rights, and was a defect in form.

The commission gave a favourable expulsion opinion without studying my file properly, because I am under judicial supervision and I am forbidden to leave French territory. This is already contradictory. If I had gone with a lawyer and if they had let me defend myself, I would have pleaded as follows: "the separation of public powers prohibits an administrative procedure from obstructing a judicial procedure". Therefore, the prefectural expulsion order would never have been pronounced.

When I got out of prison, I was supposed to check in at the police station, in accordance with judicial supervision, and I did so for 14 months, but the Prefect of (...) made an arbitrary, abusive and unfair decision by placing me in the detention centre for illegal immigrants.

Now I'm waiting for nothing. They violated my freedom for no reason. I have all the proof and supporting documents.

I look forward to hearing from you"

The same person wrote to the CGLPL again a few days later.

"Subject: Denouncing another person for not assisting a person in danger

I am also denouncing a situation, because at the CRA of (...) following 2 suicide attempts, one person was shocked. He had serious problems. For 4 days he stopped eating, stopped moving, and stopped responding. The police kept coming to look for him when his family and his wife were visiting him. He was so traumatised and shocked that he didn't understand what was going on around him. He didn't go to visits. His situation had been reported several times but they didn't take him seriously. His condition got much worse, so I went to the infirmary and I told them: "this guy has been seriously shocked for 4 days and you aren't taking him seriously. If something happens to him, I can attest to negligence by you and the police". So he was taken to the hospital, and now I've just learned that he's freaked out and he's stuck...!

It's true that this person has no papers, but he has rights... This is a second case of non-assistance to a person in danger.

I filmed the person and I filmed when we rang the bell and set off the alarm. There was no answer. The police asked us to keep an eye on him. It's not up to us to do that. For Mr A, they asked us the same thing, to keep an eye on him. Can you can imagine if Mr A died? The prefect placed him in detention against the advice of the doctor and the psychiatrist... I took a photo of a document providing proof that he has serious psychological problems.

I would like to sound the alarm about these conditions, in the name of all the people here. We accept the fact that we don't have papers, and we respect the prefectural expulsion order, but the administration needs to respect our lives.

I look forward to hearing from you.

I remain at your disposal for any further information.

Thank you for your consideration and kindness in examining my case. Sincere regards"

Chapter 7

Places of deprivation of liberty in France: statistics

By Nicolas Fischer[110]

CNRS – Centre for Sociological Research on Law and Penal Institutions

This data uses principal statistical sources including data on measures of deprivation of liberty and the persons concerned. Sources were described in more detail in section 10 of the Chief Inspector of Places of Deprivation of Liberty's reports for 2009 and 2011. Changes noted were commented upon in these reports, to which the reader is invited to refer.

As for the other reports, this edition updates the same basic data on the basis of availability of the various sources. The tables and graphs are accompanied by informative notes on methods and short comments.

Bringing together in one single document data relating to deprivation of liberty in the penal field (custody and incarceration), health field (involuntary psychiatric care) and the field of deportation of foreign nationals (the execution of measures and immigration detention) should not mask the fact that there are major differences in statistical concepts characterising them.

It is still important to ask oneself what sort of numbering methods are being used: moving from liberty to deprivation of liberty (flows of persons or measures) or indeed counting persons deprived of their liberty at any given moment. One well understands that, depending on field, the connection between the two is not at all the same, due to durations of deprivation of liberty which differ widely for remand, detention, immigration detention or involuntary care. Given the state of the available sources, it is not possible to draw a parallel of these magnitudes for the various places of deprivation of liberty in a single table.

This complexity has the merit of recalling the limitations of statistics: far from reflecting an absolute "truth", the figures depend on the social conditions of registration of the activity they describe, and on the tools that organise this registration within the source administrations. To conclude, they also depend on the choices made by the researchers who compile them and put them in series in order to present them.

[110] This year once again, the author would like to extend his sincere thanks to Bruno Aubusson de Cavarlay (CNRS-Cesdip), author of the statistics shown in the reports from 2009 to 2014, for his advice and invaluable help. This chapter is an update of the statistical series that he initially created, and also includes comments that he suggested.

1. Deprivation of liberty in criminal cases

1.1 Number of persons implicated in offences, police custody measures and persons imprisoned

PERIOD	PERSONS IMPLICATED IN OFFENCES	CUSTODY MEASURES	which lasted 24 hours or less	which lasted more than 24 hours	IMPRISONED PERSONS
1975-1979	593,005	221,598	193,875	27,724	79,554
1980-1984	806,064	294,115	251,119	42,997	95,885
1985-1989	809,795	327,190	270,196	56,994	92,053
1990-1994	740,619	346,266	284,901	61,365	80,149
1995-1999	796,675	388,895	329,986	58,910	64,219
2000	834,549	364,535	306,604	57,931	53,806
2001	835,839	336,718	280,883	55,835	50,546
2002	906,969	381,342	312,341	69,001	60,998
2003	956,423	426,671	347,749	78,922	63,672
2004	1,017,940	472,064	386,080	85,984	66,898
2005	1,066,902	498,555	404,701	93,854	67,433
2006	1,100,398	530,994	435,336	95,658	63,794
2007	1,128,871	562,083	461,417	100,666	62,153
2008	1,172,393	577,816	477,223	100,593	62,403
2009	1,174,837	580,108	479,728	100,380	59,933
2010	146,315	523,069	427,756	95,313	60,752
2011	1,172,547	453,817	366,833	86,984	61,274
2012	1,152,159	380,374	298,228	82,146	63,090
2013	1,106,022	365,368	284,865	80,503	55,629
2014	1,111,882	364,911	284,926	79,985	52,484
2015	1,089,782	352,897	272,065	80,832	34,814
2016	1,066,216	360,423	268,139	92,284	31,227
2017	1,080,440	367,479	268,261	99,218	30,040
2018	1,115,525	395,192	287,073	108,119	30,622

Note: The sharp drop in numbers of people imprisoned from 2015 onwards appears above all to be due to the change in the way data is collected, following digitisation of procedural management as of this date. This figure used to include people referred to the State Prosecutor's Office but who were only subject to detainment in cells pending appearance before a judge. The new definition now only includes imprisoned persons. In addition to this change in counting method is the disparate filling-out of police databases: this information is now considered to be of secondary importance and is not always filled in, the result being that the statistics vary markedly from year to year.

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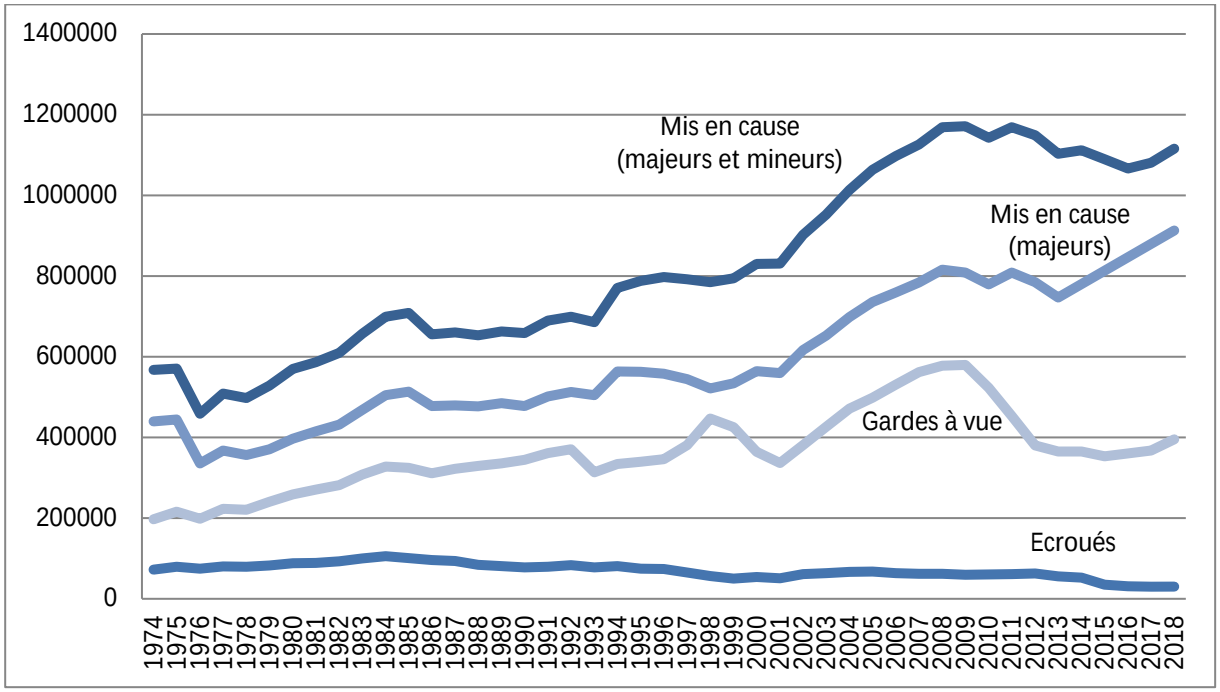
1.2 Trends in numbers of persons implicated in offences, police custody measures and persons imprisoned

Source: État 4001, Ministry of the Interior, series B. Aubusson.

Scope: Crimes and offences reported to the State Prosecutor's Office by the police and gendarmerie (apart from traffic offences). Bad cheques are also excluded for reasons of homogeneity. Mainland France.



Note: The figures for implicated adults have not been updated for the years 2014 to 2017, which explains the linearity of the curve for this period. While the increase described is very real (from 746,542 persons implicated in 2014 to 912,882 in 2018), it is likely to have been less steady.

When counting persons involved in criminal activity or an offence in police investigative procedures ("persons implicated"), one single person may be involved in any one year for different cases and counted several times. For police custody, the charges decided upon are counted (there being the possibility of a number of successive charges for one single person in a case). The source excludes implication for fines, driving offences and offences uncovered by the specialist services (customs, labour inspectorate, fraud investigation, etc.).

The "Persons imprisoned" column shows the decision at the end of the custody period, the majority of measures resulting in release followed or not afterwards by court proceedings. The persons "imprisoned" have, by necessity, been presented before the court at the end of custody (brought before the court) but not all of the referred accused are then imprisoned by court order. The State Prosecutor's Office or court may decide to free the accused. The problems associated with counts of persons imprisoned in the police statistics for a number of years now are still evident: in some police jurisdictions, all referred accused are counted or have been counted as imprisoned since the investigating police department does not know the results of the appearance before a judge or public prosecutor and possibly the court appearance where individuals are held by another department (when a case is filed before the courts). It is however surprising to see existing, at criminal investigating department level (national police and gendarmerie), the collection of statistical information relating to criminal justice. But for the time being there are no equivalent statistics at public prosecutor level.

1.3 Number of police custody measures and rate of use according to type of offence

Source: État 4001, Ministry of the Interior, ONDRP after 2009 / CSDP 2015-2017 Report, series B. Aubusson.

Scope: Crimes and offences reported to the State Prosecutor's Office by the police and gendarmerie (apart from traffic offences), Mainland France.

Type of offence	1994			2008			2018		
	Persons implicated in offences	Custody measures	%	Persons implicated in offences	Custody measures	%	Persons implicated in offences	Custody measures	%
Homicide	2,075	2,401	*115.7%*	1,819	2,134	*117.3%*	2,633	2,520	*95.7%*
Robberies	18,618	14,044	*75.4%*	20,058	18,290	*91.2%*	15,336	13,113	*85.5%*
Drug trafficking	13,314	11,543	*86.7%*	23,160	15,570	*67.2%*	16,347	14,686	*89.8%*
Procuring (prostitution)	901	976	*108.3%*	759	768	*101.2%*	1,019	781	*76.6%*
Insulting and violence against government officials	21,535	10,670	*49.5%*	42,348	29,574	*69.8%*	33,984	25,791	*75.9%*
Burglaries	55,272	34,611	*62.6%*	36,692	27,485	*74.9%*	38561	25234	*65.4%*
Auto larceny	35,033	22,879	*65.3%*	20,714	16,188	*78.2%*	15,708	9,817	*62.5%*
Fire, explosives	2,906	1,699	*58.5%*	7,881	6,249	*79.3%*	6,562	4,458	*67.9%*
Vehicle theft	40,076	24,721	*61.7%*	20,764	15,654	*75.4%*	11,445	6,793	*59.3%*
Sexual assaults	10,943	8,132	*74.3%*	14,969	12,242	*81.8%*	25,613	13,621	*53.2%*
Other behaviours	5,186	2,637	*50.8%*	12,095	8,660	*71.6%*	8,087	3,791	*46.9%*
Foreigners	48,514	37,389	*77.1%*	119,761	82,084	*68.5%*	12,289	6,854	*55.8%*
False documents	9,368	4,249	*45.4%*	8,260	4,777	*57.8%*	10,627	4,434	*41.7%*
Other thefts	89,278	40,032	*44.8%*	113,808	61,689	*54.2%*	120,355	51,127	*42.5%*
Assault and battery	50,209	14,766	*29.4%*	150,264	73,141	*48.7%*	162,957	64,599	*39.6%*
Shoplifting	55,654	11,082	*19.9%*	58,674	20,661	*35.2%*	50,328	17,842	*35.5%*
Weapons	12,117	5,928	*48.9%*	23,455	10,103	*43.1%*	24,326	9,068	*37.3%*
Drug use	55,505	32,824	*59.1%*	149,753	68,711	*45.9%*	172,071	48,015	*27.9%*
Destruction, damage	45,591	12,453	*27.3%*	74,115	29,319	*39.6%*	47,398	11,772	*24.8%*
Other trespass to persons	28,094	5,920	*21.1%*	65,066	20,511	*31.5%*	94,775	21,446	*22.6%*
Fraud, breach of trust	54,866	17,115	*31.2%*	63,123	21,916	*34.7%*	63,944	8,135	*12.7%*
Frauds, economic crime	40,353	6,636	*16.4%*	33,334	9,700	*29.1%*	35,123	5,076	*14.4%*
Other general policies	15,524	3,028	*19.5%*	6,190	926	*15.0%*	27,777	19,962	*71.8%*
Family, child	27,893	1,707	*6.1%*	43,121	4,176	*9.7%*	70,965	5,335	*7.5%*
Unpaid cheques	4,803	431	*9.0%*	3,135	457	*14.6%*	1,809	26	*1.4%*
Total	775,701	334,785	*43.2%*	1,172,393	577,816	*49.3%*	1,115,525	395,192	*35.4%*
Total without unpaid cheques	770,898	334,354	*43.4%*	1,169,258	577,359	*49.4%*	1,113,716	395,166	*35.4%*

Note: In drawing up this table, the headings for the offence names (known as "Index 107") have been restated in a wider way to attenuate breaks relating to changes in Index 107 or changes in recording practices. The heading "unpaid cheques" includes cheques without funds, before they were

decriminalised in 1992. A large number of persons arrested was shown under this heading (over 200,000 in the mid-1980s) and so as not to obscure results relating to custody, very seldom used in that respect, this figure has been drawn up excluding them.

Comment: The table by category of offence confirms the general effect of the Act of 14 April 2011 which had been preceded by the decision of the Constitutional Council (30 July 2010) referred a priority preliminary ruling on the issue of the unconstitutionality (QPC) of the articles of the Code of Criminal Procedure relating to custody. After a maximum recorded in 2009, use of this measure decreased from 2010 for all types of offences but differences still remain between them. For offences showing the highest rates of custody use (the first six lines in the table), the reduction in this rate is proportionately smaller. It is also worth remarking, in compliance with legislative developments, that the decrease in custody, in absolute numbers and by proportion, primarily concerns offences relating to foreign nationals staying in the country and the use of drugs. In the case of foreign nationals' residence, the drop has been extended under the effect of its replacement by detention for verification of identity in 2011 (see section 3.1).

1.4 Placements in prisons according to criminal category and estimates of placements in detention ("flow")

Source: Quarterly Statistics of the Population dealt with in Penal Institutions, French Ministry of Justice, Prison Administration Department, PMJ5 (1970-2018). Series B. Aubusson.

Scope: Penal institutions in Mainland France (1970-2000) and then for France and its Overseas territories.

Period	Remand prisoners: immediate hearing	Remand prisoners: preparation of case for trial	Convicted prisoners	Of which convicted prisoners placed in detention	Imprisonment for debt(*)	Total
Mainland France						
1970-1974	12,551	44,826	14,181	-	2,778	74,335
1975-1979	11,963	49,360	16,755	-	2,601	80,679
1980-1984	10,406	58,441	14,747	-	1,994	85,587
1985-1989	10,067	55,547	17,828	-	753	84,195
1990-1994	19,153	45,868	18,859	-	319	84,199
1995-1999	19,783	37,102	20,018	-	83	76,986
2000	19,419	28,583	17,192	-	57	65,251
All of France						
2000	20,539	30,424	17,742	n.d.	60	68,765
2001	21,477	24,994	20,802	n.d.	35	67,308
2002	27,078	31,332	23,080	n.d.	43	81,533
2003	28,616	30,732	22,538	n.d.	19	81,905
2004	27,755	30,836	26,108	n.d.	11	84,710
2005	29,951	30,997	24,588	n.d.	4	85,540
2006	27,596	29,156	29,828	24,650	14	86,594
2007	26,927	28,636	34,691	27,436	16	90,270
2008	24,231	27,884	36,909	27,535	30	89,054
2009	22,085	25,976	36,274	24,673	19	84,354
2010	21,310	26,095	35,237	21,718	83	82,725
2011	21,432	25,883	40,627	24,704	116	88,058
2012	21,133	25,543	44,259	26,038	47	90,982
2013	21,250	25,748	42,218	22,747	74	89,290
2014	46,707		43,898	24,847	60	90,665
2015	-		-	-	-	-
2016	55,516		40,842	-	-	96,358
2017	55,320		40,639	-	-	95,959
2018	56,794		42,017	-	-	98,811

(*) Imprisonment of solvent persons for non-payment of certain fines (*contrainte judiciaire*) as from 2005

Note: No data is yet available for 2015, due to the many modifications in prison data collection made over the course of that year (adoption of GENESIS management software in prisons and modification of the method for calculating numbers of prison entries). These changes also affected the method for counting placements in prisons, since data concerning convicted prisoners placed in detention and imprisonment for debt are no longer available (see below, 1.5).

Reference: Temporary Detention Surveillance Committee, *2015-2016 Report*, Paris, CSDP, 2016.

Pour les chiffres 2014-2019 présentés ici, l'unité de compte est la décision d'écrou. Ce placement juridique sous la responsabilité d'un établissement pénitentiaire n'implique en effet plus toujours un hébergement. According to an estimate by the Prison Administration Department (PMJ5) relating to the whole of France, placements in detention (imprisonment without adjustment of sentence *ab initio* or within seven days) represented 78% of imprisonments in 2013. This percentage was still 94% in 2006. Before the introduction, at the start of the 2000s, of electronic surveillance for prisoners (Act of 19 December 1997), it was almost 100%.

Although these figures are no longer updated, this estimate of placements in detention enables, from 2006 to 2014 in this table, a series to be offered for those arrested, sentenced and placed in detention, that is, according to the methodology used, not having an adjustment of sentence *ab initio* or within seven days following imprisonment (external placement or placement under electronic surveillance).

Comment: The gaps in the 2015-2018 series make it difficult to assess trends over the last four years. For previous years, it can be seen that the average level of placements in detention of those sentenced has not fundamentally changed since the development of sentence adjustment. Even though, from 2014 onwards, we only have overall statistics for all remand prisoners, the long-term drop in placements in temporary detention in the context of committal proceedings seems to have arrived at a ceiling and those making their appearance in court immediately are also stabilising. The drop in "imprisoned" persons in police statistics has not been confirmed (but the definition is not the same). Lastly, placements in detention of "remand prisoners" (in the context of committal proceedings or immediate appearance in court before final sentencing) are clearly the majority among those detained over the course of this period.

References: These series, as with all those from the prison statistics, have been reconstituted by Bruno Aubusson de Cavarlay (Cesdip / CNRS) for the earliest period, from printed sources. For more recent years – with the exception, as indicated, of figures from 2015 – they are now regularly distributed by the research and foresight office of the Prison Administration Department (DAP-PMJ5) in a document entitled "Statistical series of persons appearing before the courts" (*Séries statistiques des personnes placées sous main de justice*). For 2016 to 2019, we have also drawn on the statistics published in the brochure *Les Chiffres clés de la justice*, published by the Ministry of Justice (pp. 26 and after for prison administration data).

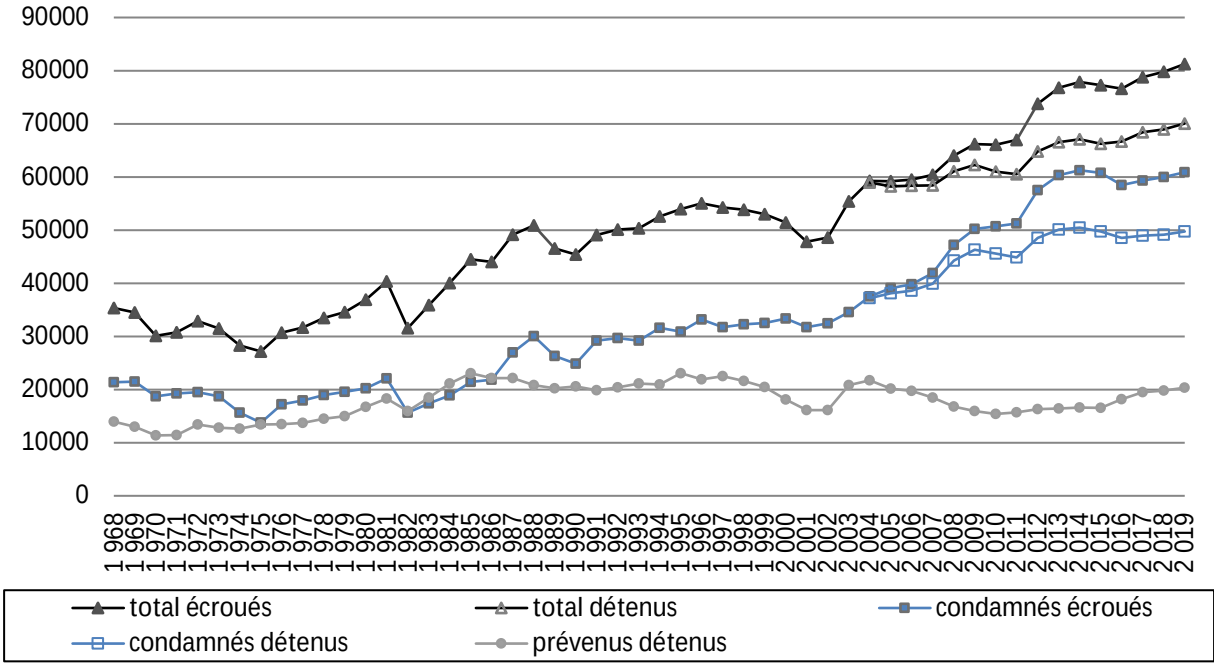
In relation to temporary detention, other series are presented in the 2015-2018 reports of the Temporary Detention Surveillance Committee[111].

[111] *Available online*: http://www.justice.gouv.fr/le-ministere-de-la-justice-10017/direction-des-affaires-criminelles-et-des-graces-10024/rapport-2018-de-la-commission-de-suivi-de-la-detention-provisoire-31664.html

1.5 Population serving sentences or on remand and prisoners at 1 January of each year ("stocks")

Source: Monthly Statistics of the Population of Persons Serving Sentences or on Remand and Prisoners in France, French Ministry of Justice, *Annuaire statistique de la Justice* and the Prison Administration Department, PMJ5.

Scope: All penal institutions, France and its Overseas territories (progressive inclusion of French Overseas territories as from 1990, completed in 2003).



Note: as of 2004, the gap between the two curves for those sentenced represents all of those sentenced and imprisoned under remission of sentence without accommodation (placement externally or placement under electronic surveillance); this gap will be found for total figures of those imprisoned. Remand prisoners (for immediate committal or court appearance, awaiting sentence or final order) are all included.

Comment: Over the past 40 years, the number of prisoners sentenced has grown steadily. The growth profile of the number of "remand" (untried) prisoners (detained before final judgement) is different: stable between 1985 and 1997, it declined until 2010 (although with a sharp increase again between 2002 and 2004). It then climbs slowly, rising since 2016, whereas the number of convicted prisoners is tending to stagnate. Although no immediate explanation is forthcoming for this increase, the 2015-2016 report of the Temporary Detention Surveillance Committee interestingly tied it in with the November 2015 terrorist attacks, not least because of judges' increased reluctance to release citizens implicated in this type of case, or presenting similar profiles. The 2017-2018 report further observes the increase in placements in temporary detention of children (particularly, again, in terrorism cases), and more generally their rise for certain types of offence: those in connection with immediate committal, and temporary detentions for crimes, which are tending to get longer because the superior criminal courts are so swamped with cases. On this point, see the Temporary Detention Surveillance Committee, *2017-2018 Report*, Paris, CSDP, 2016, pp. 12 and after.

1.6 Distribution of convicted persons according to duration of the sentence being served (including adjusted sentencing without accommodation)

Source: Quarterly Statistics of the Population dealt with in Penal Institutions, French Ministry of Justice, Prison Administration Department, PMJ5.

Scope: all persons imprisoned; 1970-1980, penal institutions in Mainland France, France and its Overseas territories from 1980 (progressive inclusion of French Overseas territories as from 1990, completed in 2003).

The dates indicated represent the situation on 1 January of each year in question.

Year	Duration of the sentence: number of prisoners					Percentage distribution			
	Less than 1 year	1 to less than 3 years	3 to less than 5 years	5 or more years	All convicted prisoners	Less than 1 year	1 to less than 3 years	3 to less than 5 years	5 or more years
1970	6,239	5,459	1,660	4,616	17,974				
1980	7,210	5,169	1,713	5,324	19,416				
1980	7,427	5,316	1,791	5,662	20,196				
1990	6,992	5,913	3,084	8,642	24,631				
2000	8,365	6,766	4,139	13,856	33,126				
2010	17,445	14,174	5,628	13,442	50,689				
2011	17,535	14,780	5,709	13,248	51,272				
2012	20,641	17,226	6,202	13,428	57,497				
2013	21,961	18,169	6,647	13,563	60,340				
2014	22,213	18,288	6,868	13,902	61,261	36.3%	29.9%	11.2%	22.7%
2015	22,078	17,583	7,122	13,959	60,742				
2016	19,374	10,061	12,946	16,062	58,443	**33.1%**	**17.2%**	**22.2%**	**17.2%**
2017	17,524	11,692	10,502	13,357	59,298	**29.5%**	**19.7%**	**17.7%**	**22.5%**
2018	17,955	11,860	13,458	16,208	59,481				

Note: Due to the change in software already mentioned, the quarterly statistics published by the DAP adopted a slightly different calculation method as of the 2017 edition (2016 figures). The reference periods for lengths of sentences have been partly modified, with significant effects on certain figures: for sentences of between one and five years, it makes it difficult to compare figures for 2016 to 2018 with those of previous years. This is why we have chosen to present them in a separate table, taking the new DAP criteria as reference. The quarterly statistics updated for 2018 present different figures from the previous statistics for the years 2016 and 2017; it is these recalculated figures that we have reproduced here. Lastly, unfortunately, no updated version of these figures has been published for 2019.

For the previous years, this analysis of convicted offenders includes those whose sentences were adjusted, without accommodation. On 1 January 2015, out of the 60,742 individuals sentenced to imprisonment, 12,689 were not detained, under adjusted sentences, and 2,659 were in day parole or placed in external accommodation. Therefore 45,394 of those sentenced were detained without adjustment of sentence: the analysis of this group by the quantum of sentence being carried out is not shown by this statistical source.

Comment: This table shows the trend reversing from 2000. During the last three decades of the 20th century, the growth in the number of prisoners serving long sentences was constant and marked. The proactive policy of developing the adjustment of short sentences (firstly less than one year and then less than two years) follows fresh growth in short sentencing demonstrated by the statistics on sentencing, whilst long sentences have stabilised at a high level. The reconciliation between counting movements and those in stock shows that the average prison term doubled between 1970 and 2008 (2009 CGLPL Report, Page 251, note 2 in the French version). Indicators then continued to increase to 10.4 months in 2013. This increase is confirmed for the average duration of detention within its strict meaning, which increased from 8.6 months in 2006 to 11.5 months in 2013 and subsequently stabilised (10 months in 2015; 9.7 and 9.9 months in 2016 and 2017 respectively) (DAP-PMJ5, 2014-2018).

Additional reference: *"L'aménagement des peines : compter autrement ? Perspectives de long terme"* (Adjustment of sentences: another way of counting? Long-term outlook), *Criminocorpus*, 2013 (online: http://criminocorpus.revues.org/2477).

1.7 Incarceration densities and overcrowding of penal institutions

Statistical data used by the Prison Administration Department – total number of detainees at any given time and operational capacity of institutions – enables it to calculate an "incarceration density" defined as the comparison between these two indicators (numbers present per 100 operational places).

The density for all institutions – – 115 on 1 October 2019 – has no great significance as the indicator varies a great deal according to the type of institution: 90.4 for detention centres and detention centre wings, 74.4 for long-stay prisons and long-stay prison wings, and 68 for prisons for minors, whilst for remand prisons and remand wings, the average density was 138.

In addition, the average by type of institution includes variations within each category:

- out of the 98 sentencing institutions, only eight had a density higher than 100, including three detention centre wings in overseas territories and four open prisons (3) and centres for adjusted sentences (1) in Ile-de-France, plus the Marseille-Les Baumettes wing for adjusted sentences. This overcrowding concerned 411 detainees in mainland France and 148 in Overseas France.
- of the 133 remand prisons and remand wings, 20 had a density lower than or equal to 100 and 113 had a density greater than 100, of which 44 had a density higher than 150. Three remand prisons and remand wings exceeded 200, i.e. a population of prisoners more than double the number of operational places (all three in mainland France).

Overcrowding of prison institutions is therefore limited to remand prisons by application of a *numerus clausus* to sentencing institutions which are a little below declared operating capacity. For remand prisons, the increase in operational capacity (+2,008 places between 1 January 2005 and 1 January 2015) was less than that in the number of prisoners (+3,742) and density was therefore higher in 2015 than in 2005.

Overcrowding of an institution has consequences for all prisoners in it, even if some cells have normal occupation levels (new arrivals' wing, solitary confinement wing, etc.). It is therefore relevant to note the proportion of prisoners based on the extent of occupation of the remand prison where they are. On 1 January 2019, the vast majority were once again affected by this situation of overcrowding (94%); over a third (37%) of detainees in remand prisons or remand wings were in institutions where the density was greater than or equal to 150.

Reference: *"Statistiques pénitentiaires et parc carcéral, entre désencombrement et sur-occupation (1996-2012)"* (Prison statistics and total incarceration, between clearance and overcrowding (1996-2012)), *Criminocorpus*, 2014 (online: http://criminocorpus.revues.org/2734).

1.8 Distribution of prisoners in remand prisons by institution density

Source: Numbers, monthly statistics of persons imprisoned (DAP-PMJ5), DAP-EMS1, operational places.

Scope: France and its Overseas territories, remand prisons and remand wings, prisoners.

Remand prisons and remand wings on 01/01	Total		Density > 100		Density > 120		Density > 150		Density > 200		
	Number of prisoners	%	Number of prisoners	Share of total %	Number of prisoners	Share of total %	Number of prisoners	Share of total %	Number of prisoners	Share of total %	**Number of operational places**
2005	41,063	100	38,777	94%	27,907	68%	12,227	30%	3,014	7%	31,768
2006	40,910	100	36,785	90%	23,431	57%	10,303	25%	1,498	4%	32,625
2007	40,653	100	36,337	89%	27,156	67%	10,592	26%	1,769	4%	31,792
2008	42,860	100	40,123	94%	33,966	79%	13,273	31%	2,600	6%	31,582
2009	43,680	100	41,860	96%	35,793	82%	14,324	33%	1,782	4%	32,240
2010	41,401	100	37,321	90%	25,606	62%	8,550	21%	1,268	3%	33,265
2011	40,437	100	32,665	81%	27,137	67%	4,872	12%	549	1%	34,028
2012	43,929	100	38,850	88%	34,412	78%	9,550	22%	1,853	4%	34,228
2013	45,128	100	42,356	94%	35,369	78%	11,216	25%	2,241	5%	33,866
2014	45,580	100	41,579	91%	37,330	82%	16,279	36%	1,714	4%	33,878
2015	44,805	100	41,675	93%	33,915	76%	17,850	40%	1,092	2%	33,776
2016	47,152	100	30,609	65%	26,896	57%	23,667	50%	1,469	3%	33,369
2017	47,656	100	43,213	91%	38,626	81%	18,109	38%	1,321	3%	33,532
2018	48,536	100	45,843	94%	39,751	82%	21,478	44%	1,212	2%	34,143
2019	47,806	100	44,985	94%	39,800	83%	17,856	37%	793	1.5%	34,165

2. Involuntary committal for psychiatric treatment

2.1 Trends in measures of involuntary committal to psychiatric hospitalisation from 2006 to 2017

Source: DREES, SAE ("Annual Statistics on Health Institutions"), table Q9.2.

Scope: All institutions, Mainland France and French Overseas *départements*

Days of hospitalisation according to the type of measure

	Hospitalisation at the request of a third party (HDT) since the Act of 5 July 2011 Committal for psychiatric treatment at the request of a third party (ASPDT)	Hospitalisation by court order (HO) (Art. L.3213-1 and L.3213-2) since the Act of 5 July 2011 Committal for psychiatric treatment at the request of a representative of the State (ASPDRE)	Psychiatric care for imminent danger	Hospitalisation by court order / ASPDRE according to Art. 122-1 of the CPP and Article L.3213-7 of the CSP	Hospitalisation by judicial court order according to Article 706-135 of the CPP	Provisional Committal Order	Hospitalisation according to Art. D.398 of the CPP (prisoners)
2006	1,638,929	756,120		56,477		22,929	19,145
2007	2,167,195	910,127		59,844		31,629	26,689
2008	2,298,410	1,000,859		75,409	6,705	13,214	39,483
2009	2,490,930	1,083,025		104,400	18,256	14,837	48,439
2010	2,684,736	1,177,286		125,114	9,572	13,342	47,492
2011	2,520,930	1,062,486		124,181	21,950	14,772	46,709
2012	2,108,552	964,889	261,119	145,635		20,982	58,655
2013	2,067,990	977,127	480,950	198,222		16,439	85,029
2014	2,003,193	996,282	562,117	138,441		16,322	58,832
2015	2,031,820	1,013,861	617,592	140,831		17,438	69,019
2016	2,049,627	988,982	661,394	133,404		11,635	71,158
2017	2,025,844	987,589	672,237	145,262		17,302	78,786
2018	2,101,668	1,020,010	805,112	154,186		10,707	73,036

Number of patients according to type of measure

	Hospitalisation at the request of a third party (HDT) since the Act of 5 July 2011 Committal for psychiatric treatment at the request of a third party (ASPDT)	Hospitalisation by court order (HO) (Art. L.3213-1 and L.3213-2) since the Act of 5 July 2011 Committal for psychiatric treatment at the request of a representative of the State (ASPDRE)	Psychiatric care for imminent danger	Hospitalisation by court order / ASPDRE according to Art. 122-1 of the CPP and Article L.3213-7 of the CSP	Hospitalisation by judicial court order according to Article 706-135 of the CPP	Provisional Committal Order	Hospitalisation according to Art. D.398 of the CPP (prisoners)
2006	43,957	10,578		221		518	830
2007	53,788	13,783		353		654	1,035
2008	55,230	13,430		453	103	396	1,489
2009	62,155	15,570		589	38	371	1,883
2010	63,752	15,451		707	68	370	2,028
2011	63,345	14,967		764	194	289	2,070
2012	58,619	14,594	10,913	1,076		571	4,033
2013	58,778	15,190	17,362	1,015		506	4,368
2014	57,244	15,405	22,489	1,033		496	4,191
2015	59,662	16,781	30,182	1,056		627	5,546
2016	61,074	17,470	23,062	1,206		473	6,520
2017	62,391	17,346	24,255	1,273		533	7,617
2018	61,040	17,927	26,820	1,294		416	7,237

Note: This year, as in previous years, we have used the data published by the SAE (Annual Statistics on Health Institutions), an annual administrative survey carried out by the DREES among all health institutions, and which has included a specific section on psychiatry since 2006 . This survey has the advantage of showing recent data (available every year for the previous year) and being relatively comprehensive. Nevertheless, it has several drawbacks that must be kept in mind: the recording of the number of days of hospitalisation by the SAE takes into account only full days of hospitalisation, excluding preliminary discharges, and does not enable follow-up of patients on an individual basis. The same patient, treated in multiple institutions during the year, will therefore be recorded several times. Lastly, recording of entries and adopted measures has been subject to several changes in definition and calculation method since 2010, which is why we have only shown the number of days and patients here.

The second limitation relates to the redefinition of hospitalisation measures under the Act of 5 July 2011, the institution of which especially created the category of hospitalisation for imminent danger,

[112] *For a more detailed presentation of these sources, please consult the 2015 report and the references given at the end of this section.*

which added to hospitalisation at the request of a third party and hospitalisation by court order (which is today known as committal to psychiatric treatment at the request of a representative of the State, see below). This new category-based classification has therefore made year-to-year comparison difficult.

Comment: Making its first appearance in 2011, numbers of days of "hospitalisation for imminent danger" continue to increase, cutting into the two pre-existing categories, hospitalisation at the request of a third party (HDT) and hospitalisation by court order (now known as hospitalisations by decision of a State representative – HSPDRE). However, the progression of these two measures seems to have stabilised over the last four years. Hospitalisations of detainees are continuing their upward trend.

Lastly, SAE figures confirm the increase in the total number of days taken up in 2015 (4,164,719 days in 2018 and 3,916,200 in 2016, versus 3,775,187 in 2014). The figure for 2018 was for the first time higher than in 2010 (4,057,542).

The total number of patients still seems to be increasing over the long term, from 82,376 in 2010 to 100,858 in 2014 and 114,734 in 2018. In any event, this figure should be interpreted carefully, given the previously mentioned possibility of one and the same patient being counted more than once.

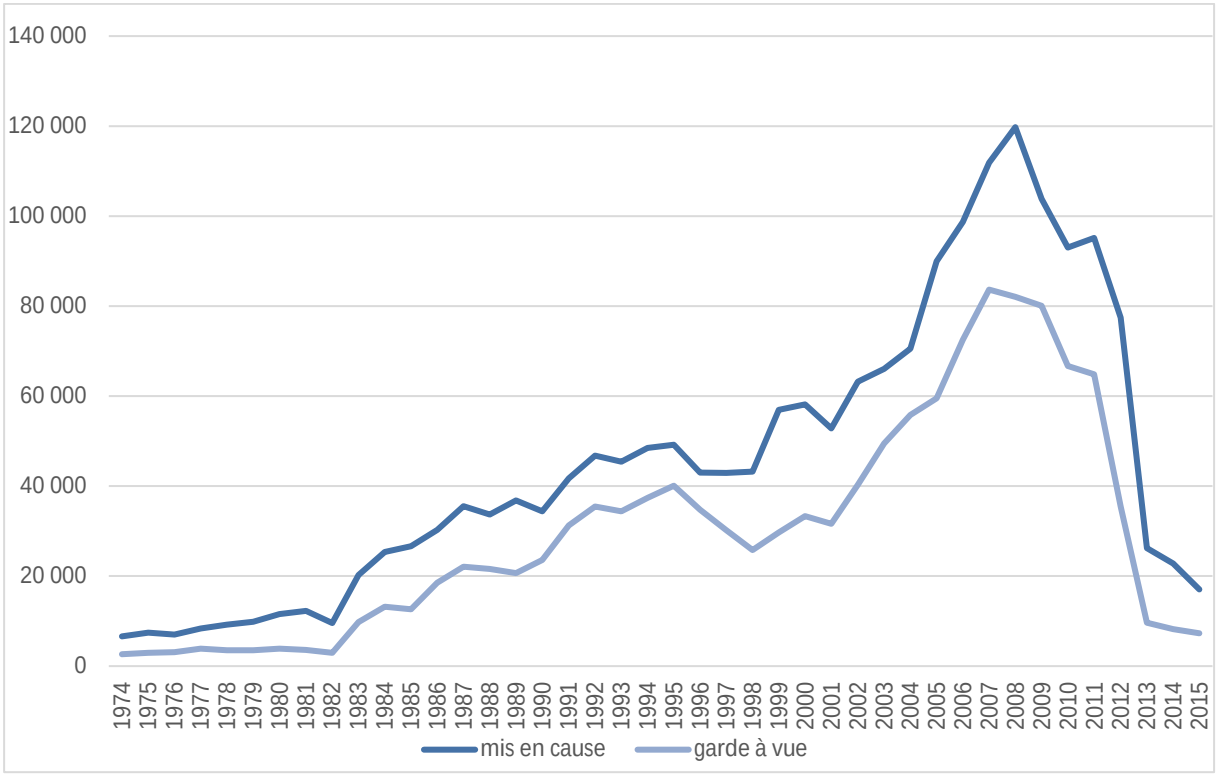
Expressed as the average number of those present on a given day for involuntary treatment, data for 2018 (total number of days divided by 365) indicates, as in previous years, a little over 10,000 patients.

Reference: Delphine Moreau, 2015, *Contraindre pour soigner ? Les tensions normatives et institutionnelles de l'intervention psychiatrique après l'asile* (Forced into treatment? The prescriptive and institutional tensions of psychiatric intervention after granting asylum). Paris: Thesis by the EHESS.

3. Immigration detention

3.1 Number of persons implicated in offences by the immigration department and number of custody measures

Source: État 4001, Ministry of the Interior.



Note: The implementation of Act no. 2012-1560 dated 31 December 2012 relating to detention for verification of rights of residence was anticipated in 2012 with a sharp decrease in the number of persons accused and custody measures. From 2013, these can no longer simply concern illegal immigration.

Comment: The CGLPL's 2009 report (pp. 263-267, French version) described how the treatment of illegal immigrants was derived in stages from the criminal process. At first, the criminal process remained limited to the policing level with massive use of placing people in custody. In 2007-2008, this way of handling the problem was the basis for one out of seven placements in police custody. After the general decrease in police custody and then the application of the Act of 31 December 2012, following the Court of Cassation Order of 5 June, deeming that simple illegal immigration could not justify placing a person in custody, restriction of liberty took the form of detention for administrative verifications (approximately 30,000 in 2013 according to a communiqué from the Minister of the Interior dated 31 January 2014).

For 2015, police custody measures represented on this graph and indicated in Table 1.3 (7,262 out of 17,008 accused) are related to other violations of foreign nationals' immigration regulations. This rate of custody has remained fairly similar since that date (in 2016, 11,099 persons accused and 5,366 in custody, compared with 12,289 persons accused and 6,854 in custody in 2018), which is why this graph has not been updated. Moreover, these figures are similar to those observed for all accused persons as a whole.

3.2 Implementation of measures for the deportation of foreign nationals (2003-2016)

Source: Annual Reports of the French Inter-ministerial Committee for the Management of Immigration (CICI), Central Directorate of the French Border Police (DCPAF).

Scope: Mainland France

Year	Measures	ITF[113]	APRF[114]	OQTF[115]	APRF + OQTF	Deportation order	Readmission	Forced deportations (sub-total)	Voluntary returns (aided)	Total deportations
2003	pronounced	6,536	49,017	-	49,017	385		55,938		55,938
	executed	2,098	9,352	-	9,352	242		11,692		11,692
	% enforcement	*32.1%*	*19.1%*	-	*19.1%*	*62.9%*		*20.9%*		
2004	pronounced	5,089	64,221	-	64,221	292		69,602		69,602
	executed	2,360	13,069	-	13,069	231		15,660		15,660
	% enforcement	*46.4%*	*20.4%*	-	*20.4%*	*79.1%*		*22.5%*		
2005	pronounced	5,278	61,595	-	61,595	285	6,547	73,705		73,705
	executed	2,250	14,897	-	14,897	252	2,442	19,841		19,841
	% enforcement	*42.6%*	*24.2%*	-	*24.2%*	*88.4%*		*26.9%*		
2006	pronounced	4,697	64,609	-	64,609	292	11,348	80,946		80,946
	executed	1,892	16,616	-	16,616	223	3,681	22,412	1,419	23,831
	% enforcement	*40.3%*	*25.7%*	-	*25.7%*	*76.4%*		*27.7%*		
2007	pronounced	3,580	50,771	46,263	97,034	258	11,138	112,010		112,010
	executed	1,544	11,891	1,816	13,707	206	4,428	19,885	3,311	23,196
	% enforcement	*43.1%*	*23.4%*	*3.9%*	*14.1%*	*79.8%*		*17.8%*		
2008	pronounced	2,611	43,739	42,130	85,869	237	12,822	101,539		101,539
	executed	1,386	9,844	3,050	12,894	168	5,276	19,724	10,072	29,796
	% enforcement	*53.1%*	*22.5%*	*7.2%*	*15.0%*	*70.9%*		*19.4%*		
2009	pronounced	2,009	40,116	40,191	80,307	215	12,162	94,693		94,693
	executed	1,330	10,424	4,946	15,370	198	4,156	21,054	8,278	29,332
	% enforcement	*66.2%*	*26.0%*	*12.2%*	*19.1%*	*92.1%*		*22.2%*		
2010	pronounced	1,683	32,519	39,083	71,602	212	10,849	84,346		84,346
	executed	1,201	9,370	5,383	14,753	164	3,504	19,622	8,404	28,026
	% enforcement	*71.4%*	*28.8%*	*13.8%*	*20.6%*	*77.4%*		*23.3%*		
2011	pronounced	1,500	24,441	59,998	84,439	195	7,970	94,104		94,104
	executed	1,033	5,980	10,016	15,996	170	5,728	22,927	9,985	32,912
	% enforcement	*68.9%*	*24.5%*	*16.7%*	*18.9%*	*87.2%*		*24.4%*		

113 *banishment from French territory (interdiction du territoire français, principal or additional measure pronounced by criminal courts)*

114 *prefectural order to take back to the border (arrêté préfectoral de reconduite à la frontière)*

115 *order to leave French territory (ordre de quitter le territoire français, administrative measure)*

2012	pronounced	1,578	365	82,441	82,806	186	6,204	90,774	10,021	90,774
	executed	1,043	850	18,434	19,184	155	6,319	26,801		36,822
	% enforcement	*66.1%*	*205.5%*	*22.4%*	*23.2%*	*83.3%*		*29.5%*		
2013	pronounced	n.d.					6,287	97,397	4,328	97,397
	executed						6,038	27,081		31,409
	% enforcement							*27.8%*		
2014	pronounced	n.d.					6,178	96,229	2,930	96,229
	Executed						5,314	27,606		30,536
	% enforcement							*28.7%*		
2015	pronounced	n.d.					7,135	88,991	3,093	88,991
	executed						5,014	29,596		32,689
	% enforcement							33.3%		
2016	pronounced	n.d.					8,279	92,076	2,627	92,076
	executed						3,338	22,080		24,707
	% enforcement							24%		
2017	pronounced	n.d.					17,251	103,940	3,778	103,940
	Executed						4,589	23,595		27,373
	% enforcement							22.7%		

Note: The measures implemented during one year may have been pronounced during an earlier year. This explains the enforcement rate of 205.5% for APRFs in 2012.

This table has been drawn up from CICI reports for 2003 to 2017 (the latest report was published in 2018). Their official presentation emphasises the rates of enforcement of deportation measures and any changes in them. From the 4th report for 2006, this information was included in the general context of a policy of recording numbers in relation to deportations. The total number of deportations indicated in the annual report for 2006 (23,831) therefore includes, in addition to 22,412 measures of various types pronounced and executed, 1,419 voluntary returns. Then these "voluntary returns" were counted as being "aided returns", and the annual report was not very clear on the contents of this section. This method of counting, for 2008 and the following years, showed a "result" meeting the objective of 30,000 deportations. For these years, the table shown here contains an additional column ("forced deportations", which is in bold), which excludes voluntary or aided returns.

At a press conference (31 January 2014), the Ministry of the Interior provided another set of data entitled "forced departures", stating that some deportation measures that had been executed had been counted in the past as forced deportations when in fact they were aided departures. The five latest reports drafted under the provisions of Article L.111-10 of the Code for Entry and Residence of Foreigners and Right of Asylum (2012, 2013, 2014, 2015-2016 and 2017 reports, the last of which was published in 2018) now make this distinction. For 2012 it was therefore identified that out of the 19,184 APRFs and OQTFs implemented, 4,954 cases related to "aided returns". This resulted in 21,847 "forced returns" being counted for 2012 instead of 26,801 as in the above table for the forced deportations column. According to this presentation, "forced returns" decreased significantly in 2009 (17,422) and 2010 (16,197) contrary to that previously shown (above table) and therefore growth for 2011 was lower (19,328). For 2014, the records also included "forced returns" and "aided returns" under forced deportations, ending up with the figure of 21,489.

Lastly, and like in the four previous years, the 15th report showing the figures for 2017 no longer differentiates the deportation measures according to the type of measure (OQTF, APRF, ITF or deportation order), and instead shows a general presentation that only differentiates between "unaided" and "aided" deportations. Only readmission measures and aided voluntary returns are still shown separately.

Comment: For the years for which figures are available, the absolute level of APRFs and OQTFs enforced seems not to have sustainably exceeded 16,000 a year and the enforcement rate varies according to the greater or lesser number of measures pronounced.

Although the overall rate of deportation measures carried out has slightly increased over the last 10 years or so, it appears to have stabilised at around 20 to 25% of deportations pronounced. This relatively low stable rate is largely due to structural barriers (material and administrative alike) that have long hampered implementation of forced deportations.

Reference: Nicolas Fischer (2017), *Le territoire de l'expulsion. La rétention administrative des étrangers et l'Etat de droit en France* (The territory of deportation. Immigration detention and the Rule of Law in France), Lyon, ENS Editions.

3.3 Detention centres for illegal immigrants (Mainland France). Theoretical capacity, number of placements, average duration of detention, outcome of detention

Source: CICI annual reports, Senate (in italics, please see note).

Scope: Mainland France

Year	Theoretical capacity	Number of placements	Accompanying minors placed in CRAs	Average occupancy rate	Average duration of detention (in days)	Deported detainees, excluding voluntary returns	% deportations/placements
2002		25,131					
2003	775	28,155		64%	5.6		
2004	944	30,043		73%	8.5		
2005	1,016	29,257		83%	10.2		
2006	1,380	32,817		74%	9.9	*16,909*	*52%*
2007	1,691	35,246		76%	10.5	*15,170*	*43%*
2008	1,515	34,592		68%	10.3	*14,411*	*42%*
2009	1,574	30,270		60%	10.2		40%
2010	1,566	27,401		55%	10.0		*36%*
2011	1,726	24,544	478	46.7%	8.7		*40%*
2012	1,672	23,394	98	50.5%	11		*47%*
2013	1,571	24,176	41	48.3%	11.9		41%

2014	1,571	25,018	42	52.7%	12.1		-
2015	1,552	26,267	112	54.1%	11.6	-	-
2016	1,554	22,730	181	49.4%	12.2	-	-
2017	1,601	26,003	308	57.9%	12.4	-	-

Note: the annual reports of the CICI from 2003 to 2017 allow the first five columns of the table to be reproduced. The column for accompanying minors was not present before 2011. The last two columns relating to the result of placing in immigration detention do not come from the same source. A report by the Senate Finance Committee, published on 3 July 2009 and following up on a mission carried out by the Court of Auditors, provided numbers for 2006-2008 with regard to detainees who were finally deported, excluding voluntary returns. The proportion out of the number of placements can therefore be calculated (last column). The 7th CICI report, published in March 2011, provided the proportion for 2009 (page 77). The following report gave a rate of 42% for CRAs possessing interservice deportation centres (*pôle interservices éloignement*) and 37% for the rest, but no overall rate. The figures set out in the last column of the table for 2010- 2013 are from an informational report from the Senate on CRAs (no. 775 dated 23 July 2014). This report also sets out the number of placements in 2013. These figures nevertheless remain linked to sporadic assessments of detention and have unfortunately not been updated since 2014.

The number of placements in 2009 has been corrected here compared with the first editions of this report: the new statement of 30,270 placements given initially as the total for France and its Overseas territories (CICI reports for 2009, 2010 and 2011) became in later editions (2011 and 2012) that for mainland France, whilst the previous statement (27,699 placements) became that for French Overseas *départements*.

Comment: The CICI annual reports do not show how the average occupancy rate is defined and assessed. By applying this rate to capacity, an estimate of the average number of persons present in CRAs should be obtained. However, this estimate is unreliable as the capacity may have been given for a fixed date (it would not then be the average capacity for the year). Another estimate of numbers would be possible from this table as placements correspond to entries and the average duration of stays has been supplied. A lower estimate is arrived at. For 2017, calculating based on the occupancy rate gives an average number of 926 detainees, and calculating using the average duration of stay in detention gives a total number of 883 detainees. Both methods of calculation show an increase in these detainee numbers from 2003 (496 or 432 depending upon the method of estimating) to 2007 (1,285/1,014) and then a drop until 2011 (811/585). The same calculation showed an uncertain result for 2013 (754/795, the first indicating a fall and the second a rise); both figures rose for 2015 but 2017 data show an increase irrespective of the calculation method chosen.

Relatively little use continues to be made of house arrest, an alternative to detention introduced in 2011: 668 measures in 2012 and 1,258 in 2013 (source: French National Assembly, impact study of the bill dated 23 July 2014).

Appendix 1

Map of institutions and départements inspected in 2019

Appendix 2

List of institutions visited in 2019

Healthcare institutions

- La Candélie departmental hospital in Agen
- Montperrin hospital in Aix-en-Provence
- Pierre-Jamet hospital in Albi
- Gers psychiatric hospital in Auch
- Montfavet hospital in Avignon
- Ain psychotherapy centre in Bourg-en-Bresse
- George-Sand hospital in Bourges
- Brumath hospital
- Dijon university hospital
- Erstein hospital
- Lavaur hospital
- Saint-Jean-de-Dieu psychiatric hospital in Lyon
- Martigues hospital
- North Mayenne hospital in Mayenne
- Drôme-Vivarais hospital in Montéléger
- Montluçon hospital
- Vauclaire hospital in Montpon-Ménestérol
- Albert-Bousquet hospital in Nouméa
- Redon hospital
- Saint-Etienne university hospital
- Angevin mental health centre in Sainte-Gemmes-Sur-Loire
- Semur-en-Auxois hospital
- Rouvray hospital in Sotteville-lès-Rouen
- Nord-Deux-Sèvres hospital in Thouars
- Gérard-Marchant hospital in Toulouse
- Lille-Métropole public mental health institution in Armentières
- Portes de l'Isère mental health institution in Bourgoin-Jallieu
- Marne public mental health institution in Châlons-en-Champagne
- Rueil-Malmaison mental health institution
- Lille conurbation public mental health institution in Saint-André-lès-Lille
- Toulouse specially equipped hospital unit
- Bron unit for difficult psychiatric patients

Secure rooms of the hospitals of Angoulême, Chaumont, Colmar, Creil, Douai, Lavaur, Niort, Nouméa, Pontoise, Saint-Etienne, Salon-de-Provence, Sarreguemines and Vesoul.

Juvenile detention centres

- Angoulême juvenile detention centre
- Bures-sur-Yvette juvenile detention centre
- Doudeville Centre juvenile detention centre Épinay-sur-Seine juvenile detention centre
- Narbonne juvenile detention centre
- Saint-Brice-sous-Forêt juvenile detention centre
- Saint-Germain-Lespinasse juvenile detention centre

Penal institutions

- Montmédy detention centre
- Oermingen detention centre
- Bourges remand prison
- Chaumont remand prison

- Salon-de-Provence detention centre
- Châteauroux prison
- Liancourt prison
- Nouméa prison
- Saint-Etienne prison
- Lavaur prison for minors
- Meyzieu prison for minors
- Quiévrechain prison for minors
- Angoulême remand prison
- Douai remand prison
- Fleury Mérogis women's remand prison
- Foix remand prison
- Men's remand prison in the Fresnes prison complex
- Niort remand prison
- Osny remand prison
- Vesoul remand prison
- Wallis and Futuna remand prison
- Ensisheim long-stay prison

Detention centres and facilities for illegal immigrants, waiting areas

- Oissel detention centre for illegal immigrants
- Palaiseau detention centre for illegal immigrants
- Paris-Vincennes detention centre for illegal immigrants
- Perpignan detention centre for illegal immigrants
- Nouméa waiting area

Custody and customs detention facilities

Police stations: Agen, Angers, Angoulême, Auch, Bourgoin-Jallieu, Chaumont, Colombes, Dijon, Douai, Herblay, Firminy, Le Blanc-Mesnil, Le Kremlin-Bicêtre, 8th arr. of Lyon, Montluçon, Noisy-le-Grand, Nouméa, 3rd arr. of Paris, 4th arr. of Paris, 8th arr. of Paris, 9th arr. of Paris, Salon-de-Provence, Saint-Chamond, Sarreguemines, Saumur, Thouars, Val-de-Reuil, Vitrolles and Vitry-sur-Seine.

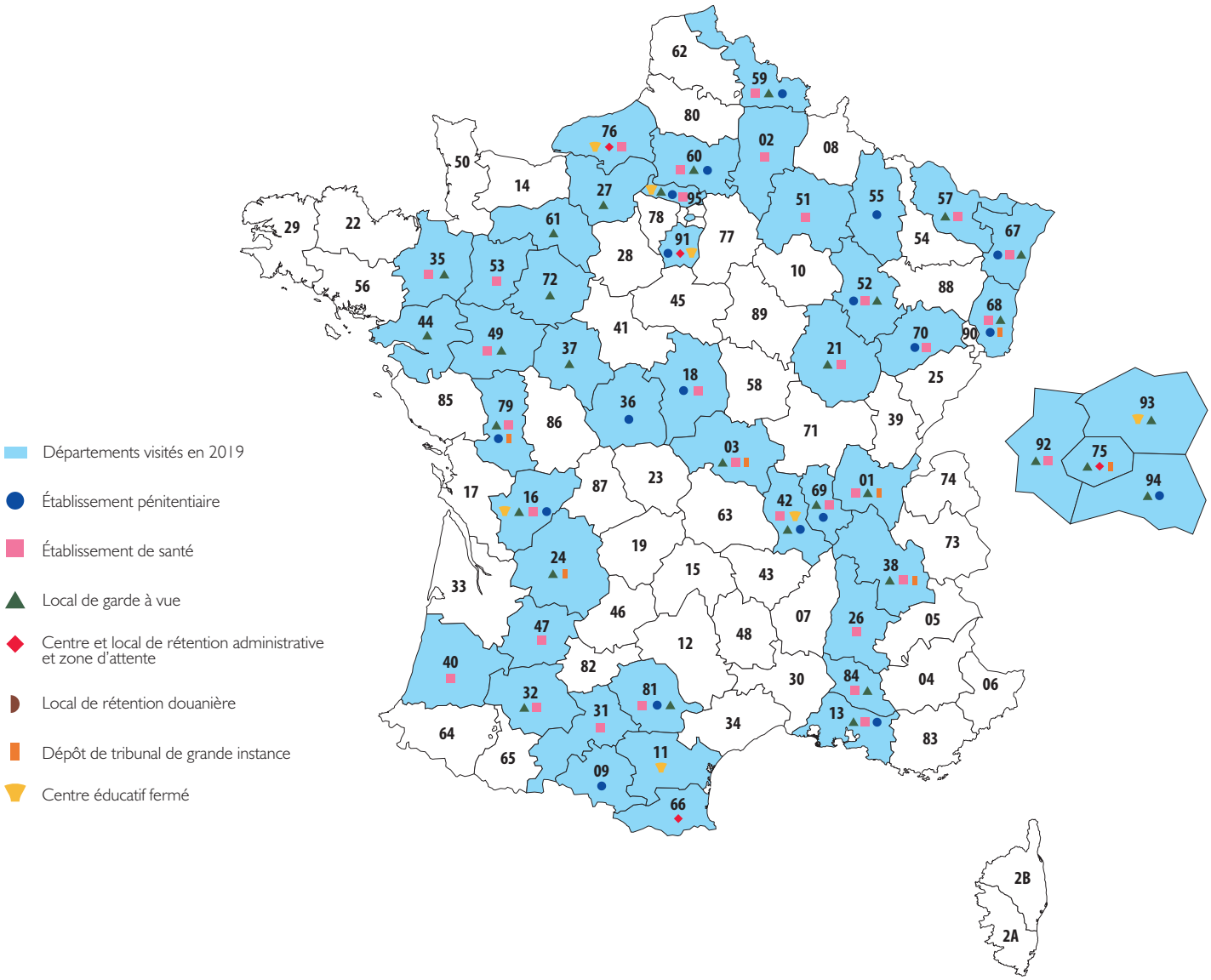
Gendarmerie brigades: Altkirch (brigade community), Altkirch (research brigade), Bernay, Brumath, Chinon, Commentry, Cordes-sur-Ciel, Dumbéa, Ensisheim, La Ferté-Bernard, Gaillac-Cadalen, Guérande, Graulhet, Isle de la Sorgue, Liancourt, Koné, Mamers, Meximieux, Mirande, Montbrison (gendarmerie company), Montbrison (autonomous territorial brigade), Quetigny, Rabastens, Réalmont, Redon, Roquevaire, Sablé-sur-Sarthe, Sarre-Union, Sées, Thouars, Wallis and Futuna, Wé-Lifou and Xepenehe.

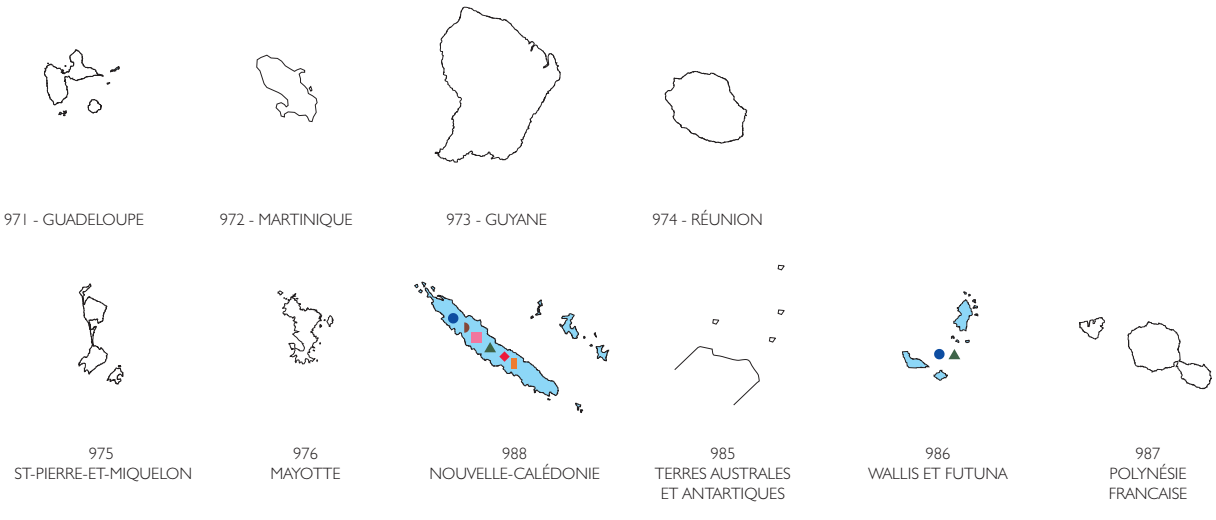
Customs: external surveillance service of Tontouta (Nouméa)

Court cells and jails

Courts of first instance in civil and criminal matters in Bergerac, Bourg-en-Bresse, Bourgoin-Jallieu, Montluçon, Mulhouse, Niort, Nouméa and Paris.

Carte des départements et des établissements visités en 2019





Place concerned	Topic	Sub-topic	Recommendation	Chapter
All places of deprivation of liberty	Action taken in response to the CGLPL's recommendations		Ministers are requested to implement all useful measures (circulars, technical guides, training, etc.) to ensure that the best practices mentioned in the reports are known to and imitated by institutions comparable to the one that is the subject of the report.	**3**
			The CGLPL asks the ministers to explicitly specify which recommendations have been accepted and which have been rejected. It suggests that they implement a procedure in their departments formalising the inclusion of its recommendations in the institutions' action plans and a procedure for monitoring their follow-up to ensure the timeliness of the responses provided after three years. It proposes that the general inspectorates be involved in these procedures and be explicitly mandated to validate the quality of the monitoring procedures and the responses communicated to the ministers by their departments.	**3**
	Night (thematic report)	General recommendation	The current system does not correspond to the biological rhythms of people, sometimes leads to their being locked up for 12 to 14 hours at a time and profoundly compromises the effectiveness of their fundamental rights. Consideration should be given to extending the hours of the day shift.	**2**
		Accommodation conditions	All persons deprived of liberty should be able to sleep on a suitable bed, i.e. on a clean mattress of suitable dimensions, with a clean cover, on a suitable bed base. Persons requiring special bedding should be able to obtain it. Persons deprived of liberty should be provided with a sufficient quantity of suitably sized clean bed linen, i.e. at least one drawsheet, a pair of sheets and blankets, a pillow and a pillowcase.	**2**
			Extensive rat and insect control operations should be carried out in institutions where pests are present until they have been eradicated. Openings should be protected with mosquito nets where necessary.	**2**
			Accommodations should be equipped with windows that can be operated by the persons detained, allowing for adequate natural ventilation. If controlled mechanical ventilation is installed, it should be in good working order and not generate noise pollution.	**2**
			All accommodations should have a heating or cooling system in good working order throughout the network. Thermal insulation, especially of doors and windows, should be satisfactory. Sufficient quantities of blankets should be provided to protect against the cold. People should be able to wear clothing suitable for the ambient temperature at all times.	**2**
		Accommodation conditions	Persons deprived of liberty should have independent access to lighting controls for their accommodation. Electrical power should be in line with needs and lights should function correctly. Collective accommodations should have a sufficient	**2**

All places of deprivation of liberty	Night (thematic report)		number of independent lighting points for the number of occupants. These should be separated by visual insulation devices. People should also be able to acquire sleep masks if they wish.	
			Persons deprived of liberty should be able to sleep in the dark. They should be able to autonomously block out or filter light from the outside.	**2**
			All useful measures should be taken to limit structural, organisational or spontaneous noise pollution during the night, whether of material or human origin. People should be able to buy earplugs if they wish. Accommodations should be soundproofed.	**2**
			Persons deprived of liberty should be accommodated in a suitable living space and have the necessary equipment to satisfy their basic needs, with due respect for each person.	**2**
			Persons deprived of liberty should have easy, permanent and autonomous access to an isolated toilet and a drinking water tap, in the daytime and at night. The use of substitutes (urinal, toilet bucket) is not acceptable.	**2**
		Privacy	Each person deprived of liberty should sleep in a space of their own, unless they express a desire to share it with another person.	**2**
			Accommodations should be configured to respect the privacy of the people placed there, both during the day and at night. When several people are sharing the same space, the facilities and equipment should provide them with privacy. Outside of periods when professionals are carrying out surveillance operations, it is essential that the interior of rooms or cells be hidden from view.	**2**
		Hygiene	Persons deprived of liberty should have access to a shower at bedtime and first thing in the morning.	**2**
		Security	People should be able to protect themselves against theft and from any outside intrusion into their room during the night, except by professionals.	**2**
			All accommodations should be equipped with an easily accessible intercom in good working order. Any request made in this way should be logged and answered.	**2**
			A sufficient number of officers should be present at all times near any locked accommodation at night. This means that, when a person in custody has to remain there overnight, they should be taken to a unit with permanent surveillance; failing this, call buttons should be installed. In addition, frequent and regular rounds should be carried out in all areas where people are detained for the night, without disturbing their sleep.	**2**
		Security	Procedures for responding to emergency calls and opening rooms during the night should allow for rapid and systematic intervention. In prisons, the management of keys during the night shift should be made more flexible.	**2**

All places of deprivation of liberty	Night (thematic report)	Transfers	Court appearances should be organised in such a way as to enable persons referred or extracted to appear before a judge and be taken to a place of detention at decent times. In any event, there should be a sufficient number of trained officers carrying out procedures for arrival at a place of deprivation of liberty at night.	**2**
		Inventory	When a person arrives at an institution during the night, an inventory of the objects carried by that person should be carried out immediately, systematically and jointly.	**2**
		Access to healthcare	When a medical problem is brought to the attention of an officer on duty during the night, they should systematically contact a doctor or their superiors. In non-hospital institutions, any sick person should be able to communicate directly with the coordinating medical unit.	**2**
			Night escort services should be organised in such a way that allows a person to be taken to hospital without delay and without restrictions. Emergency services should also be able to intervene quickly and optimally in any place of deprivation of liberty.	**2**
			Any person subject to a confinement measure, whether for judicial, administrative or medical reasons, should systematically undergo a somatic examination.	**2**
			Framework protocols should be signed between places of deprivation of liberty, healthcare institutions and Regional Health Agencies to clearly identify access to out-of-hours health services.	**2**
		Seclusion	Individual decisions made at night are often precautionary in response to an emergency situation. Even in this context, all decisions to seclude, confine or place in a punishment wing should be reasoned, monitored and notified under the same conditions as during day shifts, in light of their consequences. It should be possible to leave these places at night, as soon as the situation of the person deprived of liberty no longer warrants them being there.	**2**
		Continuity of care	On night duty, too many decisions are postponed to the next day. Support should not be limited to emergencies and security procedures: it should continue with the same quality as during the day.	**2**
		Released persons	The competent authorities should allow a person released at night to return to their usual place of residence. If this is not possible, they should be invited to sleep at the institution, if possible in an open space. Assistance upon release from detention should be effective even for persons whose release order is issued during the night shift.	**2**
		Released persons	Unaccompanied foreign minors should be provided with accommodation upon release, whether during the day or at night.	**2**

All places of deprivation of liberty	Night (thematic report)			
	Interpersonal violence (thematic report)	Accommodation conditions	Since lack of space is a factor contributing to violence, all persons deprived of liberty should be able to benefit from individual accommodation if they so wish.	**2**
			It should be possible to perform everyday activities, especially personal hygiene, out of sight and without disturbing others.	**2**
			Places of deprivation of liberty should be kept in perfect working order and should comply with health and cleanliness standards.	**2**
		Rules of living	Rules governing the operation and organisation of places of deprivation of liberty should be regularly analysed in order to identify points that increase the risk of interpersonal violence, with a view to correcting them.	**2**
		Risk assessment	Upon a person's arrival, the risk of violence or vulnerability associated with them should be assessed and necessary protective measures should be taken immediately.	**2**
			The individual assessment of the risks of violence and vulnerability associated with persons deprived of liberty should be frequently updated to avoid subjecting them to systematic, stigmatising or unsuitable conditions of treatment.	**2**
		Recording and analysis	In all places taking in persons deprived of liberty, a reliable and efficient system for recording interpersonal violence should be put in place.	**2**
			In all places of deprivation of liberty, acts of interpersonal violence should be analysed in order to conduct a risk reduction policy.	**2**
			All administrations should develop recommendations and tools for preventing and managing violence in places of deprivation of liberty. Staff should implement them.	**2**
		Reporting procedure	All persons accommodated or working in a place of deprivation of liberty should know precisely how to report an act of violence. The methods for doing so should include simple, accessible and confidential modes of communication, if necessary outside the chain of command.	**2**
			Acts of interpersonal violence should be reported to the administrative or judicial authorities.	**2**
		Information	From the beginning of the deprivation of liberty measure and throughout their stay, persons deprived of liberty should be provided with complete, up-to-date and comprehensible information about their status, their rights and the rules governing operations or life in the place in which they are detained.	**2**
All places of deprivation of liberty	Interpersonal violence (thematic report)	Video surveillance	As soon as an act of violence between individuals is reported, video surveillance data should be extracted and kept for the time needed for the procedures.	**2**
		Inspections	In accordance with the regulations, the administrative and judicial authorities should systematically visit all places of deprivation of liberty. These visits should allow them to meet with people placing a request to that end.	**2**

		Medical certificates	Doctors working in places of deprivation of liberty should systematically determine total incapacity for work (ITT) in certificates of assault and battery.	**2**
		Support for victims	Each place of deprivation of liberty should have and implement a protocol for managing and supporting victims in the process of lodging a complaint.	**2**
		Collective expression	Heads of institutions should set up and develop any dialogue and consultation mechanism that encourages the participation of persons deprived of liberty in their own care and in the running of the facilities.	**2**
		Staff numbers	The prevention of interpersonal violence requires that sufficient numbers of professionals be in contact with persons deprived of liberty.	**2**
		Identification of staff	The possibility of unequivocally identifying each professional should be systematically guaranteed.	**2**
		Staff responsibility (discipline)	Professionals should not be held responsible if they have taken appropriate measures in response to reasonably analysed risks. A simple obligation of means, not a general and absolute obligation of result, should be imposed on them.	**2**
		Physical restraint management	Since any form of physical restraint constitutes violence against the persons subjected to it, it may only be used within the regulatory frameworks of reference and as a last resort, after alternative non-violent means have been implemented.	**2**
		Training of staff	In all places of deprivation of liberty, non-nursing staff should be trained in the identification and management of persons suffering from mental or psychiatric disorders.	**2**
			During their initial training, staff in places of deprivation of liberty should attend a specific course on the prevention and management of violence. Responses to violence should not be limited to physical control. Mentoring should be offered to professionals first taking up their duties with persons deprived of liberty.	**2**
			Ongoing training for staff in places of deprivation of liberty should include extensive, targeted content on the prevention and management of violence, accessible on a regular basis, to enable them to update their knowledge and thus diversify their practices.	**2**
All places of deprivation of liberty	Interpersonal violence (thematic report)	Spaces for professional reflection	Spaces should be created for multi-professional reflection, in order to debate issues of ethics and conduct raised by daily practices.	**2**
			In all places of deprivation of liberty, staff should be able to discuss their professional experiences and practices with a third party, in a non-hierarchical setting (support group, analysis of practices, supervision, occupational psychologist, etc.).	**2**
All places of deprivation of	Night (thematic report)	Appropriation of spaces	Persons deprived of liberty should be able to personalise their living space.	**2**
		Food	Persons deprived of liberty should be able to eat and drink during the night; they should have access to food and to suitable equipment.	**2**

liberty (excluding police facilities)		Activities	During the day, persons deprived of liberty should be offered activities outside of their accommodation, particularly outdoors, to help them sleep at night.	**2**
			Attractive group activities (debates, workshops on artistic expression, etc.) should be organised after dinner. In detention centres for illegal immigrants and hospitals, collective spaces, especially outdoors, should remain accessible during the night.	**2**
			Persons deprived of liberty become bored in the evening in their room or cell. Thought should be given to how to better reconcile the need for security with the right to free time. In particular, objects allowing people to keep themselves busy should be allowed in rooms or cells unless there is a confirmed danger. In addition, institutions should be upgraded in terms of both electrical equipment and capacity.	**2**
		Internet access	Internet access should be facilitated during the evening for persons deprived of liberty. Computer rooms should be accessible at later times, while personal computers and tablets should be allowed more broadly. In addition, Wi-Fi coverage should be considered as an option in hospitals, juvenile detention centres and detention centres for illegal immigrants.	**2**
	Interpersonal violence (thematic report)	Accommodation conditions	Places of deprivation of liberty should allow free access to communal spaces, including outdoors, in order to foster social relations, or else to allow individuals to temporarily withdraw from the group. They should be placed under the protection of professionals.	**2**
		Activities	A wide range of activities tailored to persons deprived of liberty, both in terms of content and conditions of access, should be offered in each of the institutions concerned.	**2**
		Staff	Professionals in places of deprivation of liberty should remain in their positions long enough to allow them to become familiar with the persons detained and with procedures for managing them. Administrations should therefore put into place more attractive recruitment procedures.	**2**
Healthcare institutions	Care programmes		The number of care programmes carried out in a way that does not comply with the law and the lack of judicial control over these measures of deprivation of liberty are leading the CGLPL to recommend, on the one hand, a review of the legal regime of care programmes and, on the other hand, an analysis of the provisions that in the overall regime of involuntary care have led to misuse of the concept.	**1**
	Seclusion and restraint		The CGLPL recommends that the vocabulary used to refer to seclusion and restraint not have the effect of masking the actual practices in force: in particular, it requests that "intensive care room" be replaced with "seclusion room" and that "attach" be used instead of "restrain" when this is what is actually happening.	**1**
	Seclusion and restraint		The CGLPL recommends more strictly enforcing the provisions of Article L3222-5-1 of the Public Health Code, particularly in terms of verifying whether seclusion	**1**

			and restraint are indeed used as measures of "last resort" and also in terms of the actual measures taken to put an end to them as soon as possible.	
	Freedom of movement		No voluntary patient should be confined; the admission status of an involuntary patient does not mean they should be placed in a closed unit; confinement is a security measure whose therapeutic value is not recognised in any medical literature.	**1**
	Sexuality		Respect for the sexual freedom of patients and their protection should give rise to collective reflection conducted under the aegis of ethics committees.	**1**
	Internet access		The CGLPL recommends that Internet access be possible for all, except in some medically justified situations: patients should be able to keep their personal terminals and have the network coverage required to operate them; they should also have open access to connected computers.	**1**
	Judicial scrutiny		Confinement, seclusion, restraint, and restrictions on communication rights, freedom of movement or sexual freedom should be regarded as grievous. They should therefore be subject to judicial scrutiny. However, the timidity of lawyers and judges before this legal remedy requires that the law provide for more precise appeal procedures.	**1**
	CDSP		The CGLPL recommends reversing, by all necessary means, the legislative amendment and reintegrating judges into the composition of Departmental Commissions for Psychiatric Care.	**1**
			The CGLPL recommends that the Public Health Code provide for the publication of the annual reports of the Departmental Commissions for Psychiatric Care. It also advocates the creation of a national CDSP monitoring body.	**1**
	Security officers		The CGLPL recommends that a national ethical debate be carried out with regard to security practices where non-medical third parties are involved in the care of patients; it recommends that locally, these only be implemented with the agreement of the ethics committee and on the basis of an explicit, published protocol.	**1**
Healthcare institutions	Searches		The ethics committees of institutions should foster discussions on security searches. They shall ensure that any decision leading to intrusive measures is precisely motivated and carried out in accordance with the principles of necessity and proportionality. The measures taken should be recorded and evaluated.	**1**
	Night (thematic report)	Admission	In compliance with the provisions of Article L.3211-3 of the Public Health Code, a hospital director's admission decision should be made as soon as a patient is actually hospitalised.	**2**
		Telephone	Mobile phones should only be removed from hospitalised patients for clinical reasons that are regularly reassessed by a doctor. This should never be based on a systematic rule, applicable to the whole unit.	
		Patients' rights	Measures restricting the freedom of patients admitted at night should be individualised, not systematic.	**2**

		Staff training	Policies should be developed for the mobility of nursing staff between day and night shifts in order to harmonise practices. Night shift staff should also be provided with access to training in order to update their knowledge and thus better welcome patients in the unit.	**2**
			Training for nursing staff on patients' rights, which is already too rare for day-shift staff, should be developed for night shifts so that information may be provided as early as possible and throughout hospitalisation.	**2**
		Seclusion and restraint	Psychiatric institutions should strictly apply the provisions of the Act of 26 January 2016, as well as the recommendations of the HAS and the CGLPL, which stipulate that a seclusion or restraint decision can only be made as a last resort and must systematically be preceded by a medical examination. In case of an emergency, if the measure is taken by a nursing team, it should be assessed via a medical examination within one hour.	**2**
		Medical examination	In mental health institutions, a medical examination of all secluded and restrained patients should be carried out every evening to decide whether the measure needs to be maintained during the night.	**2**
	Freedom of movement	Voluntary patients	No voluntary patient may be placed in a closed unit. The placement of a voluntary patient in seclusion or under restraint should result in the patient being given involuntary status within 12 hours.	**3**
		Involuntary patients	The committal of a patient to involuntary care does not mean that the patient needs to be confined; they can only be confined if their clinical condition requires it, and only for the amount of time that is strictly necessary. No patient may be placed in seclusion or under restraint outside the conditions provided for in Article L.3222-5-1 of the Public Health Code.	**3**
Healthcare institutions	Action taken in response to the CGLPL's recommendations		The CGLPL would like for there to be more immediate and concrete consequences of its recommendations when they are published in the Official Gazette. Quick and practical circulars or teaching documents should be devised for this purpose.	**3**
	Privacy	Comfort locks	The CGLPL recommends that express guidelines be given to the ARSs to ensure that "comfort locks" are systematically installed in mental health institutions.	**3**
	Restraint measures	Individualisation	The CGLPL recommends that the guidelines necessary to put an end to illegal confinement practices be issued in a clear manner, recalling that any restraint that does not result from the law can only be based on the patient's clinical condition. It should be decided by a doctor following an examination, be taken for a limited period, and concern only one named person. A circular should therefore reiterate that the following are prohibited: seclusion in conditions not provided for in Article L.3222-5-1 of the Public Health Code, the compulsory wearing of pyjamas, and the systematic seclusion of a person because of their status, particularly for detainees.	**3**

Penal institutions	Minors	Food	Detained minors regularly complain about a lack of food, even when there seems to be compliance with the regulatory standards; they compensate for this lack by eating too many sweets. It is therefore recommended that the relevance of the current standards for the nutrition of minors be reassessed.	**1**
	Security measures	Searches	Each institution should formalise its policy on searches to ensure compliance with the provisions of the Prison Act and the traceability of the searches carried out. Reasons should be provided when decisions to search are made, in order to justify the necessity and proportionality of the measures taken.	**1**
		Means of restraint	Warders should be under an obligation of means and not an obligation of result to ensure that extractions are carried out properly. Thus, once they have carried out searches and used the means of restraint reasonably necessary in light of the inmate's classification and behaviour, they should not be held responsible for any incident. Conversely, unnecessary or disproportionate outrages upon the dignity of inmates should be sanctioned.	**1**
	Access to healthcare	Exchanges between professionals	In each penal institution, a protocol should organise relations between the health unit and the prison administration in order to guarantee smooth exchanges of information necessary for the care of inmates, in a way that benefits their own interests and complies with rules of medical secrecy.	**1**
		Suicide prevention	People at risk of suicide require medical care. In order to encourage early management of the risk of suicide, prison officers should be trained to detect this risk.	**1**
			The CGLPL asks that the ambiguities that currently mark the situation of peer-support prisoners be lifted before any potential extension of the scheme.	**1**
Penal institutions	Open wings		It is recommended that the conditions of detention in open wings be covered by an overall assessment.	**1**
	Differentiated regimes		The CGLPL recommends that the open door regime systematically be the reference regime for detention centres and that any exception to this regime be considered as causing grievance, which means it should be individualised, reasoned, made with due respect for the adversarial process and rights of defence, and subject to appeal.	**1**
	Night (thematic report)	Monitoring rounds	In penal institutions, all necessary measures should be taken to ensure that night rounds do not disturb sleep. In addition, persons who are subject to special surveillance measures during the night should have their situation reviewed regularly and carefully.	**2**
		Telephone access	Basic mobile phones, without any Internet connection or camera, should be sold in the canteens of penal institutions. These phones would be covered by the same monitoring and listening possibilities as today's calling points. Persons in open wings should be able to keep their personal telephones.	**2**

	Mental health (opinion)	Criminal responsibility	The CGLPL calls for a re-examination of the provisions relating to criminal responsibility in situations where discernment is abolished or impaired, in order to enable the judge to better assess the mental health of the accused.	**2**
		Staff training	The CGLPL recommends that supervisory staff in penal institutions systematically receive basic training in the detection and management of mental disorders in the prison population.	**2**
		Outpatient care provision	The provision of outpatient care should therefore be supplemented and the coordination of the SMPRs improved, in order to enable them to effectively care for the entire population in their "region" and not just that of the prison hosting them.	**2**
		Hospitalisation	It therefore recommends that the development of secure hospital facilities be encouraged instead of the creation of medical prisons, in order to ensure that detainees with mental disorders receive appropriate care, including long-term care.	**2**
			All useful measures should therefore be considered to ensure that a detainee placed in a hospital unit does not suffer any restrictions on their rights in detention; in particular, this should involve ensuring the continuity of their administrative situation and providing hospital units with the appropriate means and infrastructure (visiting rooms, activities, canteen, etc.).	**2**
		Means of restraint	With regard to the committal of detainees to psychiatric care, the CGLPL therefore recommends that national guidelines be issued, to put an end to the systematic handcuffing of persons during their transport and their systematic placement in seclusion.	**2**
Penal institutions	Mental health (opinion)	Support for prisoners on release	To curb this dynamic, an administrative structure should be set up to mobilise and coordinate the use of social, medical and legal resources, provide those concerned with health and medico-social support and easier access to housing and employment, and ensure a coherent link between the care provided in open and closed environments.	**2**
			There is a need to create appropriate host facilities and to implement a policy to improve reception in existing institutions.	**2**
	Night (thematic report)	Means of restraint	For the same detained person, the measures of restraint (handcuffs, shackles) imposed on them at night should be of the same nature and intensity as those that would be used during the day.	**2**
		Emergency protection cells	On night duty, when placement in an emergency protection cell or provision of an emergency protection kit is considered, the on-call manager should go and meet with the detainee before the measure is pronounced.	**2**
		Open wings	During the night shift, if a person on day parole is reintegrated into detention on the basis of Article D.124 of the Code of Criminal Procedure, this person should not be placed in the remand wing or in a disciplinary cell. In view of its consequences, the	**2**

			decision should be notified to them and explained under the same conditions as if it had been made during the day.	
	Women	Hygiene products	Considering that the distribution and purchasing system for basic feminine hygiene products currently in force in penal institutions undermines the dignity and physical integrity of women prisoners, the Chief Inspector calls for a review by the central administration with a view to giving women prisoners autonomous access to the hygiene products they need.	**4**
Detention centres for illegal immigrants	Exercise of rights	Freedom of movement	No restrictions on the freedom of persons in detention may be imposed unless they have been previously recorded in rules of procedure approved by the police hierarchy and given to the detained persons in a language they understand. The impact of the detention coordinator and registry supervisor functions on the respect of rights should be assessed.	**1**
	Telephone access		Persons placed in detention cannot be prohibited from communicating in any way that is not provided for by law and decided by a court of law. The usual networks, open-access collective equipment and their personal terminals should be at their disposal.	**1**
	Security measures		The layout of the CRAs and staff relations with detainees should be consistent with the purpose of detention, which is to place people who are not in principle violent and who have not committed any crime under the control of the administration with a view to their deportation. No sanctions or restrictions of liberty can be imposed on them without a procedure provided for by law.	**1**
Detention centres for illegal immigrants	Violence	Staff training	Prevention, rescue and traceability measures necessary to protect detainees from violence or health risks should be planned and known to police officers by means of emergency instructions, training sessions and analyses of practices.	**1**
	Deportation	Provision of information to individuals	In the event of a deportation procedure, the person concerned should systematically be informed in advance of the date of departure and the destination. The person should be able to settle all interests and notify their relatives of their arrival.	**1**
	Release		Persons in detention should be released in conditions that enable them to reach the place of their interests in suitable conditions (time, transport, resources, etc.).	**1**
	Healthcare (opinion)	Regulations	The Circular of 7 December 1999 must be updated to take into account the many legislative and regulatory changes that have been made. Professionals should have an exhaustive, clear and up-to-date legal reference document, accompanied by a methodological guide on the whole range of health and social care services available to detained persons.	**2**
			Conditions for appropriate financing of UMCRAs should be the subject of joint reflection by the Ministries of Health and the Interior, taking all the costs into account. With a view to improving healthcare in CRAs, provisions will have to be made to ensure that medical expenses relating to specialist consultations, except in	**2**

			emergencies, are covered by the State. The role of ARSs should be reaffirmed to ensure equal quality of care. They should monitor how hospitals fulfil their obligations in terms of prevention and care for detainees.	
		Medical consultations	Each detainee should be received at the UMCRA on their arrival and should be offered a medical consultation as an incentive. To this end, the head of the centre should communicate the list of new arrivals to the medical unit without delay.	**2**
		Interpreting assistance	It is essential to use a professional interpreter when a detainee does not master the French language and each relevant hospital should sign an agreement with an interpreting service and allow the UMCRA to benefit from this service, as is already practised in several CRAs.	**2**
		Medical secrecy	It is necessary to keep in mind that the right to privacy is constitutional and that consequently professional secrecy is imposed on all nursing staff.	**2**
		Seclusion	Use of the seclusion room for medical seclusion can only be allowed if there is no ordinary room available for seclusion; this use cannot last beyond the time strictly necessary to set up a treatment for contagion or to organise hospitalisation.	**2**
Detention centres for illegal immigrants	Healthcare (opinion)	Seclusion	A secluded foreigner should be able to benefit from systematic and regular visits by medical staff throughout the measure. When they consider it necessary in view of a detainee's state of health, it is the doctor's responsibility to draw up a certificate of incompatibility with seclusion.	**2**
		Hospitalisation	A detainee admitted to hospital should be systematically and immediately released from detention, regardless of the reason for their hospitalisation, as they are unable to exercise their rights.	**2**
		Psychiatric care	Carrying out epidemiological surveys could be a way of determining the characteristics of mental and psychiatric disorders, assessing their significance, adapting resources and putting an end to widespread suspicion.	**2**
			The CGLPL recommends organising the use of a nursing team dedicated to the provision of psychiatric care. Specific training should be organised to enable nursing staff members to incorporate the intercultural dimension into their patient relationships.	**2**
			For each CRA, an agreement on the terms and conditions of hospitalisation of detainees should systematically be drawn up with the relevant hospital.	**2**
			If a detainee is hospitalised in a psychiatric unit, ordinary law should apply. The patient's consent should always be sought and, as soon as it can be obtained, should lead to committal to voluntary care.	**2**
		Compatibility of health status with detention	It is necessary to reiterate the duty of UMCRA doctors to systematically question whether detainees' state of health is compatible with detention and, if necessary, to draw up a certificate of incompatibility and send it to the management of the CRA. The administrative authorities should draw conclusions from the incompatibility and	**2**

			lift the detention measure. The decision to release cannot be made conditional on hospitalisation.	
		Protection against deportation	The CGLPL considers that the prefectural services should comply with the opinions in favour of protection issued by the OFII doctor and put an end to the detention of the persons concerned – unless there are considerations of public order to be taken into account.	**2**
			The medical authorities should guarantee that detained persons are provided with copies of any medical documents concerning them, ensuring that this transmission takes place in time for the procedure. The Minister of the Interior should take all useful measures to ensure that persons released because of their state of health have a document, or even a summons to the prefecture, that enables them to assert their right to a residence permit.	**2**
		Continuity of care	The head of the CRA should in due time transmit to the UMCRA information relating to the fate of the person detained so that the nursing staff is able to appropriately refer and inform the patient, give them their medical records and thus ensure continuity of care.	**2**
Detention centres for illegal immigrants	Night (thematic report)	Telephone access	In detention centres for illegal immigrants, telephones should be kept by their owners, even if they are equipped with a camera, as they are advised that taking pictures is prohibited and that they may be subject to penalties if they fail to comply with this prohibition.	**2**
		Admission	No placement in a detention centre for illegal immigrants can be decided for organisational reasons and take place the evening before the planned date of deportation, a fortiori concerning families with children.	**2**
	Families with children		The detention of children in CRAs is contrary to their fundamental rights because it constitutes an attack on their psychological integrity, whatever their age and the duration of the measure. The detention of children should be prohibited in CRAs and a fortiori in LRAs; only the measure of house arrest may be taken against families with children.	**4**
Juvenile detention centres	Staff	Recruitment	The administration should take advantage of the new rules for recruiting non-tenured State employees to build up and train a pool of youth workers for public CEFs. It should ensure, in the contracts of objectives and means of voluntary-sector CEFs, that the centres develop a comparable pool of resources.	**1**
		Training	The training efforts made for CEFs are particularly beneficial but they can only bear fruit if the staff of the CEFs, whatever their function, is truly stabilised in these institutions.	**3**
	Discipline		The exercise of discipline should be objective, predictable and driven both by concern for the children's education and by the principles of necessity and proportionality.	**1**

	Use of force		Any act of physical control over a minor should be regarded as an undesirable event and should be reported immediately to the instructing judge and to the holders of parental authority.	**1**
Custody facilities	Use of facilities		The delivery of new facilities should be accompanied by all the necessary training measures and logistical services to ensure that they are used in accordance with their intended purpose (shower facilities, hygiene kits, etc.).	**1**
	Night watch		Persons in custody who have to stay in a cell overnight should be taken to a police or gendarmerie unit where officers are permanently on duty.	**1**
	Notification of rights		It is up to the police and gendarmerie authorities to ensure that the concrete conditions under which judicial police officers notify the rights of persons in custody guarantee that these are fully understood. To that end, they should ensure that all necessary explanations are given with due care and that the person in custody can consult, at any time, a document summarising their rights in a language and in terms they understand.	**1**
Custody facilities	Duration of custody		It is recommended that the police and gendarmerie authorities and the judicial authority restrictively interpret the legislative provisions now enabling custody to be extended for the sole purpose of protecting the comfort of public services.	**1**
	Security measures	Handcuffing	Handcuffing should be exceptional and may only be practised when the behaviour of the person in custody poses a real risk of escape or violence. Inside of closed premises, only a risk of violence can justify handcuffing. Belts should systematically be used to avoid behind-the-back handcuffing. No strip-searches may be carried out.	**1**
		Spectacle and bra removal	Spectacles and bras can only be removed during stays in cells when the behaviour of the person in custody poses a real risk of suicide. Spectacles and bras should be returned during each hearing and, a fortiori, for any appearance before a judge.	**1**
		Searches	No strip-searches may be carried out.	**1**
	Detention for verification of rights of residence		Training should be provided on the procedure of detention for verification of rights of residence so that it is not confused with custody.	**1**
	Night (thematic report)	State of intoxication	Rights should be notified to a person in custody who is arrested while intoxicated as soon as they are able to understand them, and not based on the availability of the judicial police officers on duty at night.	**2**
		Lawyers	Lawyers should hold a 30-minute interview at the beginning of custody, not just the next day, for persons arrested in the evening or early in the night.	**2**
		Release	Both during the day and at night, measures of deprivation of liberty should be lifted as soon as they are no longer justified in law. In particular, all custody measures should give rise to investigations and hearings as soon as possible so as to limit their unnecessarily long duration and avoid extensions. Appearances before the public	**2**

			prosecutor at the end of custody should occur as soon as the last useful act of custody has been carried out.	
	Procedure for placement in drunk tanks		The Chief Inspector considers it necessary to ensure that persons placed in drunk tanks are guaranteed respect for their fundamental rights, including the right to a medical examination and the right to notify a third party at the outset of the measure. A maximum period of detention should also be set, which could be limited to 12 hours, as recommended in the Joint Report of the Inspectorates-General of the Administration, Social Affairs, Judicial Services and National Gendarmerie on Evaluation of the procedure for public intoxication dated February 2008.	**4**
Courts	Material conditions of care		The treatment of persons deprived of liberty in a court is the responsibility of that court. It is therefore recommended that heads of court ensure that the most basic needs of persons deprived of liberty are met and that their rights are respected. Guidelines to this end should be given to escorts.	**1**
	Minors		A handcuffed minor should not under any circumstances walk on a public road.	**1**
	Searches		Searches of persons placed under a committal order in court may only be carried out in accordance with the legal provisions and by a trained and authorised person.	**1**
	Glass docks		The CGLPL reiterates its recommendation that docks in courtrooms not be permanent but instead be removable and installed on an exceptional basis, by reasoned decision of the court.	**1**

Appendix 4

Follow-up to the CGLPL's recommendations (inspections carried out in 2016)

1. Mental health institutions inspected in 2016

1.1 Specialist psychiatric institutions

1.1.1 *"Val-de-Lys-Artois" public mental health institution in Saint-Venant (Pas-de-Calais) - Inspection from 18 to 22 January 2016*

The CGLPL identified seven good practices and made 18 recommendations. The Minister of Health states that the good practices remain in force and that the CGLPL's recommendations have given rise to the following measures:

- the visit to the institution by the prefect and the Liberty and Custody Judge has still not taken place, so that these authorities have no idea of the conditions in which their decisions are enforced;
- the institution participates in a regional ethics committee but has not yet set up its own, which is still necessary;
- the institution has not trained staff on informing patients of their rights but has merely provided them with a printout;
- the welcome booklet has been updated and a guide on rights for families and users has been produced;
- third parties are now informed in the event of a discharge;
- despite the initial announcement of JLD hearings within the institution as of 2017, these have only been effective since 2019;
- the institution has committed to a policy of reducing seclusion and restraint practices. To that end, various measures have been put in place (review of professional practices, training on violence management, review of seclusion and restraint procedures, renovation of seclusion rooms, etc.);
- WiFi is currently being rolled out within the institution;
- following the new organisation of the centres, work is under way to increase patients' freedom of movement in the units (opening to the outside and creation of a visiting room);
- two groups for the analysis of professional practices devoted to the theme of sexuality and romantic relationships have issued their conclusions, a guide on this theme has been written, and various other measures have been taken;
- in order to clarify the responsibilities of medical teams, law enforcement and the prison administration in terms of security during transfers between the prison and hospital, the Hauts-de-France ARS has organised working groups with the aim of "facilitating the referral of detainee patients requiring psychiatric care". An agreement is currently being drawn up;

- the possibility of patients having free access to their rooms is being examined as part of work on freedom of movement.

1.1.2 *Haute-Marne hospital centre: André-Breton hospital in Saint-Dizier and Maine-de-Biran medical centre in Chaumont (Haute-Marne) - Inspection from 8 to 12 February 2016*

The CGLPL identified nine good practices and made 40 recommendations. The Minister of Health states that the good practices remain in force and that the CGLPL's recommendations have given rise to the following measures:

- consideration is currently being given to hospitalising SDRE patients as close as possible to their place of residence;
- the CDSP has resumed its operations;
- the public prosecutor's office has visited the institution only once since 2016, whereas it is supposed to do so every year;
- the involvement of families, particularly of minors, in the care project seems to have been made known, but the Minister of Health has not given any details;
- user representatives have been invited to the "Patients' Rights" working group, which deals primarily with the issue of freedom of movement, and there are plans to set up a permanent office for user representatives in 2020;
- an ethics committee has been in place since September 2017 and has met on a regular basis ever since;
- the institution has included specific training on "patients' rights" in its training plan;
- the welcome booklet has been readjusted following the CGLPL's visit;
- the rules of procedure were updated in October 2016 and were submitted and approved in the various bodies. The operating rules of the units were to be completed before the HAS visit scheduled for the end of 2019;
- nursing teams have been reminded of the need to gather users' opinions, in particular through satisfaction questionnaires;
- information on confidentiality and professional discretion is provided to front-desk staff at the time of recruitment. These concepts are also specified in the rules of procedure;
- a complaints procedure has been set up;
- the functioning of the healthcare professionals' panel, which needed to be clarified, does not seem to have been clarified, judging by the evasive nature of the Minister of Health's response;
- information provided to patients regarding the hearing with the Liberty and Custody Judge seems to have been improved;
- there has still not been any institutionally initiated discussion on the management of patients' sexuality to date; however, when necessary or expressed, this issue is taken into account in the patient's personalised care project;
- procedures for supporting involuntary patients, which hinder access to collective areas and therapeutic workshops outside the units, are currently being redefined;
- the cafeteria has been open through to Saturday since September 2018; some patients or residents can go there alone, without an escort;

- it remains difficult to ensure the presence of general practitioners;
- the recommended changes in the seclusion rooms have partly been made;
- electronic seclusion registers have been set up;
- the protocol for receiving patients from detention is currently being revised;
- as a cramped reception unit for adolescents cannot be expanded, its activities are organised outdoors.

However, it is quite unfortunate that voluntary patients continue to be placed in closed units; the CGLPL reiterates the urgent need to change this situation, which seriously infringes patients' rights.

1.1.3 *Théophile-Roussel hospital in Montesson (Yvelines) - Inspection from 14 to 18 March 2016*

The CGLPL identified three good practices and made 21 recommendations.

As early as 2016, the Minister of Health asked the Ile-de-France Regional Health Agency to ensure that the institution follow up on the CGLPL's recommendations and indicated that, while some of them could be implemented through simple organisational or equipment measures, others would require a balance to be struck between the objective of preserving freedoms and the institution's obligation to protect individuals.

The Minister of Health states that the good practices remain in force and that the CGLPL's recommendations have given rise to the following measures:

- the reports from the sessions of the ethical space are published and accessible on the hospital's Intranet site, and some topics are addressed during half-day conference-debates open to the hospital's staff;
- the notification to attend JLD hearings is systematically and effectively delivered to patients;
- the ethical space debated the issue of sexuality and issued a recommendation in September 2016; the units' rules have been revised to remove any systematic prohibition;
- a cafeteria-type conviviality area has been included in the hospital's property master plan;
- a discussion is currently under way with volunteers in the hospital on the unescorted use of the library for voluntary patients;
- discussions on the management of patients, including adolescent smokers, are in progress. They have not yet been completed due to the very wide range of opinions and positions in the hospital's professional community;
- the increase in time with somatic physicians has significantly improved somatic care coverage for adult patients. A protocol is in progress with the police and emergency medical services under the aegis of the ARS stipulating that, in situations of custody, the transfer from the police station to the hospital shall be carried out by emergency medical services and shall allow for a somatic evaluation, so that the patient is no longer required to go to the emergency department, which is complicated to manage; in addition, since the autumn of 2019, the hospital has been involved in testing the new HAS indicators for somatic care;
- the upgrading of the seclusion rooms has begun but will only be effective with the reconstruction of the "adult" facilities (2021-2023);
- the "seclusion & restraint" register is now used in the hospital, as is a traceability system for patients' prescriptions and monitoring procedures in their computerised patient files;

- an observatory on violence led by a multidisciplinary team has been set up. Work is currently in progress to formalise on a policy on managing violence;
- the building architecture of the unit concerned did not, as of the date of the Minister of Health's response, allow for detainees to be hospitalised unless systematically placed in seclusion rooms; the intermediate rehabilitation work (2019-2020, pending reconstruction of the facilities) should address this situation as best as possible;
- units with inconvenient locations will be modified as part of the hospital's property master plan, which is being finalised with the ARS and will be implemented between 2020 and 2025;
- the hospital has set up digital access lockers available to patients on request and in the presence of a nurse, to put an end to the obligation to buy padlocks;
- the short-term rehabilitation project (2019-2020) for adult units will help end the day- or night-time detention of patients in locked rooms, without a call device or toilet, on a different floor from the nurses' office.
- within the planned children's crisis unit, slated to be open 7 days a week as part of the new hospital project, children suffering from serious diseases will no longer be received in places not designed for them or in uncertain conditions.

The CGLPL also reiterates that security guards should not intervene within care units as assistants in the management of patient care, particularly in the context of seclusion measures or in child psychiatry. In this respect, the Minister of Health's response, noting that security guards and nursing staff have been jointly trained in the hospital on the subject of seclusion and restraint and that a project to train security guards in the profession of nursing assistant is in the pipeline, does not seem likely to resolve the difficulties raised during the CGLPL's inspection.

1.1.4 *Saint-Avé public mental health institution (Morbihan) - Inspection from 11 to 15 April 2016*

The CGLPL identified 7 good practices and made 23 recommendations. The Minister of Health states that the good practices remain in force and that the CGLPL's recommendations have given rise to the following measures, many of which were decided on as part of the 2018-2022 institutional project and the signing of a new CPOM between the institution and the ARS:

- every patient entering the reception and guidance centre (CAO) systematically meets with a psychiatrist and a general practitioner for a somatic examination;
- concerning weekend admissions, the on-call psychiatrist now makes the trip to the site if needed;
- patients' comments are collected prior to each decision to maintain care;
- in situations where some patients are not placed in the appropriate accommodation units due to strain on the units, professionals responsible for providing specific care visit the patients so that their medical and nursing care is related to their disease;
- a cross-inventory of patients' current belongings has been set up;
- every patient now has an individual lockable cupboard;
- the "*Exercise of freedoms*" sheet, which determines the perimeter of each patient's freedom of movement and their other rights, is reviewed at least every month;
- the sexuality of patients has been considered: for adolescents, prohibition remains in force; for adults, the teams must be informed of visits and a vulnerability check is carried out, but there is no general and absolute prohibition;

- in connection with work related to HAS certification, from now on, for each 24-hour period, a new evaluation is implemented in hospitalisation situations requiring an extension of these measures; great care is taken to ensure that these situations remain rare;
- the institution has revised its protocols relating to restraint to make this practice exceptional and ensure that decisions of "restraint if necessary" are strictly prohibited; this work has enabled HAS certification to be unqualified on this point;
- the computerised patient files deployed in the institution in 2017 ensure the traceability of decisions and follow-up to measures and the reporting of information in the register laid down by the Act of 26 January 2016; however, nothing is said about actions taken in response to recommendations concerning the monitoring of patients placed in seclusion;
- the management of detainee patients has been coordinated with the remand prison in order to improve the care of detainees based on their clinical condition on the one hand and to guarantee the effective exercise of their rights on the other; however, the Minister of Health does not specify whether they are now cared for in a normal manner and not in seclusion;
- medical presence within the CAO has not been reinforced due to a lack of staff;
- under the umbrella of the work carried out as part of the certification process, calming rooms have been eliminated and reclassified as calming spaces;
- the security of call systems for secluded patients is still under study;
- the Triskell admission unit now allows voluntary patients to take leave without permission;
- thought still needs to be given, within the institution, to improving the management of major child psychiatry crises.

1.1.5 *Orne psychotherapy centre in Alençon (Orne) - Inspection from 9 to 13 May 2016*

The CGLPL identified 10 good practices and made 33 recommendations, five of which, concerning the Aigle site, had already been issued by the CGLPL in 2009 and had not produced any results. The Minister of Health states that the good practices remain in force and that the CGLPL's recommendations have given rise to the following measures:

- documents for notifying hospitalisation measures have been reviewed, updated and supplemented; a copy is systematically given to the patient;
- training for nursing staff on patients' rights has been rolled out and integrated into the institution's training plan;
- the rules of procedure are currently being updated in light of the next institutional project and will be distributed to hospitalised patients;
- the welcome booklet has been updated; it is systematically given to each patient;
- rules of living are being finalised in the units;
- patients can now systematically designate a trusted person;
- professional practices on sexual relations are currently being shared among the staff in all units; the ban mentioned for one unit has been lifted;
- the poster presenting the role of the User Committee has been put up in all units and a document reproducing the provisions relating to users' complaints and claims and specifying how they are applied within the institution is given to each patient together with the welcome booklet;

- the quality of the information provided to patients is now under review, in conjunction with the User Committee;
- the CDSP has been reactivated;
- detainee patients access the Liberty and Custody Judge like all other patients and no patients are now brought before the judge in pyjamas;
- appropriately sized pyjamas are now available to all patients, especially minors;
- judicial representatives do not yet participate in summary meetings; a reflection is under way;
- a reflection on tobacco management is under way;
- the recommended discussion on the opening of a convivial space on the Alençon site has not yet begun; similarly, the library on this site still needs to be renovated;
- double rooms are no longer crowded with a third bed;
- facilities for minors have not been modified, but it is ensured that minors only stay for short periods;
- patients in seclusion can now see a general practitioner;
- two somatic physicians now intervene for patients in full-time hospitalisation; on the other hand, nothing is said about the intervention of paramedical specialists (physiotherapists, dieticians, etc.);
- the dispensing of medications is now individual and complies with rules of confidentiality;
- sanitary facilities have not been installed in the rooms to date due to financial constraints;
- the procedure on restraint has been finalised and disseminated within the teams; a plan for the prevention and limitation of seclusion and restraint has been included in the medical-nursing project.

As regards the recommendations not implemented from the 2009 inspection of the Aigle site, the current state of play is as follows:

- a protected area for walking and relaxation, specific to the area, is currently under construction;
- patients still do not have a key to their room cupboard;
- patients can now access daily activities;
- the increasingly systematic guaranteed use of smartphones partly meets the recommendation on the confidentiality of communications, but the location and design of the phone booth have not changed;
- seclusion measures are now accurately recorded.

1.1.6 *Roger-Prévôt public mental health institution in Moisselles (Val-d'Oise) - Inspection from 2 to 4 May and from 9 to 13 May 2016*

The CGLPL had asked for a rapid decision to be made between a still hypothetical relocation project and targeted investments on the Moisselles site to rapidly improve patients' living conditions. In the absence of a clear positioning, other developments, within the framework of inter-institutional cooperation, could be implicitly asserted and lead to the units being distributed across other existing institutions.

The Minister had then indicated that the project to relocate the hospital units to the Nanterre hospital site had been approved and now enabled the teams to know about the future of their institution, get involved in it, and prepare the intermediate phase before the units would be transferred.

In 2019, the Minister of Health has indicated that the plan to rebuild the Roger Prévôt EPS on the Nanterre site should run from 2018 to 2022. Systematic information about the project and its progress is provided at each committee meeting and information meetings are organised for all professionals regarding the progress of the relocation project on the Nanterre site.

The CGLPL had identified five good practices and made 23 recommendations, independently of those relating to the future of the institution.

In 2016, the Minister of Health observed that 21 recommendations had been implemented. These included the creation of the register of seclusion and restraint measures, the installation of a call system in seclusion areas, the notification of rights and remedies at night, on weekends and on public holidays, the collection of patients' comments, the training of staff on patients' rights, and the opening of the cafeteria to patients and visitors every other weekend. The other recommendations are currently being implemented.

The Minister of Health states that the good practices remain in force and that the CGLPL's recommendations have given rise to the following measures:

- awareness-raising of professionals on the complete collection of medical information in psychiatry has led to improvements in coding;
- a "notification of rights and remedies (notification by on-call administrators, at night, on weekends and on public holidays)" procedure has been operational since 2017;
- the collection of patients' comments has been organised and formalised via postings and also by referring patients to the person in charge of relations with users; users' complaints and claims are systematically analysed in the User Committee (CDU) and patient satisfaction questionnaires are distributed and analysed;
- action is being taken to improve the procedure for designating a trusted person;
- the rules of procedure are currently being updated; training on patients' rights is included in the institution's training plan every year;
- reflection on the organisation of the healthcare professionals' panel is under way to ensure that the doctor not involved in patient care is not a doctor working in the centre where the patient is treated;
- the place of worship is currently being fitted out in order to respect the expression of all religions;
- access to mobile phones now seems to be governed by formalised rules, but there is no indication that it has been liberalised;
- the cafeteria is still only open to patients and visitors every other weekend: a dedicated area for welcoming families has been set up on the ground floor of the care units;
- the register provided for in Article L.3222-5-1 of the Public Health Code has been set up; since 2018, it has been integrated into patient monitoring software;
- to reduce the use of seclusion and restraint, the procedure for placement in seclusion rooms has been updated; a "seclusion and restraint" training course is organised every year for medical and nursing professionals and a review is presented to the CDU, CME and supervisory board;
- all seclusion rooms have had an operational call system and toilet since September 2017;

- renovation of the facilities of the hospital units in the Gennevilliers – Villeneuve-la-Garenne centre was completed in September 2017;
- the CGLPL had recommended that in acute care units, patients should have very regular interviews with their referring psychiatrist, which is made possible by the absence of medical understaffing in the hospital; it was indicated that "the medical staff set up regular interviews" without any further details;
- all rooms in the hospital units were refurnished in 2017; a study is being carried out on specific furniture for intensive care rooms;
- rules of living and operation have been formalised for each of the two units (closed and closable);
- the reflection on freedom of movement that the CGLPL had noted in 2016 has led to the testing of an open unit with a closable wing since June 2017; this experiment will be evaluated in mid-2020.

1.1.7 *Paul-Guiraud hospital group in Villejuif (Val-de-Marne) - Inspection from 6 to 15 June 2016*

The CGLPL identified 12 good practices and made 12 recommendations. The Minister of Health states that the good practices remain in force and that the CGLPL's recommendations have given rise to the following measures:

- the institution has finalised the sectorial reorganisations; on the other hand, too many patients are still admitted outside of sector units, in a context of pressure on beds during periods of tension and on weekends in particular;
- the institution has not yet followed up on the recommendation to set up a digitised legal register for the recording of admissions;
- reminders have been issued at centre and CME meetings on the need to report, month by month, on changes in the situation of a involuntary patient instead of copying the same certificates from one month to the next, especially over long periods;
- the CDSP resumed its activity in 2017;
- the institution has harmonised measures for restricting movement, particularly between the different sectors; in 2017, it implemented a security plan for the site aimed at strengthening perimeter security to allow more internal freedom;
- in 2018, the institution updated its specifications for seclusion areas; it implements them with each new work item;
- the seclusion and restraint register has been operational since mid-2016; the institution has updated its internal recommendations on therapeutic seclusion (sic); the CME systematically analyses data on seclusion and restraint with a view to limiting the use of such measures and ensuring they comply with good-practice recommendations;
- the institution has noted that access to mobile phones is the rule while deprivation is the exception motivated by a medical opinion;
- the compulsory wearing of pyjamas, an isolated practice in only one centre within the hospital group, has not been abolished.

1.1.8 *Novillars hospital (Doubs) - Inspection from 4 to 8 July 2016*

The CGLPL identified eight good practices and made 15 recommendations.

In 2016, the Minister of Health specified that the ARS, since 2015, had been allocating new financial resources to this institution to enable it to strengthen its human resources and improve the conditions of patient care.

The Minister of Health states that the good practices remain in force and that the CGLPL's recommendations have given rise to the following measures:

- mobility arrangements for night nurses, to enable them to update their practices and knowledge, will not be reviewed until 2020;
- the hospital, penalised by a lack of places in the day hospital, is sometimes forced to admit too many patients; in this case it looks for places in all admission units but, contrary to the CGLPL's recommendation, it seems that beds for patients placed in seclusion are still allocated;
- practices for the notification of admission decisions and avenues of appeal and the collection of patients' comments regarding decisions involving them are now based on harmonised procedures and are systematic;
- the inpatient welcome booklet was overhauled at the beginning of 2019;
- the rules of procedure of the Novillars hospital have been revised and their content validated; their drafting has enabled them to be harmonised with those of the Jura psychiatric hospital (joint directorate); their distribution, scheduled for 2020, will be followed by the revision of the rules of procedure of the units;
- a group for the evaluation of professional "seclusion & restraint - freedom of movement" practices was set up in 2017; initially, its work has focused on an analysis of institutional arrangements for therapeutic seclusion and physical restraint; the theme of "freedom of movement of hospitalised patients" will be dealt with in a second phase; today, depending on their clinical condition, each patient who wishes to have some time for exercise can ask a member of the team to open the door of the hospitalisation unit. In addition, some hospital units are experimenting with long periods of keeping the doors open;
- the general ban on sexual intercourse within the premises of the institution, as mentioned in one of the unit's rules of procedure, has been lifted;
- in two of the three units that had non-compliant seclusion rooms, the necessary measures have been taken, and work will be carried out in the third in 2020;
- the maximum period for confinement in a seclusion room has been reassessed;
- the role and framework of intervention of security officers have been clarified in order to avoid confusion around roles and responsibilities; a job sheet documents the three tasks of security officers as follows: assistance and protection in the event of an attack; support for isolated personnel in intra- or extra-hospital units during an emergency mission; and assistance in the control of individuals under the supervision of nursing staff; these three tasks remain ambiguous and require in-depth training for security officers on the limits of their role;
- the layout of the outdoor spaces of two units, consisting of a single small screened terrace, has not been improved, but an outdoor walking area specific to each unit is currently being studied;
- the rooms that were to be equipped with call buttons have not been so equipped, but the units concerned are to be closed when the hospital is rebuilt;
- previously closed sanitary facilities are now freely accessible;

- the material conditions of accommodation and the lack of human resources for supporting hospitalised patients in one unit, which seriously infringe on their freedom of movement and their dignity, remain difficult; only the seclusion room has been redone since the inspection; this unit is due to close.

The CGLPL deplores the fact that it has not received a response from the Minister of Health on the frequency of seclusion measures.

It finds it even more unfortunate that the Minister of Justice has not considered it useful to make known its position on the proposal to introduce, as some courts are doing, a procedure for providing systematic access to legal aid for patients receiving the assistance of a public defender.

1.1.9 *Saint-Alban-sur-Limagnole psychiatric hospital (Lozère) - Inspection from 4 to 13 July 2016*

The CGLPL identified four good practices and made 21 recommendations. The Minister of Health states that the good practices remain in force and that the CGLPL's recommendations have given rise to the following measures:

- in order to guarantee treatment follow-up by all the players in the care pathway, an agreement was signed in 2018 between the Lozère hospital and the public mental health institution (EPSM) as part of their organisation into a regional hospital group; henceforth, emergency doctors complete the somatic assessment and the observation sheet is accessible to psychiatrists;
- the procedure for notifying involuntary care decisions has been reviewed;
- the patient welcome booklet has been taken up and updated: it is now up to date and has been distributed since 3 July 2019;
- the third party having requested the measure is systematically notified, prior to their implementation, of permissions to take unescorted leave;
- the JLD systematically grants the benefit of provisional legal aid in its orders ruling on a procedure for the control of psychiatric care measures;
- in 2018, six professionals caring for adolescents were trained on the emotional and sexual life of patients. For other patients, situations are managed individually with them by the multidisciplinary team;
- patients' access to the Internet remains limited; it is only provided during the occupational therapy workshop;
- the institution has re-examined its psycho-social rehabilitation project in order to provide doctors with insight for their prescriptions and referrals, favour some flexibility in day care proposals, enable all patients to be cared for, ensure that workshops are held on a long-term basis, and improve clarity and linkage between the day care centre and other care units; the Minister of Health does not specify whether this will allow full use to be made of the particularly numerous and well-equipped collective activities and facilities;
- the register of seclusion room and restraint measures is now completely digital and, since October 2018, the requirements have included all the qualitative and quantitative elements provided for in the Instruction of 29 March 2017;
- the Minister of Health does not indicate whether, as requested by the CGLPL, patients in care programmes are no longer kept hospitalised on a full-time basis;
- medical professionals were recruited in May 2018 to provide patients in full-time hospitalisation with a more sustained medical presence;

- the 2018/2019 therapeutic budget has been more than doubled to improve the quality of care;
- the non-updated rules of procedure of units have been withdrawn; the drafting of new rules of procedure is being finalised;
- medical time with a geriatric psychiatrist has been increased;
- the monitoring of patients in daytime exercise yards has been strengthened by doubling the time spent on-site with the occupational therapist.

1.1.10 *Intersectoral psychiatric hospitalisation system for children and adolescents of the Guillaume-Régnier hospital in Rennes (Ille-et-Vilaine) - Inspection from 11 to 13 July 2016*

The CGLPL made 15 recommendations.

In 2016, the Minister of Health indicated that, as part of an organisational audit and analysis of practices, concrete measures had been implemented: revision of admission procedures, development of cross-disciplinary meetings, strengthening of analyses of practices, etc. A discussion had been launched to clarify and adjust the medical projects of the institution's units, in order to better meet the needs of the populations received and work to formalise a genuine unifying medical project. The ARS undertook to ensure that the recommendations would be taken into account in the orientations of the medical project and the institutional project, which were then in the process of being drawn up.

The Minister of Health indicates that the CGLPL's recommendations have led to the following measures:

- existing spaces have been transformed to equip three of the five units with a calming room; yards without sports facilities have been equipped, and a communal area with various spaces and places for various activities has been planned in the short term;
- although some minors still require care in adult psychiatry, they have been decreasing in number since 2014; these hospitalisations are subject to an adapted welcome procedure (single room, specific variables integrated into the admission procedure), and reducing the use of this practice is one of the institution's focal areas;
- a procedure has been put in place for ensuring the proper notification of decisions to commit patients to involuntary care, providing comprehensive information to patients and collecting their comments;
- the protocol on involuntary psychiatric care still needs to be amended to take prerogatives of parental authority into account;
- the institution's welcome booklet is being finalised;
- each unit has had specific rules of procedure called "rules of living" since 2017;
- a compliance audit of the seclusion rooms was carried out in May 2017; all seclusion rooms are now equipped with a call system;
- measures have been taken to improve knowledge of the protocol for placement in seclusion rooms by teams, and a committee for intensive care in the hospital was set up in 2017 with the main task of reducing the use of seclusion and restraint and developing alternatives;
- a seclusion register was set up after the inspection; the first annual report on seclusion and restraint practices was produced in 2017; the 2018 report was presented to the intensive care committee in September 2019;

- the spaces dedicated to the short-term hospitalisation unit (UHCD), which are particularly small, without any access to fresh air and without any collective rooms, are being addressed by a rehabilitation project that should be completed by the end of 2019;
- regular reminders are issued regarding the protocol on restraint and rules of proper treatment; training courses on de-escalation techniques have been planned to teach professionals how to better manage aggression and violence;
- reinforcing medical and nursing presence was recommended; this has been achieved by revising the schedules of the nursing staff and via the arrival of a senior health manager in 2019; in 2016, the Minister of Health had indicated that a training programme with supervision and analyses of practices had been put in place.

1.1.11 *Nanterre hospital care and housing centre (Hauts-de-Seine) - Inspection from 5 to 8 September 2016*

The CGLPL identified 4 good practices and made 14 recommendations. The Minister of Health states that the good practices remain in force and that the CGLPL's recommendations, covered by an action plan whose implementation is reported to the ARS, have given rise to the following measures:

- the welcome booklet for patients in psychiatric care was updated at the beginning of 2019; it is given to each patient during their stay;
- hospitalisation in a closed environment is now justified solely based on the patient's clinical condition: the opening of the post-acute unit is helping reduce the length of stays in closed units by taking in involuntary patients in the process of consolidation or rehabilitation who can then enjoy freedom of movement;
- the practice of placing patients in closed rooms is now recorded in the register provided for in Article L.3222-5-1 of the Public Health Code; a new prescription medium will be integrated into computerised patient files;
- the register of seclusion measures is being integrated into computerised patient files;
- the recommendations for changing the patient call system are currently being taken into account;
- the reorganisation of the mental health centre has helped increase the number of nursing staff that can be mobilised in the event that a patient is agitated; as a result, security is only called upon if alarms are triggered and security teams no longer intervene physically with patients; the security team has been reminded of rules relating to confidentiality so that the identity of patients no longer appears in intervention reports;
- the recommendation to liberalise access to tobacco for patients in a unit, which calls into question fire safety in the current facilities, has not yet been implemented;
- access to mobile phones is now the rule, unless restrictions are necessary for clinical reasons; a feasibility study on the deployment of a WiFi terminal is under way;
- the prescription of seclusion is justified solely based on the patient's clinical condition, including in the case of a prisoner.

1.1.12 *Plouguernével hospital (Côtes-d'Armor) - Inspection from 7 to 16 September 2016*

The CGLPL identified six good practices and made 17 recommendations. The Minister of Health states that the good practices remain in force and that the CGLPL's recommendations have given rise to the following measures:

- a training programme for teams on involuntary care and patients' rights has been rolled out in the various care units in 2018 and 2019 and is continuing for new professionals;
- the form of the SDRE order was modified in 2018 and now includes rights and avenues of appeal;
- lawyers are now systematically present at JLD hearings thanks to a new hearing system;
- the possibility of requesting the confidentiality of patients' presence in the institution exists but is not yet mentioned in the welcome booklet; the institution needs to do so;
- the units' operating rules were revised in June 2017, with general objectives of providing information about daily life at the hospital and about patients' rights; a statement on the rights of involuntary patients has been added for the unit dedicated to these patients;
- the institution has included the formalisation of its policy to reduce the use of seclusion and restraint in its 2018-2022 institutional project; the training of teams on seclusion and restraint is ongoing;
- without any improvement in public transport, which is not the hospital's responsibility, informational materials on local accommodation are distributed to families to overcome this difficulty outside the institution;
- the deployment of WiFi providing patients with Internet access has been planned for the 2019-2023 period; patients currently have access to the Internet as part of psycho-social rehabilitation activities;
- a somatic care project has been developed by the team of general practitioners as part of the 2018-2023 institutional project; it is currently being rolled out;
- a therapeutic education programme on psychoses, which is being rolled out in 2019, includes a module on sexuality;
- the capacity of an overloaded and poorly equipped unit has been reduced, and it now welcomes patients only in single rooms, with adapted furniture;
- the video surveillance camera in a seclusion room has been modified so that it no longer covers the shower area;
- following the updating of the service project, there are no longer any involuntary patients hospitalised in addictology.

1.1.13 *Maison Blanche psychiatric hospital, Avron site (Paris) - Inspection from 3 to 7 October 2016*

The Maison Blanche psychiatric hospital is now "GHU PPN - Groupement Hospitalo-Universitaire Paris Psychiatrie et Neurosciences", a new healthcare institution created on 1 January 2019 through a merger-creation operation between the Maison Blanche, Perray-Vaucluse and Sainte-Anne public health institutions.

The CGLPL identified five good practices and made 23 recommendations. The Minister of Health states that the good practices remain in force and that the CGLPL's recommendations have given rise to the following measures:

- despite what would be necessary, this site cannot be completely restructured in the short term; nevertheless, every year since 2016, actions have been undertaken to improve the reception and hospitality conditions of this structure, but they do not offer hope for a significant improvement in the conditions in which patients are received; furniture has been purchased and maintenance contracts have been reinforced;
- various projects for the creation of convivial spaces within the structure (patient lounges, family room, installation of a refreshment bar, participatory library, beauty trolley, mobile kitchen) have been designed and put on hold pending the conclusions of the feasibility study on the overall restructuring of the site;
- the two reception agents and the security officer are now permanently present on the ground floor of the structure;
- the systematic transmission to patients of decisions to commit to involuntary care has been put into place;
- training courses are offered on "psychiatric patients' rights" and "patients' rights and health democracy";
- a document summarising and clarifying patients' rights is now posted in communal areas;
- awareness-raising on the requirement to wear pyjamas was conducted during the certification visit; for patients with relatives, families are invited to bring in personal pyjamas; the rate at which this easy-to-modify practice is changing seems to be very slow;
- some care programmes, which only include short or rare outings, are now carried out within the framework of full-time hospitalisation; centre managers have been reminded of the case law of the Court of Cassation on this point;
- the organisation of hearings has been revised so that patients, especially those coming from other institutions with transport constraints, do not have to wait several hours;
- with regard to seclusion and restraint, an action plan on the harmonisation of equipment in seclusion rooms throughout the institution is under way to improve facilities and maintenance;
- all seclusion rooms now have a clock;
- the seclusion and restraint register is implemented and functional; staff training has been reinforced; authorised professionals can retrieve data at any time;
- a friendly and comfortable reception area has been the subject of many studies and discussions, but it does not exist;
- there is no reflection on patients' sexual freedom; the institution only thinks in terms of contraception and protection of the most vulnerable;
- door viewers that compromise patients' privacy are now systematically closed;
- the possibility of closing rooms has not seen the recommended improvements;
- existing but closed bathrooms have not been renovated;
- the recommended medical-nursing projects have been written and training sessions and coordination meetings are being held to implement them.

1.1.14 *Edouard Toulouse psychiatric hospital in Marseille (Bouches-du-Rhône) - Inspection from 3 to 13 October 2016*

The CGLPL identified one good practice and made 32 recommendations. The Minister of Health states that the good practice remains in force and that the CGLPL's recommendations have given rise to the following measures:

- the institution is implementing a sustained training plan on changes in professional practices, but its impact on care is not evaluated;
- as the state of the buildings requires considerable investment measures, €15 million in work have been planned over the 2017-2023 period;
- the CGLPL recommended a plan for the construction or rehabilitation of accommodation and activity facilities that included the provision of medically equipped rooms, close to the nursing offices, to accommodate patients with severe diseases, and adapted bathrooms. The Minister of Health gives no information on these points;
- in 2017, 2018 and 2019, the User Committee (CDU) met five times a year, i.e. more than the regulatory frequency provided for in Article R.1112-88 of the Public Health Code; the CDU's missions and its members' contact details appear in the welcome booklet and are made known to patients and staff via posters;
- the opinions of the ethics committee are not translated in the hospital units' rules of living but are only disseminated on the institution's Intranet, which is only accessible to professionals; this committee does not meet on a regular basis;
- the institution is vigilant about the high proportion of involuntary hospitalisation measures as a whole but does not provide any information about a possible decrease in their number;
- a copy of the involuntary care decision is now given to the patient regardless of the type of measure; the institution has increased the number of training sessions for nursing staff in order to raise their awareness and train them on patients' rights, in particular the right to information;
- patients are informed of the trusted person system and of the possibility of designating a trusted person in the welcome booklet and in the section of the institution's rules of procedure for users;
- in order to ensure that all patients can get to their JLD hearing and so as to not further destabilise patients during transport to the TGI, the institution has obtained funding for a hearing room;
- apart from information on risk prevention, the issue of patients' sexuality is addressed inconsistently in the hospital units; this issue has not yet been the subject of a overall institutional debate;
- a collective discussion on freedom of movement has been initiated; the freedom of movement of patients, its preservation and its necessary limitations have been extensively worked on in this framework; a charter proposing a concrete organisation for the hospital units has been adopted;
- in order to improve the organisation of intersectoral activities and enable all patients to participate in them, a "rehabilitation centre" was created at the end of 2017; it is structured around three themes – accommodation and housing, professional integration and socio-cultural and sporting skills – which allows better use to be made of the infrastructures linked to activities;
- several doctors have been asked to participate in the risk management unit and all the adverse event forms relating to care are systematically sent to the centres' lead doctors;
- work to refurbish the seclusion rooms, which are currently undignified, as well as the complete overhaul of the intensive care areas are still among the major challenges of the restructuring project for the general psychiatry hospital units;

- pending the property master plan, major restoration work was carried out in the seclusion areas of the two most dilapidated buildings; a new assessment was to be carried out in the last quarter of 2019 and work would then be scheduled if necessary; moreover, the institution is carrying out an overall, sustained reflection on the analysis of data relating to seclusion and restraint in order to reduce these practices;
- the register provided for in Article L.3222-5-1 of the Public Health Code has been set up;
- the adolescent intensive care unit (USIA), which offers generally unsatisfactory conditions, has not changed; the pair of doctors in charge of the USIA has been stabilised for two years; it will be accompanied by specific training and supervision;
- information is now provided to the legal representatives of hospitalised adolescents;
- the CGLPL had observed that the length and repetition of stays in the adolescent intensive care unit challenge the relevance of the institution's project to improve the coordination of the adolescent care pathway between this unit and the day hospital, but the reception of patients who are not specifically covered by the USIA project and who do not find a downstream medico-social structure remains a constraint;
- the use of seclusion and restraint in the adolescent intensive care unit is the subject of a working group and the centre is attentive to the issue of crisis management and plans to develop training to find alternatives to the closing of rooms and restraint;
- the reception of minors in units for adults is only practised as a last resort, if this "solution" is necessary and does not exceed four or five cases per year;
- doctors and other professionals state that they ensure that consultations with persons from a detention centre for illegal immigrants take place in conditions that respect dignity and confidentiality, which excludes the patient from being handcuffed or the interview from being heard by third parties.

1.1.15 *Sainte-Marie hospital in Le Puy-en-Velay (Haute-Loire) - Inspection from 1 to 9 December 2016*

The CGLPL identified one good practice and made 38 recommendations. The Minister of Health states that the good practice remains in force and that the CGLPL's recommendations have given rise to the following measures:

- the prefect and the mayor visited the hospital and signed the legal register for the recording of admissions;
- the annual review of adverse events and serious adverse events is presented to the User Committee every year;
- the institution now seeks the agreement of the designated trusted person. The procedure concerning the trusted person was revised in November 2018;
- the welcome booklet is currently being revised; its gaps have been filled by a loose sheet since July 2019;
- the association's rules of procedure have been revised and two "patients' rights" advisors have been designated per unit; unit-specific rules of living have not been drawn up;
- the CGLPL had recommended that a rapid procedure be sought between the *département*-level centre for disabled people (MDPH) and the hospital, to refer patients to suitable structures; the hospital states that the procedures are fluid but that the difficulty in referring patients is more

often due to the lack of downstream structures accepting difficult patients than to difficulties in collaborating with the MDPH;

- in June 2017, the hospital validated a new medical project for the adult centre that takes into account the recommendations made and plans to "promote access to healthcare by combating hospital-centrism and developing outpatient care and alternatives to hospitalisation" and "regulate the use of seclusion and restraint by defining a policy aimed at reducing it";
- a working group on "freedom of movement" has been in place since October 2018 to evaluate and encourage reflection and the opening of certain units. It reports on its work to the CME (January 2019) and has been integrated into the hospital's steering committee for "patients' rights"; however, the Minister does not specify whether this group has had an effect on the situation of voluntary patients placed in closed units;
- the procedure and printout allowing a voluntary patient who is placed in a closed unit to accept this situation without any freedom of movement have been withdrawn;
- the renovation of rooms to provide them with sanitary facilities is progressing;
- a note from the management reiterated that under no circumstances may security officers intervene in direct and physical contact with an agitated patient; the necessary training has been given to health managers and security officers;
- the institution has abandoned the training course on "self preservation", which was overly presented as a method of protecting staff, and has replaced it with a training course on dealing with violence through de-escalation;
- restrictions on access to telephones and electronic devices are now only prescribed by doctors based on a clinical assessment of each patient's condition; they are noted in patient records;
- patients have access to their telephones and multimedia devices, unless medically restricted for therapeutic reasons;
- the ethical debate on sexuality was taken up again in 2018 and this topic was addressed by the steering committee on "patients' rights";
- a first policy paper on reducing the use of seclusion and restraint was developed in 2017 and will be gradually expanded;
- the "seclusion room" and "restraint in seclusion" procedures have been entirely reviewed and validated by the CME;
- from September 2019, a group was to work on the institutional assumption of each decision to place patients in seclusion or under restraint;
- it was reiterated that seclusion rooms should not be included in the table of authorised hospital beds, nor should they be used as ordinary rooms;
- in units with a seclusion room, the patient's room is kept to enable a quick discharge; a technical solution is being studied to allow patients who are placed in seclusion and restrained to call the nursing staff at any time;
- video surveillance conditions will be completely revised to respect the privacy of patients and the (blurred) video cameras in the bathrooms were removed in June 2018;
- seclusion rooms are gradually being brought up to standard according to the HAS recommendations for good practice;
- a computerised seclusion and restraint register is in place;

- a group is responsible for analysing the figures produced from the register by the Medical Information Department; since 2017, these figures have been presented quarterly to the CME;
- the hospital also undertakes to ensure that patients in calming rooms are no longer locked up by nursing staff in these spaces;
- data on the placement of elderly people in "seclusion, calming or other rooms" are now presented quarterly to the CME and the first reliable figures show that measures in the centre for the elderly are on the decline;
- a procedure for reporting and managing suspicions of abuse or poor treatment by staff was formalised, validated and disseminated on the Intranet on 25 January 2017; the map of abuse and poor treatment risks has been produced and guides the institution's action in this area;
- the revision of the reception procedure for detainees was planned for September 2019; since the CGLPL's inspection, they have been received in a closed unit and, depending on their condition, a prescription for seclusion (sic) may be issued; otherwise, they are treated in the same way as other patients in the unit: they have access to all the activities on offer, including access to the exercise yard to smoke, and are accommodated in a single room with a private bathroom;
- a terrace has been created to allow people accommodated in a unit with no outdoor space to go outside;
- a measure can now only be transformed from voluntary to involuntary care following a medical reassessment, which considers the patient to be in imminent danger, and not in response to a simple refusal of treatment;
- activities have been formalised and implemented by the nursing staff in the closed units to allow patients to have other choices than radio and a single television programme;
- various measures have been taken to respond, pending more extensive work, to the CGLPL's recommendations on the condition of the units, some of which have not been acted upon due to architectural constraints.

1.2 Psychiatric departments in university or general hospitals

1.2.1 *Psychiatric unit of the Roanne hospital (Loire) - Inspection from 15 to 18 February 2016*

The CGLPL identified 6 good practices and made 14 recommendations.

The Minister of Health specified that the ARS remains attentive to the long-term monitoring of the actions taken to guarantee the fundamental rights of hospitalised persons under restraint in this institution, which will be inspected as part of the three-year regional inspection plan for all institution with a sector-based psychiatry mission. It also remains vigilant as to the situation of the general psychiatry medical staff at the Roanne hospital and will take actions to make the positions more attractive, in particular by placing this discipline on the list eligible for the hospital career commitment bonus (PECH).

The Minister of Health states that the good practices remain in force and that the CGLPL's recommendations have given rise to the following measures:

- the hospital has initiated an improvement process, particularly with regard to the keeping of the legal registers of admissions;

- the prefectural and judicial authorities were informed of the recommendation that they visit the institution and did so in 2017 and 2018;
- the hospital has undertaken an improvement process, particularly with regard to the equipment of the seclusion rooms in the hospital's emergency department, but free access to water is still not in place;
- the hospital has undertaken a process to improve the quality of patient information: additional information on "patients' rights" is included in the welcome booklet (types of hospitalisation, related rights, role of the JLD, hearing procedures);
- notification sheets for measures with an invitation to comment have been introduced and are signed by the patient on admission to involuntary care;
- the UNAFAM has been asked to participate in local forums;
- the view inside the seclusion rooms is now obscured for the public passing through the corridor;
- escorts are organised subject to sufficient paramedical staff in the units and the medical decision in favour of this type of outing;
- recruitment of additional GP time was planned from September 2019 to ensure the continuity of somatic care during GP holidays;
- the seclusion and restraint register provided for by the Act of 26 January 2016 has been set up and inter-professional exchanges have been initiated to monitor the number of measures recorded; a reflection on these measures is being carried out in particular as part of the weekly patient follow-up meeting and at institutional meetings;
- the exchanges with the prison administration recommended by the CGLPL to draw up a protocol aimed at improving the management of patients held by the detention centre's departments were postponed pending a change of prison management and the arrival of a new coordinating doctor for the hospital's USMP; these events were scheduled for autumn 2019.

1.2.2 *Coulommiers hospital (Seine-et-Marne) - Inspection from 4 to 8 April 2016*

The CGLPL identified 11 good practices and made 30 recommendations.

The Minister of Health had indicated in 2016 that the report would be communicated to the Seine-et-Marne Departmental Commission for Psychiatric Care which visited the unit shortly after the CGLPL's visit in the presence of the President of the Melun Court of First Instance. A new visit was planned for 2017 to follow up on the recommendations in conjunction with the ARS's departments. She said she agreed with the CGLPL's comments on the need to modernise the accommodation conditions and wanted this to be taken into account in the dialogue between the ARS and the institution regarding its investment priorities.

The Minister of Health states that the good practices remain in force and that the CGLPL's recommendations have given rise to the following measures:

- the preservation of community-oriented institutional work preserving the freedom of patients during care has been approved by the hospital;
- similarly, the hospital has noted the recommendation to pay particular attention to the recruitment and training of hospital practitioners; however, it continues to encounter recruitment difficulties due to the remoteness of the site;
- an annual training course on patients' rights is offered to the nursing team;
- despite the CGLPL's recommendation, neither the prefect nor the mayor have visited the hospital recently;

- the welcome booklet has been updated; the rules of procedure are being updated;
- the hospital has equipped itself with the necessary means for the usable maintenance of paper and computerised registers;
- a reflection on the sexuality of patients is currently under way within the hospital;
- the increase in the number of sanitary facilities, the creation of visitor areas and the installation of individual headboard lighting for beds have not been carried out due to the general dilapidation of the facilities, which calls for more substantial investments;
- the door of the calming room is now never closed;
- time with nursing staff is more oriented towards patient empowerment; as recommended by the CGLPL, the staff has developed skills to lead occupational and therapeutic activities for the daily care of patients in the units;
- treatments are now distributed confidentially;
- a register compliant with Article L.3222-5-1 of the Public Health Code has been set up;
- prescriptions (sic) of restraint during transport are systematically logged in medical files; logging in registers is being deployed.

1.2.3 *Esquirol centre – Caen university hospital (Calvados) - Inspection from 11 to 14 April 2016*

The CGLPL identified 5 good practices and made 19 recommendations. The Minister of Health states that the good practices remain in force and that the CGLPL's recommendations have given rise to the following measures:

- the CGLPL had challenged a trade-off on the grounds that it would be "budgetary"; the institution indicates that it was a choice intended to redirect resources dedicated to intra-hospital activity to support the development of extra-hospital care, in particular with the presence of a sports instructor;
- the registration of patients committed to involuntary psychiatric care is now done on a rolling basis;
- the User Committee (CDU), which did not examine the situation of psychiatric patients, took note in 2019 of the CGLPL's report on restraint and seclusion for 2016; nevertheless, the institution still feels the need to initiate a reflection on the representation of psychiatric users within the CDU and on the share of psychiatry among the issues it deals with;
- the university hospital's clinical study group includes a psychiatrist as well as several psychologists among its members, and aspects related to psychiatry are sometimes raised in relation to various situations;
- a training course on involuntary psychiatric care was planned for all nurses in the mental health centre and for medical professionals in the second half of 2019; a reflection is under way for the organisation of a training session on procedures relating to involuntary psychiatric care for members of the management team required to take on administrative duties;
- a document specific to the intensive care unit is distributed, in addition to the welcome booklet, to patients hospitalised in this unit; similarly, there is a document specific to the post-emergency crisis unit;
- the welcome booklet, in which an error on avenues of appeal has been corrected, is now systematically given to patients;

- the unit states that it does everything necessary to facilitate meetings between patients and their lawyers, but it has not received any requests from lawyers wishing to meet their hospitalised clients; moreover, the unit states that it is open to a meeting between hospital staff and lawyers;
- the high number of patients who do not appear at the JLD hearing seems to be due to patients' refusal to appear and not to medical decisions related to their clinical condition; however, educational actions are still needed to convince patients to go to the hearing;
- a discussion on the sexuality of patients was opened at a meeting of managers and psychiatrists, without leading to the definition of a precise framework or the formulation of concrete proposals at this stage; this work is continuing;
- the formalisation in 2019 of a non-smoking area at the entrance to the unit and the identification of a space for smokers in the unit's park have improved respect for the site's non-smoking areas; the unit fully covers the cost of replacement therapy; a project is currently being considered with the tobacco control team to work on the impact of restrictions;
- WiFi coverage in the psychiatry building is now complete and patients are free to use their mobile phones, unless there is a medical contraindication; in the intensive care unit, however, patients have no access to mobile phones;
- the cafeteria is now open more frequently, i.e. at least once a week and, increasingly, twice a week;
- the somatic care of patients remains insufficient because the shifts for somatic practitioners that have been created to meet these needs remain vacant; somatic care is provided by psychiatrists;
- the seclusion rooms are now equipped with sanitary facilities and a call system;
- the placement of a voluntary patient under restraint or in seclusion concerns borderline cases with brief restraint in an open unit; it is reassessed daily during the medical visit; these arrangements are insufficient because restraint should be reassessed every 12 hours and if seclusion is prolonged or repeated, it should lead to a change in the patient's status;
- a seclusion and restraint register complying with the requirements of Article L.3222-5-1 of the Public Health Code has been in place since 2017;
- stays in the intensive care unit (USI) – a closed unit with a very small surface area that does not allow for any activity – concern patients following the decompensation of a serious psychiatric disorder, those posing a risk to themselves or others, or those with a major behavioural disorder; they have access to occupational therapy and benefit from an escort in the park; a gradual transition to an open unit is organised during meal times; exceptionally, however, patients may be admitted to the USI due to a lack of space in the open units.

1.2.4 *Issy-les-Moulineaux university hospital (Hauts-de-Seine) - Inspection from 2 to 4 May 2016 and from 16 to 17 January 2017*

The CGLPL identified 4 good practices and made 13 recommendations.

In 2016, the Minister of Health had indicated that the CGLPL's recommendations were being monitored by the ARS and that four recommendations had already been implemented and five were in progress. She pointed out that the fact that the inspection was carried out in two stages, first before the move and then shortly after moving to the new premises with an immature organisation, may have contributed to certain negative assessments in the report, whereas professionals and users now have positive impressions. This context meant that some recommendations were no longer relevant or at least no longer required new action.

As a reminder, the recommendations concerned the following points:

- organise visits by the Departmental Commission for Psychiatric Care;
- hold JLD hearings closer to the expiry of the 12-day period provided for by law;
- reflect on the sexuality of patients by reconciling their freedom with medically justified restrictions;
- inform the security department when patients are placed in seclusion or under restraint but do not ask it to intervene directly with patients;
- set up interventions and create sports areas for patients;
- set up a register in accordance with Article L.3222-5-1 of the Public Health Code (*this register had been set up in 2016);*
- plan targeted activities aimed at the physical and mental well-being of individuals and not let it be based on medication alone;
- stop the illegal searches to which patients are subjected upon returning from permissions;
- bring the wearing of pyjamas into line with the need for care and limit it to a short period of time or when the patient is placed in a seclusion room;
- establish the principle of free access to mobile phones unless there is a medical contraindication;
- create workshops to prevent patients from wandering in the corridors or clustering in front of the television and promote activities for social rehabilitation.

1.2.5 *Mamoudzou hospital (Mayotte) - Inspection from 15 to 18 June 2016*

The CGLPL made 22 recommendations. The Minister of Health indicates that the CGLPL's recommendations have led to the following measures:

- a software program developed in November 2017 enables data to be extracted in order to develop the analysis of practices, particularly in the context of monitoring patients committed to involuntary care;
- a restructuring and reconstruction project is currently being developed; it will enable the hospital to have psychiatric beds that are more in line with the needs of patients, particularly those who are no longer under the care of a UMD;
- training is carried out every year for the staff in the fire safety team, who are required to intervene at night in the psychiatric unit if necessary, but difficulties persist, particularly due to the very high turnover of this staff;
- the secure room has been equipped with a blackout system to preserve the privacy of a patient under police surveillance;
- documents and information relating to patients' rights are translated as required by the nursing staff but, contrary to the CGLPL's recommendations, the hospital does not provide informational documents in languages other than French;
- training and information are regularly provided to staff and patients with regard to the designation of a trusted person and the issues at stake in terms of rights;
- the institution's welcome booklet has not been enriched as requested by the CGLPL; the ARS has issued a reminder to the institution to apply the recommendation before the end of 2019;

- as the measures recommended regarding the quality of information in registers and staff training have not been taken, the ARS has issued a reminder to the institution to implement the recommendation before the end of 2019;
- the creation of a Departmental Commission for Psychiatric Care in accordance with the legislation in force is being examined, in conjunction with the central departments of the Ministry of Solidarity and Health;
- the current infrastructure does not allow for backtracking on the systematic closing of the psychiatric unit; the expansion of the hospital and the psychiatric unit should address this recommendation;
- staff members now take turns taking breaks, so that patients are no longer locked inside while the nursing staff is outside in the yard;
- the Minister of Health indicates that staff will be reminded of the regulations concerning the ban on smoking in the workplace (three years after the recommendation), but she does not comment on the issue of patients' agreement to quitting "cold turkey" and indicates that specific prevention actions "will be implemented soon";
- as the seclusion and restraint register provided for by law since 2016 has not been put in place, the ARS has issued a reminder to the institution to implement the recommendation before the end of 2019;
- the video surveillance system in the seclusion room has not been removed because it provides a temporary solution to the tense situation in terms of staff; this situation should change when the new institution is operational;
- the Minister of Health considers that the number of nursing staff in the hospital's psychiatric unit does not allow for any change in the conditions in which seclusion and restraint measures are carried out, in the psychiatric unit or in the emergency department; she simply indicates that a reminder will be issued to the institution to ensure that the monitoring of vital parameters and assistance in meeting patients' basic needs are effective and traced in patient files, without however providing a date for this reminder.

1.2.6 *Psychiatric unit of the Strasbourg university hospital (Bas-Rhin) - Inspection from 5 to 9 September 2016*

The CGLPL made seven recommendations. The Minister of Health indicates that the CGLPL's recommendations have led to the following measures:

- patients committed to involuntary care are now registered according to their status as set out in the legal categories and definitions;
- the project to set up a psychiatric emergency unit with adapted facilities and specific beds is part of the 2018-2023 medical project for the institution;
- patients are now informed of the possibility of designating a trusted person;
- staff are trained in patients' rights; every six months, a senior doctor conducts a training session on hospitalisation legislation for new interns and new nursing staff in hospital units;
- a booklet specific to each hospital unit is now given to patients on admission, in addition to the institution's welcome booklet; it includes information on hospitalisation regimes and patients' rights; in 2020, the institution's welcome booklet will include a specific section on psychiatry;

- the project for the construction of a new hospital building for child psychiatry, which could not be completed until now, is part of the 2018-2023 medical project for the institution; it will help avoid psychiatric hospitalisations for agitated and difficult adolescents; in 2021, the emergency and crisis unit for adults and adolescents will include a wing specifically dedicated to adolescents (with two crisis beds and one emergency bed) and specialist teams.

1.2.7 *Brive-la-Gaillarde hospital (Corrèze) - Inspection from 3 to 6 October 2016*

The CGLPL identified 7 good practices and made 29 recommendations. The Minister of Health states that the good practices remain in force and that the CGLPL's recommendations have given rise to the following measures:

- many training courses on mental health have been set up, particularly after the CGLPL's inspection, but only one, prior to the inspection, has dealt with the status and rights of patients;
- an annual visit by the CDSP and the public prosecutor or their representative is now carried out;
- weekly assistance from the UNAFAM has been set up and communication documents from this association are distributed;
- as the CGLPL had recommended that information for users be more intelligible, a project to that end has been included among the institution's lines of work;
- the positioning of a referral psychiatrist for psychiatric emergencies has helped improve the reliability of procedures for committal to involuntary care, by favouring involuntary psychiatric care at the request of a third party rather than in the event of "imminent danger";
- the seclusion cubicle used in the emergency department has been modified following the CGLPL's observations;
- a paperless emergency seclusion and restraint traceability register was set up in 2017;
- the welcome booklet for patients committed to involuntary care was updated in 2018; it is systematically handed over when the patient's condition permits;
- the procedure for notifying patients of their rights upon admission and for collecting any comments they may have is covered in the training course on "theoretical and practical knowledge in psychiatry" which 19 staff members have attended since 2013;
- the recruitment of psychiatrists has helped make patients' paths more fluid and reduce the average length of stay; as a result, the psychiatric intensive care unit is now only exceptionally required to use the room of a patient placed in seclusion for another patient;
- a policy of reducing the number of seclusion and restraint measures has been defined within the institution; a committee for monitoring restraint and seclusion room measures has been set up; the effect of these measures on the number of secluded patients is not known;
- the refurbishment of the seclusion rooms recommended by the CGLPL has not yet taken place;
- a benefit-risk analysis has been carried out on the video surveillance of patients assigned to seclusion rooms, whether in the hospital or the emergency department; the choice was made to maintain video surveillance cameras to limit the use of restraint and reduce response times;
- it has not been possible to set up physiotherapy care;
- the issue of sexuality is addressed individually with patients and families by psychiatrists but is not the subject of collective reflection;

- regular assessments of 12-hour work shifts with professionals have highlighted better continuity of care during the day for the institution via less loss of information between teams;
- the creation of a system allowing patients to close their rooms is under discussion;
- individualised care is systematically implemented and the removal of belts and shoelaces from patients in the closed unit is no longer systematic; they are subject to a specific medical prescription if a suicidal risk is detected;
- access to the closed unit's exercise yard has been extended, with free access from 7 am to 11 pm;
- a benefit-risk analysis has been carried out on the systematic banning of mobile phones: access to mobile phones is now authorised unless there is a justified and recorded medical contraindication;
- access to a library and daily press is now offered within the unit; the purchasing of new books is under consideration; the unit does not have a computer at the disposal of patients but is currently considering this; access to a laptop or personal tablet is not favoured.

1.2.8 *Psychiatry and child psychiatry units of the Toulon intermunicipal hospital – La Seyne-sur-Mer (Var) - Inspection from 5 to 9 December 2016*

The CGLPL identified 6 good practices and made 11 recommendations.

In 2016, the rapid creation of a seclusion and restraint register provided for by the Act of 26 January 2016 was identified as a good practice; this register has since been computerised.

The Minister of Health states that the good practices remain in force and that the CGLPL's recommendations have given rise to the following measures:

- the CGLPL had recommended choosing people who are actually available to serve on the CDSP and improving its logistics, but the Minister of Health has not followed up on this recommendation, which in her opinion is not a need;
- the CGLPL had reiterated that the State representative in the *département*, the President of the Court of First Instance or their representative and the public prosecutor should visit the institution; this visit was carried out in 2018 by the prefectural authority;
- so that doctors may make use of all the tools that the law authorises to improve hospitalisation measures, visits to the psychiatry units have been organised with Liberty and Custody Judges and regular relations with the prefectural authorities have helped streamline information relating to denials of unescorted leave; the Var Departmental Commission for Psychiatric Care has commended the change in the situation in this regard and no longer mentions any difficulties linked to denials of short-term unescorted leave;
- after reflection with the nursing teams, privacy is guaranteed in the visiting rooms of the involuntary care unit; in the open unit, the teams are discreetly attentive to the relationships that are formed according to the particular vulnerabilities of certain patients, as sex life can be managed through permissions outside the unit; requests for permissions give rise to interviews with doctors and teams during which emotional and sex life can be addressed while respecting the patient's privacy;
- the recommended changes to the equipment of the seclusion rooms have been carried out on one of the two sites and have been planned as part of the other's general rehabilitation project, which started at the end of 2019;

- work is under way to install new electrical equipment in the rooms and comfort locks on one of the sites;
- access to a general practitioner in the one of the sites' units continues to be problematic; it was being examined at the end of 2019 by a regional expert committee in order to submit an action plan (not yet known) to the ARS.

1.3 Specially Equipped Hospital Units

1.3.1 *Paul Guiraud Specially Equipped Hospital Unit in Villejuif (Val-de-Marne) - Inspection from 25 to 26 January 2016*

The report made nine recommendations. The Minister of Health indicates that the CGLPL's recommendations have led to the following measures:

- the systematic placement of new patients in seclusion rooms is now only practised if the patient's condition justifies it;
- the possibility of receiving patients without them first passing through the local hospital is now offered but is not systematic;
- the possibility of emergency admission is now available;
- the reduction in supervision has not been achieved;
- the easing of access to tobacco has not been achieved;
- the fasting period between dinner and breakfast has not been shortened although the institution recognises this is necessary.

Observing that little follow-up has been given to its recommendations, the CGLPL will inspect this unit again without delay.

1.3.2 *Lyon Specially Equipped Hospital Unit (Rhône) - Inspection from 8 to 11 February 2016*

The report identified three good practices and made 15 recommendations. The Minister of Health states that the good practices remain in force and that the CGLPL's recommendations have given rise to the following measures:

- patient information has been generally improved through the revision of the welcome booklet;
- rights linked to a patient's prison status have been improved with regard to access to a telephone and the presence of the SPIP, but not with regard to access to the canteen;
- the number of designated trusted persons is increasing;
- the tools of the policy to reduce the use of seclusion and restraint were put in place after the CGLPL's visit;
- medical presence during seclusion periods remains insufficient because secluded persons are only seen on weekends by an intern on duty and because somatic examinations are not systematic but only "possible" if prescribed by a psychiatrist.

1.3.3 *Seclin Specially Equipped Hospital Unit (Nord) - Inspection from 7 to 10 March 2016*

The report identified one good practice and made 17 recommendations. The Minister of Health states that the good practice remains in force and that the CGLPL's recommendations have given rise to the following measures:

- the urgent need to sign an operating protocol between the two administrations and resolve their relationship difficulties has given rise to administrative measures (signing of the protocol in 2018 and creation of various committees) whose effectiveness the Minister of Health does not appreciate;
- the unit's medical project was updated in 2018;
- exchanges between care units now occur during formal meetings, while a psychologist intervenes to supervise non-medical nursing teams;
- the chronic lack of room maintenance, which made a large part of the rooms unusable, seems to have been corrected insofar as the Minister of Health indicates that "since the end of 2018, a clear decrease in bed closures has been noted";
- the information provided to patients regarding their rights and their life in the unit was improved in 2017 through the use of new forms and posters; this was supplemented in 2019 by the redesign of the welcome booklet;
- the necessary training and protective measures to ensure that paramedical staff are able to provide neutral and strictly professional care, independent of the grounds for conviction, appear to be under way through supervision and training, whose design is not yet complete;
- no improvement in the somatic monitoring of patients has been made due to administrative uncertainties;
- the privacy of patients' telephone conversations is now better ensured although the measure taken is not quite sufficient;
- the institution has not wished to change patient access to the courtyards;
- a project to create a hearing room has been abandoned in a very unfortunate way.

The inspection of this UHSA had also led the CGLPL to note an illegal practice that seriously infringed patients' rights: the signing of medical certificates by doctors who had not themselves examined the patient in question. In response to the CGLPL's report, the institution and the prefecture assure that this practice was discontinued as of May 2016. The CGLPL had also bemoaned the use of involuntary care in cases not provided for by law; neither the institution nor the prefecture recognised this practice. The institution stated that "seeking consent to care and the therapeutic alliance remains the very essence of the approach adopted in the psychiatric clinic in general and the UHSA in particular" while the prefect affirmed that "the decision to switch from a voluntary care regime to a regime of care by decision of a State representative is only made after obtaining the opinion of a doctor from the Lille university hospital who assesses the need for care and, if the patient's condition warrants it, launches a procedure for involuntary care". Whatever methods were used in the past, the CGLPL hopes that those claimed today are the only ones applied. It will make sure of this during a future inspection.

2. Penal institutions inspected in 2016

2.1 Remand prisons

2.1.1 *Women's remand prison of the Les Baumettes prison complex in Marseille (Bouches-du-Rhône) - Inspection from 11 to 14 January 2016*

The report identified 13 good practices and made 41 recommendations.

Since the CGLPL's inspection, this institution has been moved to new facilities; therefore, only those observations that remain meaningful following this move will be reviewed below.

The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- the new structure, which became operational in May 2017, has substantially improved the living conditions of women prisoners;
- the CGLPL had recommended that the new accommodation building in the women's prison complex not be equipped with gratings; the Minister of Justice indicates that in order to reduce noise pollution for local residents, all the cells in the remand prison have been equipped with sound-absorbing frames in 2019 that do not affect the brightness of the cells; the ventilation and air renewal system has also been improved;
- most cells are now individual cells;
- nothing is said about the possibility of two daily outdoor sessions;
- nothing is said about the recommendations relating to the programming of activities for minors in advance, nor about its link with a reintegration project validated by all those involved and known to the minor;
- Judicial Youth Protection (PJJ) does not intervene continuously in the minors' wing; four youth workers are present on a half-day rotation basis;
- prisoners in the mother-child wing benefit from an open-door regime during the day, a kitchen/laundry area, a social area with childcare equipment, and a specific exercise yard;
- breakfast and meal times have been improved, in accordance with the CGLPL's requests;
- full-body searches of persons detained at the women's remand prison are carried out when the security gate is triggered or during a cell search; the same cell is only searched approximately every five months;
- juvenile detainees are no systematically subject to full-body searches; the officer in charge of the women's wing or the visiting rooms makes this decision when there is a clear suspicion of trafficking (minors in very low number – between 0 and 5 – are very seldom visited, as these are mainly unaccompanied foreign minors);
- the Minister of Justice states that the team of female warders specifically assigned to the women's remand prison never leaves a cell in disorder after a cell search;
- whenever force is used, preventive placement in the punishment wing is carried out 90% of time, in which case, the *ad-hoc* printout is used;
- women prisoners remain handcuffed during medical extractions, with the exception of declared pregnant women and minors; the ARS is nevertheless continuing the consultation and

awareness-raising work it has already begun with the prison administration services to minimise the use of means of restraint and limit the presence of prison staff during medical extractions;

- the Minister of Justice declares that there are no derogations from the principle that, for gynaecological consultations and for childbirth, the warders remain outside the consultation or delivery room, behind the closed door because, in her opinion, the hospital staff would not accept any transgression of this principle;
- the duration of visits in the visiting room has been maintained at 30 minutes;
- situations of possible abuse of children consulting a child-parent assistant are very quickly identified and discussed;
- many mailboxes are scattered around the new detention centre;
- in 2020, telephones will be installed in all cells;
- issues concerning the health unit's facilities have been resolved by the relocation of the institution;
- work is now organised on a full-day basis (from 7:30 a.m. to 1:00 p.m.), leaving detainees free in the afternoon;
- gender mixing has been developed in workshops as well as in training;
- the Minister of Justice declares that there are no difficulties regarding salaries paid for workshops;
- nothing is said about the CGLPL's recommendation to significantly increase the resources and staff numbers dedicated to education, but the facilities have been improved.

2.1.2 *Rouen remand prison (Seine-Maritime) - Inspection from 11 to 19 January 2016*

The report identified two good practices and made 31 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- the arrival process was certified in 2019; the inventory of personal belongings is now systematically carried out jointly; the harmonisation of rules on objects authorised in cells is currently being reviewed so that, in the event of a transfer, detainees may keep what they have bought in the canteen of the institution of origin;
- in the new arrivals' wing, the lack of brightness has been offset by a change of light bulbs, but nothing has been modified in terms of the showers, toilets, refrigerators or hotplates;
- the cells in the men's divisions have not improved either; hotplates are available in the canteen and a study on the provision of hot water is under way; there is still no call system; the windows of the cells in the women's remand wing have been completely changed; for the rest, the difficulties relating to refrigerators and hot water are the same as in the men's wing;
- minor improvements have been made to the exercise yards; a larger project is under consideration as part of the property master plan;
- the exercise yard in the women's wing is accessible on Saturdays when possible for the unit;
- the library in the women's wing has been refurbished to accommodate more women prisoners; socio-cultural activities have been enriched; daily access to showers remains impossible unless requested for medical purposes;
- two specially trained advisers have been appointed in the minors' wing, but the management of detained minors is weakened by the number of prisoners and the presence of unaccompanied

minors is constantly increasing; the recording of minors' behaviour in GENESIS software now facilitates the sharing of information between all the members of the multidisciplinary team;

- video conferencing, including for minors, continues to be used to alleviate the difficulties encountered by the authority responsible for regulating and programming judicial extractions;
- the redevelopment and relocation of the open wing are under study; sports equipment has been installed, but the facilities have not been adapted so that people placed in the open wing have a modicum of social life and access to fresh air;
- following the meeting of the local consultation committee for detainees in May 2019, negotiations have been under way between the prison attaché and the supplier regarding missing, poor-quality and overpriced products;
- escort levels are re-evaluated, on a case-by-case basis, based on events and personalities, with particular vigilance regarding level-3 escorts; the Minister of Justice states that the presence of prison staff during medical consultations is not systematic;
- a protocol has been signed between the Rouen public prosecutor's office and the interregional directorate for the purposes of protecting victims of violence and dealing with incidents;
- nothing seems to have been done to specify how a disciplinary investigation should be conducted, so that the commission may have sufficiently precise and objective factual information;
- in the punishment wing, detainees now have full bedding, but nothing has yet been done about the brightness of the cells or access to showers;
- the emergency protection kit remains used in the punishment wing, whereas any risk of suicide should prohibit a detainee from being placed in this wing; this practice should be seen as a failure on the part of the administration to fulfil its duty of protection;
- the project to certify the solitary confinement wing in 2020 has provided an opportunity to start thinking about the development of activities, organise some cultural activities and improve the gym;
- the confidentiality of telephone installations has only been marginally improved with the forthcoming opening of telephone service in cells;
- the hours of women's visiting rooms have been adapted to a limited degree to avoid forcing them to give up an activity but the increase in the number of places available on Saturdays has been limited in order to avoid gender mixing in the visiting rooms;
- an agreement between the prefecture and the institution has been formalised in order to facilitate the first issue and renewal of identity documents and residence permits for persons deprived of liberty;
- the distribution of medications by hand has been extended but does not yet cover the entire prison population; psychiatric treatments are systematically distributed by hand; continuity of care for outgoing prisoners is ensured both by the provision of social security coverage and by the scheduling of appointments; a social worker has been recruited;
- prisoners applying for work or vocational training can now express several wishes; the institution states that it now compensates prisoners who work at the statutory rate of pay but indicates that in one of the workshops, prisoners are paid on a per-task basis; the recommended improvement in material and safety conditions for prisoners working in workshops does not seem to have resulted in any new measures;

- the recommendation to better circumscribe the work of the Prison Rehabilitation and Probation Service and set priorities does not seem to have given rise to concrete actions.

2.1.3 *Cherbourg remand prison (Manche) - Inspection from 8 to 12 February 2016*

The report identified two good practices and made 30 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- inventory sheets of items taken from detainees are produced;
- each new arrival receives an extract of the rules of procedure and the "I am in detention" booklet, but the institution does not seem to have set up a more appropriate information system;
- time in the exercise yard cannot be reserved for new arrivals for infrastructural (sic) reasons and due to a lack of human resources;
- additional cupboards have been installed in the cells and each prisoner has a bed (bunk beds on three levels); there are no mattresses on the floor despite significant overcrowding;
- renovation work was planned for the second half of 2019;
- the sanitary facilities including showers, toilets and sinks have been changed, as has the sewage disposal system; lastly, a shower unit has been created in each new arrival's cell;
- the institution states that it now provides sufficient quantities of hygiene kits and linen to detainees;
- rules of procedure were to be drawn up before the end of 2019;
- since 2016, the institution has been looking for a solution to put a floor mat in the search facilities;
- detainees who have to go to court are escorted to the courthouse by a law-enforcement and PREJ (judicial extraction) vehicle; they do not walk in the street;
- registers of disciplinary sanctions are now open; a request for training on the regulations on disciplinary procedure has been placed under the local training plan for 2020;
- the creation of a search room in the punishment wing is not feasible; however, full-body searches are carried out with all precautions to guarantee the prisoner's privacy;
- the manual sprinkler activation devices that enabled the uncontrolled spraying of water inside of punishment cells have been removed;
- the shower door in the punishment wing has been repaired and renovation work was planned for the second half of 2019;
- the traceability of incidents occurring at the institution and reported to the Interregional Directorate for Prison Services or the public prosecutor's office is now ensured;
- the institution has made a request for soundproofing work in the visiting rooms in its statement of requirements for 2020;
- the telephone booths were changed in 2019;
- no protocol has been drawn up between the institution and the prefecture for the establishment or renewal of residence permits;
- consultations have been organised in application of Article 29 of the Prison Act for some sport activities;

- letters, requests and queries are dealt with on an ongoing basis by each of the institution's departments, but no system for tracking queries has been set up;
- the health unit's faulty equipment has been replaced and its facilities are now cleaned;
- the provision of mental healthcare has been strengthened: two psychiatrists and a neuro-psychologist are now involved;
- the CGLPL had recommended that an objective and fair rule for participation in sports sessions be set out; there is no indication that this has been done;
- the rules of procedure are now permanently accessible and available in the library.

2.1.4 *Grenoble-Varces remand prison (Isère) - Inspection from 8 to 12 February 2016*

The report identified 15 good practices and made 26 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- after experiencing a high vacancy rate, the institution's staffing situation recovered in 2019;
- overcrowding has worsened;
- the rules of procedure were updated in 2019;
- a search room for new arrivals has been created;
- the renovation recommended by the CGLPL has been limited to repainting and urgent work; no prevention plan can be put in place given the burden of corrective actions;
- shelters have been removed from the exercise yards for safety reasons and furniture (benches and tables) has been planned;
- renovation work on the showers was completed on 16 June 2016, but the showers have deteriorated again due to a lack of ventilation and overuse; there are no individual cubicles in the collective showers but few incidents have been observed;
- maintenance work on the flat roofs was started but had to be interrupted due to technical problems and leave taken by companies in August 2019; this work should resume but will in any case be slowed down by overcrowding;
- video surveillance of the exercise yards has been improved in 2019;
- three working groups (emergency department, secure rooms and overall system) met in 2019 with the hospital and the police in order to better secure extractions, but the institution remains committed to a high level of restraint;
- the secure rooms of the hospital were reopened at the end of 2018;
- the cells in the punishment wing have been renovated and certified for their compliance with the European Prison Rules;
- the lack of a real exercise yard in the punishment wing has not be remedied;
- visiting times in the visiting rooms have been extended in 2019;
- the telephone booths have been replaced in 2019; no additional booths have been installed due to their low usage rate and the prospect of installing a telephone in each cell; the personal accounts administration credits telephone accounts once a week, but current demand is low;

- lawyers have been advised to make an appointment before coming to visit their client so as to anticipate the prisoner's arrival in the visiting room, but impromptu visits by lawyers are possible, including on Saturdays;
- the project to install a Citizens' Advice Centre was due to resume in September 2019;
- the welcome booklet for new arrivals was updated at the end of 2017 and a specific poster concerning the Defender of Rights was put in place in detention, in particular in the new arrivals' wing;
- the institution has made major efforts to boost its labour supply;
- the classrooms and gymnasium, which were unusable during the inspection, have been renovated.

2.1.5 *Coutances remand prison (Manche) - Inspection from 15 to 18 February 2016*

The report identified seven good practices and made 19 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- job descriptions clearly defining each person's responsibilities have been drawn up;
- contrary to the CGLPL's recommendation, the institution has decided that cell changes should be the responsibility of the deputy head of institution with senior staff, not a CPU;
- a contract for the general renovation of the institution has been awarded to a project manager in 2019;
- time in the exercise yard dedicated to new arrivals cannot be set up;
- additional cupboards cannot be installed due to the size of the cells, but ladders have been installed on all bunk beds;
- for security reasons, the institution did not wish to equip the exercise yard with an awning since the last one installed enable an inmate to climb onto the roof;
- the institution had planned to install telephones in the cells of the open wing in October 2019;
- the drafting of rules of procedure for the open wing is currently being considered;
- the hospital has created a special access area for the escort to the emergency department, which now allows extractions to be conducted out of public view;
- each search room has been equipped with a floor mat, a coat hook, partitions and a curtain;
- the visiting room can only accommodate seven people, so any partitioning, which would result in the loss of at least two places per session, cannot be carried out;
- the installation of mailboxes and of a mail delivery system that preserves confidentiality vis-à-vis the warders has not been carried out; telephone booths that guarantee the confidentiality of telephone conversations have not been installed;
- despite searches carried out by the institution, the position of Muslim chaplain is still vacant;
- the renovation of the health unit's facilities has been included in the institution's overall renovation plan;
- a new workshop layout, including a cloakroom, was developed following the change of training module.

2.1.6 *Nevers remand prison (Nièvre) - Inspection from 7 to 10 March 2016*

The report identified 14 good practices and made 43 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- the right to an individual cell is not respected as it would reduce the institution's capacity by 50 places, which is unsustainable; despite a denser prison population since 2018, requests for an individual cell are assessed on a case-by-case basis;
- in 2019, the staffing fill rate is slightly above 100% (53 officers for a theoretical workforce of 52);
- following the decision to keep the remand prison in operation, occasional work and compliance upgrades have been carried out, but there is no general renovation plan for the institution;
- welcome documents for the new arrivals' wing were reviewed in 2018 and then validated as part of the certification of the new arrivals' process;
- the state of the cells has been strictly monitored since the institution's EPR certification was awarded in November 2018;
- early releases from the new arrivals' wing, due to a lack of space in the dedicated cells, remain exceptional;
- all renovated cells have a dedicated painted area for a notice board; all cells were equipped with toilet seats in mid-September 2017;
- the configuration of the cells makes it difficult to position TV sets so that they are visible from each bed;
- although a plan to repair and equip the cells is urgent, only occasional work is carried out;
- rehabilitation of the exercise yards was necessary but could not be carried out;
- no occupational equipment has been installed in the open wing;
- the institution has updated the memos that make up its instructions for its staff;
- escort levels have been revised and the institution states that the adaptation of escort levels is always respected during medical extractions; an oral reminder on the need to not attend treatments is issued to staff;
- the use of systematic full-body searches whenever prisoners are reintegrated into the open wing has been abandoned;
- in 2019, the length of visits was increased from one hour to one and a half hours, but the number of visiting rooms did not increase due to lack of demand;
- the Minister of Justice affirms that access to telephones, which was not available to detainees in the open wing at the time of the inspection, is now available to them; however, she does not indicate by what means;
- access to telephones for punished prisoners is now monitored under a certified procedure;
- the restoration of the Citizens' Advice Centre has been considered by the President of the Nevers Court of First Instance as a priority area of work for 2019;
- documents can now be consulted at the registry office and notifications are made in the senior officers' office and in the rotunda, but without other people being present;

- the payment of membership fees to the institution's socio-cultural association is no longer mandatory, but the institution has not wished to challenge this questionable method of financing a small number of sports activities that are accessible to all;
- the tense context of the medical workforce in this region is impacting the time spent with doctors available in the health unit;
- high-dose buprenorphine (Subutex®) remains crushed at the time of dispensing, contrary to the MA;
- dental activity increased between 2017 and 2018; to improve the delivery time for spectacles, an agreement has been signed between an optician and the hospital;
- a health education programme on "nutrition and sport" was implemented in 2017; condoms are now made available to prisoners;
- work to renovate the sanitary facilities was completed in mid-November 2017;
- special mailboxes for detainees' mail addressed to the health unit have been installed in detention and in the punishment wing;
- the fluidity of movements to the health unit remains a work item;
- the practice of work in cells has been abolished, but it may be authorised on an exceptional basis to ensure fair access to work for people in the solitary confinement wing or those in difficulty with the two groups of selected detainees in the concession workshops; the methods of calculating pay were clarified for detained workers by means of a notice posted at the beginning of April 2018; all selected detainees in the institution's various general departments have benefited from a weekly day of rest since April 2018;
- in the event that a detainee must, at the request of the sentence enforcement judge, leave the open wing at an atypical time, the institution adapts accordingly.

2.1.7 *Brest remand prison (Finistère) - Inspection from 14 to 18 March 2016*

The report identified 16 good practices and made 47 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- the already significant overcrowding at the time of the inspection reached a new record level in the first quarter of 2019 with an occupancy rate in the adult men's wing of 178%; the number of mattresses on the floor exploded (27 instead of five at the time of the inspection); the rate of detention in individual cells fell; this situation was raised at the last evaluation board meeting on 27 March 2019, to alert the local judicial authorities;
- it is not always possible to separate remand prisoners from convicted prisoners in this situation of very high overcrowding; the occupancy rate in the open wing, which was 42% on 31 August 2018, rose to 75% in May 2019;
- the women's wing has reopened within the remand prison;
- the welcome booklets are no longer translated into foreign languages due to regular updates; however, the "I am in detention" guide is given to each prisoner in their original language;
- the equipment in the exercise yards has been marginally improved;
- the SPIP still does not take part in the provision of collective information to new arrivals in view of internal organisational difficulties, but the SPIP's actions and missions are explained to detainees during their arrival interviews;

- the accommodation of detainees in the new arrivals' wing outside of the arrival process due to their incompatibility with a stay in the solitary confinement or punishment wing and due to a risk of them being assigned to detention remains the exception,
- in the men's remand wing, various types of recommended work have been carried out and the provision of hygiene kits to people without sufficient resources is now systematic;
- in the minors' wing, an interdepartmental consultation has been carried out to deal with the case of unaccompanied foreign minors, but these have become fewer in number;
- in the open wing, an officer has been assigned to regulate methods of treatment; however, the CGLPL's recommendations on telephone access, sociocultural activities and the development of a collective space have not been acted upon; the rules of procedure have been revised;
- pillows are now distributed;
- contrary to the CGLPL's recommendation, breakfasts have not been improved;
- the date for taking into account financial situations for the management of aid for people without sufficient resources is now constant;
- a new video surveillance system has been rolled out;
- for medical extractions, the Minister of Justice declares that the institution tries to strike a balance between security requirements and respect for medical secrecy, favouring streamlined measures, i.e. without means of restraint or without the physical presence of the escort, whenever this is possible in terms of security; the Minister of Health declares that the Bretagne ARS is continuing the consultation and awareness-raising work it has already begun with the prison administration services in order to minimise the use of means of restraint and limit the presence of prison staff during medical extractions; in the absence of statistical data, the value of these responses remains unknown;
- two video conferencing rooms have been created in the visiting area;
- the Brest bar has made efforts to raise awareness of prison issues among lawyers participating in disciplinary committees;
- the solitary confinement wing that was supposed to be renovated has not been renovated, which, paradoxically, does not seem to have prevented it from being certified;
- detainees in solitary confinement cannot visit the library in the socio-cultural area of the remand prison, but they have access to the library's documentation through reservation forms;
- mailboxes have been rolled out in all accommodation units;
- in the absence of a visit permit, receipt of a mandate is now subject to the prison director's authorisation and is no longer systematically rejected;
- during the welcome meeting, new arrivals are informed of the worship activities available and of how to contact the chaplains; some chaplains are present at the weekly collective information session for new arrivals;
- the welcome booklet has been modified to inform detainees that they can directly reach the CGLPL by telephone;
- a partnership agreement between the remand prison and the prefecture has been laboriously signed for the issuance of residence permits; at the beginning of 2020, it should give rise to an initial intervention by a dedicated adviser;

- the collection of parental consent to care for minors is being addressed through a procedure in connection with Judicial Youth Protection; work on this subject was under way to improve the monitoring and traceability of this consent in patients' files;
- the institution's management specifically ensures that detained persons selected for employment are included in the list determined by the CPU, but it cannot depend solely on the date of inclusion as a criterion: behavioural and technical qualities are also studied; the monitoring of work paces by the local employment officer once a month, recommended by the CGLPL, cannot be implemented;
- it is very difficult to ensure the sustainability of work in workshops because the labour market has been devastated and is generating a loss of activity; prospecting is under way;
- the vocational training plan has been boosted.

2.1.8 *Gap remand prison (Hautes-Alpes) - Inspection from 6 to 10 June 2016*

The report identified two good practices and made 28 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- the fitting-out of a space left available while this institution is too cramped elsewhere is being studied for work in 2020;
- two copies of the rules of procedure are now available at the library;
- to improve the brightness of some cells, the institution has chosen to add lighting whereas it was recommended to remove the accumulation of window protection devices; this is not satisfactory;
- in the remand wing, the furniture in the cells that can accommodate three people has been renewed; it is now tailored to the number of occupants in the cell;
- the open wing is, for the moment, still in the state described during the inspection: no dedicated officer, no rules of procedure, unsuitable exercise hours, no patrols at night, communal areas – corridor, stairs, shower cubicle, toilets – not maintained, irregular bed linen changes, no telephone easily accessible, no activity possible, deplorable general condition; work has been scheduled to start in early 2020;
- bedsheets are now changed in all cells regardless of any criteria related to the prisoners' behaviour;
- it is stated that canteen products are sold at cost price – the price paid by the structure – without any margin;
- the video cameras in the exercise yards were replaced in 2018;
- all searches have been logged in GENESIS since 2018 and carried out in application of the DAP memo of 2 August 2017; this legal framework is regularly reiterated;
- it is stated that a family shelter is not feasible due to lack of space but that families wait very little, given the number of prisoners in the institution;
- the installation of soundproofing in the visiting rooms has not been adopted as it would considerably reduce the available space;
- a postal officer was appointed on 28 January 2019 by a memorandum;
- mailboxes were set up in August 2019;

- telephone booths were replaced by calling points in cells in September 2019;
- it is now possible to close the doors of the lawyers' visiting rooms;
- the welcome booklet has been updated and includes information on the appointment and role of lawyers;
- a poster has been produced in detention on the specific role of the Defender of Rights' representative and the procedure for contacting them, and the information is included in the welcome booklet;
- a protocol for the management of national identity documents is pending validation by the prefectural departments;
- prisoners are informed of possibilities for voting in every election, but the last elections did not attract the interest of the prison population;
- detainees under "special surveillance" are woken up at night during each round; it would be advisable to examine, in connection with the health unit, the advisability of maintaining this type of procedure for several months; cases of special surveillance are studied every fortnight;
- the creation of a librarian position and five school camp places has increased the proportion of prisoners who are gainfully employed from 15% to 30%;
- the library was refurbished in 2017; a volunteer works every Thursday and a selected prisoner on other days;
- there is still no social worker in the institution but the SPIP is able to respond to social requests from prisoners.

2.1.9 *Nanterre remand prison (Hauts-de-Seine) - Inspection from 5 to 15 September 2016*

The report identified 12 good practices and made 73 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- the recommendation to implement a proactive sentence-adjustment policy has been the subject of sustained studies and the opening of an open wing in 2019 is helping address overcrowding in the institution;
- since the CGLPL's last inspection, the institution has committed to a proactive and diversified training policy and has set up the following: a working group on violence, a workshop on professional practices with an external educator for specialised brigade officers, and a "feedback" workshop on professional practices;
- the rules of procedure are now available in the libraries and in warders' news stands; the national education system was asked to provide a translated version of the rules of procedure in several languages in October 2019, with a deadline in the first half of 2020;
- the management of vulnerable people has been reviewed: the wing provided for this purpose has 34 places and can accommodate an increasing number of vulnerable psychological profiles in individual cells with appropriate treatment; specific activities (art, education, board games, meditation) are offered to them;
- the institution has benefited from additional staff, thus enabling the open wing to open;
- activities have been developed for new arrivals;
- the brigade dedicated to the new arrivals' wing has been reinforced by the recruitment of an experienced officer; specific training has been organised to make the officers more operational;

- the prison does not have a cell adapted for people with reduced mobility; it has a double cell reserved for a single person with reduced mobility, but it is not equipped with specific amenities; the upgrading of five cells dedicated to people with reduced mobility has been planned, for completion by 2023;
- cell inventories, carried out within the framework of the certification monitoring committee, enabled cell furniture to be upgraded in 2018;
- the Minister of Justice indicates that the institution complies with the standards defined by the Council of Europe's Committee for the Prevention of Torture (CPT) to ensure that each prisoner has sufficient space to move around in their cell "as far as possible, taking into account the realities of prison overcrowding";
- a painting project was implemented: all cells were cleaned up on this occasion as part of the delegated management contract;
- the exercise yards are not equipped with urinals but with a toilet area accessible on request; there are no plans to install seats and tables;
- to ensure the fluidity of movements, their number needs to be limited; the single period of outdoor time has therefore been maintained as long as the number of prisoners exceeds 600;
- the possibility of entering the exercise yard even for a short period of time, after an appointment, is covered by an oral instruction but is not yet included in the rules of procedure;
- surveillance of the exercise yards should be improved by enlarging the guard posts and modernising video surveillance over a three-year period starting in 2020;
- the exercise yard of the minors' wing has been redesigned to further separate it from that of adult inmates and equip it with an awning and urinals;
- the number of warders in the minors' wing has been increased;
- due to prison overcrowding, inmates can access showers only three times a week, not daily;
- major renovation work has been carried out in shower enclosures from the basement to the fourth floor; the tiles have also been changed; they are maintained on a daily basis;
- after a change of contract holder for the cleaning of the facilities, it is stated that service quality is now highly satisfactory;
- the institution now applies the guidelines on free refrigerator use for prisoners without sufficient resources;
- meals are now distributed once all prisoners have come in from the exercise yard, i.e. after 5:30 pm and not before 5 pm;
- the quantities served to prisoners are fair and compliant with the specifications and assistants are trained in the distribution of meals and made aware of this point; nothing is said, on the other hand, about the quality control of meals;
- a second warder has been assigned to the canteens; deliveries are therefore faster and complaints can be dealt with in the afternoon; the canteen distribution process has been reviewed; tensions in detention have eased;
- various measures have been taken to make movements more fluid: more rigorous supervision, intra-building activities, streamlining of accommodation in relation to activities, mobilisation of a greater number of staff, etc.;
- the Minister of Justice indicates that searches are specifically motivated, carried out in strict compliance with the texts in force and logged in GENESIS;

- officers in the solitary confinement and punishment wings now remain in their area of assignment except in emergencies;
- the welcome booklet has been translated into five languages and its translation into other languages commonly spoken in detention is a target for 2020;
- the institution is not in a position to relax the management of visitor delays; a compliance measure relating to the abusive suspension of visitor permits after three absences, noted by the CGLPL, has been taken; the practice of frisking visitors, which has no legal basis, is no longer in force;
- two mailboxes, one reserved for mail to be sent outside and the other for requests addressed to the institution's various departments, have been installed;
- letters, opened by the postal officer to read them, are now closed again before being returned to buildings for distribution;
- the address of the CGLPL has been added to the list of authorities authorised to communicate confidentially with prisoners, and its telephone number has been included in the welcome booklet and on posters;
- the facilities of the lawyers' visiting rooms have been renovated and computers for reading files on CDs have been installed, as have sockets for the printer; however, lawyers have not been allowed to use the staff entrance;
- a protocol is being signed to ensure the correct application of the protocol on procedures for the initial issue and renewal of residence permits for foreigners deprived of liberty;
- the intervention of a legal expert specialising in foreigners' rights litigation, for half a day a week on a permanent basis, is currently under consideration with the Hauts-de-Seine bar; the institution says it is in favour of the intervention of an association specialising in foreigners' rights litigation, but nothing seems to have been done to encourage it;
- an additional assistant social worker position has been planned but not filled;
- the recording of requests is partial, except for requests for activities, which are systematically recorded; nevertheless, the institution is considering solutions to ensure the traceability of all requests;
- vacancies in the health unit have been filled;
- the Minister of Health says that movements to the health unit are now more fluid and that patients arrive more quickly, as soon as calls to the building are made, thanks to the daily presence of two warders;
- the time available to the staff in the health unit does not allow it to fulfil its education and prevention mission, but an increase in staff numbers planned for 2020 should make this possible;
- radiology technician shifts remain insufficient; no physiotherapist consultations have been set up;
- the health unit's IT resources have still not been upgraded, which represents a serious handicap for its operation;
- the situation of psychologists has improved with the presence of two full-time psychologists, two part-time psychologists and the arrival of a third part-time psychologist at the beginning of 2020;
- the number of vehicles in place for extractions remains insufficient, leading to cancellations;

- the institution now analyses job applications in a personalised manner without any automation; thus, the existence of an incident report no longer necessarily results in exclusion; the institution has revised the methods for calculating the hourly pay of selected prisoners in order to reach the minimum hourly rate; an effort is being made to offer more skilled work;
- despite the steps taken by the institution, the recruitment of trainers is difficult, but vocational training, which was interrupted at the time of the inspection, has resumed;
- the automatic mechanism of exclusion for unjustified absences has now been abandoned, and an adversarial debate allows situations to be examined in their context, on a case-by-case basis;
- the in-depth study of causes of absenteeism for prisoners registered at the library, requested by the CGLPL, has not yet been conducted; on the other hand, the institution is considering installing libraries in the buildings, which would facilitate direct access to books for the prison population; the library in the minors' wing has been finalised; the library for specific (new arrivals' and vulnerable persons') wings has been created and for the solitary confinement and punishment wings, the document collections are being sent;
- an officer dedicated to the sentence enforcement process has been appointed;
- all detainees, including those on remand, are now monitored by a CPIP;
- the increase in the number of CPIPs will enable collective actions and treatment to be implemented, especially since a psychologist was recruited in 2018;
- the registry team has been strengthened and professionalised; a considerable decrease in errors and incidents has been noted.

2.1.10 *Men's remand prison of the Fresnes prison complex (Val-de-Marne) - Inspection from 3 to 14 October 2016*

In addition to the emergency recommendations discussed in Chapter 3 of this annual report, the report identified six good practices and made 47 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- the reinforcement of the Fresnes prison complex's supervisory and management staff was presented as part of the response to the emergency recommendations (see Chapter 3);
- facilities and hygiene issues were presented as part of the response to the emergency recommendations (see Chapter 3);
- a Prison Rehabilitation and Probation Counsellor fluent in sign language has been assigned to the institution's SPIP branch;
- the cells where people who are to be released the next day are kept can now only accommodate two people instead of six within a space of less than 10 m²;
- hotplates can now be purchased in the canteen twice a month;
- management systematically verifies incident reports. The officers involved are automatically interviewed, with the content recorded in GENESIS; videos are watched to review and evaluate the facts;
- the creation of the Infrastructure and Security Department in March 2019 has optimised the organisation of movements, which remains a priority for the institution;
- the issues of searches and the use of force were presented as part of the response to the emergency recommendations (see Chapter 3);

- the escort level is determined for each newly assigned prisoner, but the high level of dangerousness of some detainees does not allow for staff to be removed from the treatment room; a medical extraction tracking sheet is filled in systematically and sets out specific instructions for each detainee;
- the vast majority of cases brought before the disciplinary committee are brought within two months, but some cases require a longer investigation with hearings with various witnesses and the collection of additional materials;
- 'silhouette' sheets are systematically used in the punishment wing when traces of blows are observed; they are then attached to the prisoner's disciplinary file; however, nothing says whether they are kept in the medical file;
- the visitor circuit between the lobby and the visiting rooms includes three toilets and not two, as the CGLPL mistakenly observed, but this is still insufficient;
- maintenance of the visiting rooms was presented as part of the response to the emergency recommendations (see Chapter 3);
- the current number of staff does not enable double visiting rooms to be organised;
- it is common for people who make an appointment through the reservation terminals to subsequently call the institution to make sure their appointment has been taken into account, which may explain the congestion of the institution's only hotline dedicated to making appointments;
- the "child-parent assistant" visiting rooms are insufficiently used due to the planning of the proposed time slots; therefore, a second room, or outfitting of the room doubling the reception area, or an additional time slot could be considered when restructuring the Fresnes prison complex;
- the calling points have been renewed and others have been installed on the ground floor;
- since 2 February 2018, a protocol has been signed on the measures provided for in the inter-ministerial Circular of 25 March 2013 specifying procedures for the first issuance or renewal of residence permits for persons of foreign nationality during their incarceration;
- the staff does not have the capacity to send an acknowledgement of receipt to prisoners as soon as a request is received; however, prisoners are received for a hearing as soon as they place a request to that end;
- work has been carried out in the facilities of the health unit but they cannot be extended for the moment; the archiving of medical records has improved. A clean, dry room has been allocated to the nursing teams;
- the toilet in the calming room remains visible through the cell's door viewer;
- the warders assigned to the USMP are informed on taking up their duties of the particularities of the exercise and also of the extent of compliance with professional secrecy;
- according to the Minister of Health, a patient's proven or suspected state of radicalisation should not guide or determine healthcare; all patients are treated based on their disease and health needs without any other consideration;
- the ARS reminded the institution of the need to ensure confidentiality and remove the posted list of prisoners receiving opioid substitution treatments; the lists are no longer posted in the waiting rooms but are stored in a notice board with reclosable panels and can only be consulted by staff;

- USMP professionals are dependent on the organisation of prison officers' shifts and have no leverage over it; they thus have to adapt their consultation times, among other things;
- according to the Minister of Health, the heads of the mental health department are not consulted regarding the choice of prison officers assigned to the psychiatric day hospital unit; the Minister of Justice supports the opposite position;
- fellow prisoners who witness a suicide or attempted suicide now receive psychological support;
- the Minister of Justice states that placement in an emergency protection cell falls within the competence of the Regional Mental Health Department for Prisons, whereas the Minister of Health states that this measure falls within the competence of the prison administration, which is the case;
- the workshops of the Industrial Board for Penal Institutions have been renovated and heated;
- seeking the consent of prisoners to the procedure of release under constraint still does not seem to be formalised.

2.1.11 *La Roche-sur-Yon remand prison (Vendée) - Inspection from 28 November to 2 December 2016*

The report identified six good practices and made 35 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- the plan to close the prison has been abandoned;
- a restructuring project is under way following the decision to not close the prison, but it does not have a set deadline and its content has not yet been defined;
- window bars continue to be verified in some cells by trampling the beds;
- a project to restructure the open wing was drawn up at the beginning of 2019 and is currently being studied at regional level;
- the maintenance of showers has not improved and shower cubicle doors have not been installed;
- information on the possibility of having hygiene kits on demand is given during "new arrivals'" meetings; toilet paper is now available on demand;
- canteen products dropped off in a cell in the occupants' absence are now placed in a transparent plastic bag stapled with the canteen coupon; a double check is carried out between the warder and the classified prisoner at the time of distribution;
- prisoners are now given a rental contract for the refrigerator and television with the rental rate;
- the video surveillance system was reinforced at the end of 2017 in order to remedy blind spots in the exercise yards;
- search decisions are logged in the GENESIS application; a memo dated 8 October 2018 reviews the legislative and regulatory provisions applicable in this area; another memo should reinforce the system in 2020;
- escort levels are re-evaluated every month;
- a register for monitoring the reporting of incidents to the authorities was set up in September 2018; a seizure report is systematically drawn up and attached to the report for the authorities;
- a study has been carried out to improve and accelerate the handling of disciplinary files in order to facilitate appearances before the disciplinary committee;

- the punishment wing was completely renovated in March 2019;
- the reservation terminal for the visiting rooms has been in operation since 2018; there is no longer any dissatisfaction with visiting room reservations;
- the procedure for granting visiting permits to prisoners' family members has been modified in accordance with the regulations, and criminal record bulletin number 2 is no longer systematically requested;
- scheduled visiting sessions are never cancelled, save in exceptional circumstances; if this is the case (once in 2018), the family is notified; the same applies in the event of transfers;
- the list of administrative and judicial authorities, with which it is possible to correspond in a sealed envelope, is indicated in the institution's rules of procedure and will be included in the booklet for new arrivals;
- the departmental council for access to justice (CDAD) now intervenes in the institution to provide legal information and advice;
- the management met with all prisoners in the context of the European elections;
- since 2018, the two "detention counsellors" have been the two laundry assistants, which ensures continuity and also allows designated persons to benefit from greater mobility in detention in order to engage with their fellow prisoners; the council meets every three months;
- the issue of the health unit's facilities remains unchanged; blackout blinds were put in place following the CGLPL's visit; they are closed at the doctor's discretion during consultations;
- the hospital is currently recruiting a second dentist, which will enable it to provide replacements in case of leave;
- an appointment request document containing check boxes and ideograms is currently used to promote autonomy and access to care for illiterate or non-French-speaking prisoners;
- movements to the health unit seem to be smoother;
- there has been a joint procedure with the management of the healthcare institution and the penal healthcare facility for reporting any adverse event since March 2016;
- the flow of information between hospital departments and the prison administration is described by the two ministers as "serene and constructive while respecting professional secrecy";
- the issue of a prison officer being present in the medical examination room is being addressed in national exchanges on healthcare for offenders;
- the call procedure for prisoners registered for activities is precisely described but does not appear to have been modified to ensure their participation.

2.1.12 *Nîmes remand prison (Gard) - Inspection from 28 November to 5 December 2016*

The report identified eight good practices and made 56 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- the number of warders has not been adapted to take into account massive overcrowding in the institution and suffers from a vacancy rate of around 8%;
- a restructuring and rehabilitation operation is under preparation; €33m have been set aside for this purpose;

- the remand prison's welcome booklet has been updated; it is slated to be translated into English, Spanish and Dutch in particular;
- the rules for assignment to cells remain subject to the effects of prison overcrowding; if an assignment is not possible, tracing is carried out and the institution orders a change of cell as soon as possible; even communication bans are difficult to implement in view of the remand prison's structure;
- as overcrowding does not enable cells to be reserved for newly arriving women prisoners, they are identified to ensure appropriate supervision;
- the institution has repainted the cells;
- the installation of an intercom system linking each cell in the men's remand prison to a surveillance post during the day and at night is not feasible;
- the removal of gratings from cell windows requested by the CGLPL has not been adopted;
- the purchasing of benches for the two exercise yards has not been considered;
- extra beds have been installed to replace some mattresses on the floor; however, the continuous increase in overcrowding since 2016 has not enabled all needs to be met; there are still nearly a hundred mattresses on the floor;
- the judicial authorities are regularly informed of issues related to overcrowding in the women's wing (when there are more than eight mattresses on the floor);
- the renovation and fitting out of the nursery, which the CGLPL recommended undertaking as a priority, have not been carried out;
- the women's exercise yard has not been renovated;
- the institution now provides free toilet paper;
- the ceilings of the four shower rooms have been stripped and painting work has been planned to combat mould;
- new products, particularly for feminine hygiene and cosmetics, have been added to the catalogues;
- training has been held on search rules and practices;
- the institution's management now sends a report on sectoral search operations to the interregional directorate and to the public prosecutor's office;
- the use of means of restraint and the presence of warders in doctors' offices, which were practised at the time of the inspection, do not seem to have changed; it is also mentioned that the institution uses steel straps, which no regulations authorise;
- the warder on duty after 5 p.m. in the punishment and solitary confinement wing remains alone, but the chief officer is present for evening meals and on weekends and another officer can reach the wing very quickly if necessary;
- the solitary confinement cells are still not equipped with an intercom linking them day and night to the information centralisation centre;
- the CGLPL had asked the institution to reconfigure the exercise yards of the solitary confinement and punishment wings, and in particular to install a covered courtyard; it was simply told that the roof gratings of the exercise yards had been reinforced so as to not collect projections, which contravenes the constant doctrine of the CGLPL, which recommends removing all gratings;

- for organisational reasons, it is not possible at the moment to increase outdoor time, which remains limited to one hour per day;
- the difficulty encountered by foreigners who are not able to provide their family's telephone bills to obtain permission to make calls is offset by the possibility of completing a form to notify the consulate of their situation; the Minister of Justice does not specify whether this measure is indeed sufficient to overcome the difficulty;
- the welcome booklet given to families was updated in August 2019;
- the communal visiting room was refurbished in 2018;
- the refurbishment of the search cubicles is still under study;
- officers now systematically have correspondence registers signed as soon as mail is hand-delivered to prisoners and refusals are also recorded in the register;
- from 2020, as part of visiting room rehabilitation work, offices will be available to allow lawyers to talk to their clients without interfering with other activities such as family visits;
- a protocol with the prefecture for obtaining or renewing residence permits will not be established until 2020;
- the processing of requests is now covered by a standardised procedure between departments and ensures that prisoners receive replies within a reasonable time frame;
- women prisoners are now consulted on the same basis as men in meetings on issues concerning the two detention wings;
- there are still large numbers of people in the waiting cells of the health unit and waiting times remain very long due to a lack of prison staff;
- the hours of the warder on duty in the health unit have been adjusted in relation to consultation times, but the provision of another officer, recommended by the CGLPL and requested by the health unit, is not possible given the number of staff available;
- specific treatment for sex offenders is only possible for those who have been tried and who acknowledge the charges; in these conditions, a psychologist specifically cares for these detainee patients;
- the dispute between the prison administration and the health unit that has resulted in very long waiting times has not been resolved;
- mixed-gender activities are progressing;
- the prisoner who runs the women's wing library on a daily basis has been paid since the end of 2017;
- vocational training has been enriched, but the labour supply has not expanded;
- the recommended creation of ancillary staff positions has not been adopted;
- waterproofing work has been carried out in the workshops;
- a full-time teacher has been working in the remand prison since September 2019, but a training assistant still also needs to be assigned;
- the Prison Rehabilitation and Probation Service is looking for additional accommodation places for outgoing prisoners and a partnership with the Integrated Reception and Guidance Service (SIAO) is being considered.

2.2 Detention centres

2.2.1 *Saint-Mihiel detention centre (Meuse) - Inspection from 11 to 19 January 2016*

The report identified nine good practices and made 19 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- people with serious chronic illnesses such as diabetes, heart failure or epilepsy, and those with a history of psychiatric illness or serious medication use continue to be monitored, which involves them being woken up four times during the night;
- an expert assessment on the accessibility of the family visiting room and the administrative building was carried out in June 2019; the family visiting room and the administrative building are to be made accessible to people with reduced mobility; the project should be completed in 2020;
- several reminders have been issued on the procedure to follow for searches, but nothing is said about a possible reduction in their number;
- the institution only has two escort levels: escort level 1 for people who have almost finished serving their sentence or have permission to take leave, and escort level 2 for people who have not almost finished serving their sentence or who are subject to a permanent or temporary deportation measure; however, nothing is said about a possible change in prison warders being present during medical consultations;
- lawyers are still absent from the disciplinary committee, despite the warning given on this subject at the last evaluation board meeting during which the President of the Court of First Instance and the public prosecutor were present, but in the absence of the Chair of the Bar;
- the Citizens' Advice Centre has been in place since September 2019;
- due to building constraints, it is not possible to create a room dedicated to the consultation of detainees' personal documents;
- the work on the health unit was completed in July 2018; the pharmacy, the cleaning rooms and the decontamination room are up to hospital standards; a treatment room dedicated to telemedicine has been operational since March 2018;
- the health unit's opening hours are now fixed and posted in detention;
- the transport of detainees to mental health facilities is being reviewed at national level under the "mental healthcare for offenders" strategy;
- the traceability of medical extractions is now ensured, but the answers of the Minister of Justice and Minister of Health do not enable their causes to be precisely identified;
- the prison administration has increased its presence in the work sector, whereas at the time of the inspection, the private partner was applying its own choices;
- internal organisational constraints do not allow the overall organisation of the courses to be reconsidered, and despite efforts to provide information, the number of enrollees remains low;
- library access times for people in closed regimes cannot be changed, so access for them remains difficult;
- integration counsellors are still recruited by Pôle Emploi, but their training has been improved;
- a "sentence enforcement project" psychologist took up her position in September 2018; the individual sentence plan has been reactivated, but high turnover and a non-negligible proportion

of detainees with low residual sentences prevent there from being real follow-up of all those imprisoned.

2.2.2 *Eysses detention centre (Lot-et-Garonne) - Inspection from 4 to 7 April and from 11 to 13 April 2016*

The report identified 14 good practices and made 48 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- the provisions of the rules of procedure relating to solitary confinement are now posted in the solitary confinement wing and each detainee placed in solitary confinement receives a copy;
- a health – justice coordinating committee has been created;
- the institution's laundry area will be renovated and refurbished in 2020, but the issue of rooms with an open-access washing machine and dryer on each floor will only be examined in a second phase;
- it is not feasible to create a cell adapted for people with reduced mobility;
- awnings could not be installed in the exercise yards for budgetary reasons;
- the addition of a roll of rubbish bags to the hygiene kit distributed monthly to detainees has not been adopted for the moment due to budgetary constraints (€2,500 per year);
- extensive work has been done in the kitchens and the equipment and procedures for meal distribution have been reviewed;
- the prices of canteen products have been shown on ordinary canteen coupons since February 2017; the time between the ordering and delivery of ordinary canteen products is shorter than that observed during the inspection;
- a new contract has been signed in 2019 to improve the video surveillance system;
- the retention period for video camera images no longer exceeds the legal period of one month;
- the full-body searches planned by officers are regularly checked by the management, but the list of full-body searches is not yet validated by a single multidisciplinary committee;
- all searches are recorded in GENESIS software. Search reports are sent to the interregional directorate and the judicial authority;
- a monthly meeting is organised to establish escort levels and adapt means of restraint; a partnership is being conducted with health managers on means of restraint in treatment rooms;
- according to the Minister of Justice, a balance has been struck between medical secrecy and the protection of medical staff via the presence of officers supervising detainees in consultations: their presence is justified when the security configuration of the treatment or consultation room is not suitable or when the patient is dangerous or if the medical staff requests it;
- the renovation of the punishment and solitary confinement wings is still undergoing a budgetary analysis;
- detainees in a state of suicidal crisis are no longer kept in the punishment wing; work is under way to set up peer-support prisoners with the Red Cross;
- free regular shuttle buses have been in place for a year now from Monday to Saturday evening, enabling transport to the institution to coincide with the opening hours of visiting rooms;

- the lawyers' visiting rooms have not been renovated; the register of lawyers is posted in the punishment and solitary confinement wings;
- an agreement has been signed with an association under which there is a social worker in the institution one day a week;
- oral consultations are organised as part of the respect module (49 places) and menu committees; two "great national debate" consultations were held in 2019 for 25 detainees;
- as recommended by the CGLPL, two officers are permanently on duty in the health unit to ensure smooth movements of detainees;
- monthly meetings of prison officers with the health manager and the doctor of the health unit are helping to improve the system of medical extractions to various health facilities;
- pending the introduction of common files for the somatic medicine and psychiatry departments, practitioners now have access to both software programs;
- time with a general practitioner has increased, but it has to involve two doctors;
- no coordinating doctor has been identified and the framework protocol between the Eysses detention centre and the two relevant health institutions is therefore still pending validation;
- several emergency doctors work in the health unit, so this change of doctor is theoretically possible;
- physiotherapy care remains impossible;
- despite the availability of a room equipped for ophthalmology, no doctor works on site and waiting times at the local hospital are very long;
- psychiatrists are on-site for one half-day a month; work is in progress to improve this situation;
- long-term hospitalisations are now carried out at the UHSA and not at the local mental health institution in order to guarantee all rights related to detention;
- the health unit's welcome brochure has not been modified despite the CGLPL's recommendations;
- the steering committee for health promotion and education recommended by the CGLPL with reference to the 2012 circular on healthcare for offenders has not been created;
- general service jobs are now subject to remuneration in accordance with Article D.432-1 of the Code of Criminal Procedure;

2.2.3 *Melun detention centre (Seine-et-Marne) - Inspection from 4 to 8 July 2016*

The report identified 14 good practices and made 29 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- the supervision rate is no longer in deficit since the six officer positions have been fully filled since 1 September 2019;
- canteen coupons still do not include the price of foodstuffs due to price fluctuations; detainees can consult the characteristics of products offered for external purchase in some catalogues, but paper catalogues are gradually disappearing;
- a monitoring sheet relating to medical extractions was updated in February 2019; means of restraint are tailored to the level of dangerousness; they are assessed by a single multidisciplinary

committee upon arrival of a prisoner and then reassessed during the enforcement of their sentence;

- to compensate for the lack of family living units, a detainee can benefit from four hours of visits over a weekend and from up to eight hours in the case of extended visiting times; the administration considers that the partitions of the existing cubicles are high enough to guarantee the privacy of families;
- lawyers have been present in the disciplinary committee since a letter was addressed to the Chair of the Bar; since September 2019, lawyers' offices have been organised for half a day per week;
- in 2018, a protocol was signed with the prefectural departments for the establishment of national identity documents;
- a part-time social worker position has been opened in the institution; an agreement has been established with a personal assistance association for elderly detainees and vulnerable populations;
- a procedure for accessing documents containing the reason for detention is now in place and notified to detainees;
- the ARS is continuing the consultation and awareness-raising work it has already begun with the prison administration services in order to minimise the use of means of restraint and limit the presence of prison staff during medical extractions; the institution declares that, except in special situations or if requested by medical staff, examinations take place without the presence of prison staff; a working group on the rights of detainee patients in the health system was set up at the end of 2018;
- vocational training courses have been opened;
- no Internet access is provided to detainees engaged in distance learning;
- a position of socio-cultural coordinator has been created via an agreement with various organisations for the 2019-2022 period;
- for unoccupied detainees in solitary confinement, many interviews are organised and the labour supply is plentiful; an animal mediation action has been organised to promote the socialisation of vulnerable people;
- an "appearer" single multidisciplinary committee has been set up, enabling identified detainees to express themselves with regard to their history and the actions planned as part of the individual sentence plan;
- various initiatives are mentioned to show that, as requested by the CGLPL, the SPIP is now more involved and persistent in its search for suitable jobs and accommodations.

2.2.4 *Toul detention centre (Meurthe-et-Moselle) - Inspection from 1 to 10 August 2016*

The report identified 13 good practices and made 46 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- the institution's general rules of procedure have been updated in 2019;
- contrary to the CGLPL's recommendation, departure from the closed regime for a person who has been placed there at their request remains the subject of a decision made by a single multidisciplinary committee;

- placement in the closed regime due to unfitness for the common regime is decided by a single multidisciplinary committee after an adversarial exchange with the person concerned, except in emergencies;
- individual cells cannot be provided without the complete renovation of one of the buildings; no funding for this purpose has been allocated to the institution to date;
- the intercom system has been revised, allowing each detainee to contact the officer at the central information post;
- the partitioning of toilets in all cells is currently being studied;
- the exercise yards in the new arrivals' wing and the monitored wing have been partly refurbished, but toilets are still missing in the latter and have not been planned;
- cell maintenance and personal hygiene kits are now given to people without sufficient resources;
- rejection of aid for people without sufficient resources is now based on the criteria set out in the Circular of 17 May 2013;
- only detainees placed in the "exorbitant" regime are subject to full-body searches at the end of visits; these regimes are evaluated every three months by a single multidisciplinary committee and involve an average of 20 people;
- the institution's management has modified the organisation of its escorts to comply with the principle of risk differentiation; as of 1 July 2019, 217 detainees were placed in escort level 1 out of 404 persons in custody; 190 persons were placed in escort level 2; under the aegis of the ARS, several exchanges have taken place with various prisons in the region to reiterate that the presence of prison warders during consultations and treatment hinders confidentiality and medical secrecy;
- a printout is now filled in if force is used;
- the cleaning of the exercise yards in the punishment and solitary confinement wings is now organised;
- the rules of procedure specific to the solitary confinement wing are available to the wing's warders and to the persons placed there;
- the allocation of extended hours in visiting rooms to families who are geographically distant is not a difficulty since the occupancy rate is low;
- work was carried out in 2017 to refresh the cubicles in the visiting rooms;
- accessibility work for people with reduced mobility is due to be completed in the first quarter of 2020;
- the visiting room cubicles used by lawyers have been refurbished and equipped with a table for consultation of a file and with an electrical outlet for the use of a laptop computer;
- the prefecture has not yet responded to the institution's request to set up a procedure for obtaining and renewing residence permits;
- the convocations of the healthcare system for perpetrators of sexual violence remain different from other medical convocations, which is a form of stigmatisation;
- the procedure for accessing medical files was reviewed at the last technical committee meeting: the files are in a locked cupboard; only the chief warder on duty has access to the key in case of emergency;
- the psychiatric care teams of the health unit and the somatic care system now report to same hospital, which facilitates inter-professional relations; partnership work is gradually being built

up with the shared observation that, in the long term, it would be beneficial for a single doctor to coordinate the two teams;

- the home nursing care service now operates twice a day, seven days a week, for dependent persons;
- time with psychiatrists has been increased, but this has not yet solved the lack of communication between the different care facilities; meetings between the various prescribers (somatic, psychiatric, specialised addiction treatment support and prevention centre (CSAPA)) have been organised but they are still too irregular due to a lack of available psychiatrists;
- no hospital practitioner position has been opened by the hospital for dental care; the instability observed by the CGLPL continues;
- entry and exit dates and times are now included in the open register for monitoring the occupancy of emergency protection rooms;
- the CPIPs have resumed their participation in the institution's various bodies;
- the review of releases under constraint resumed in April 2019, on the initiative of the sentence enforcement judge;
- the psychiatric expert assessment missions interrupted by a national movement of experts resumed in September 2016 and no difficulties have been noted since then.

2.2.5 *Écrouves detention centre (Meurthe-et-Moselle) - Inspection from 1 to 9 August 2016*

The report identified five good practices and made 39 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- all new arrivals at the institution stay in the new arrivals' wing except for those carrying out a disciplinary sanction, who do not go to the new arrivals' wing until it has been completed, and those who are subject to administrative solitary confinement;
- the showers in the new arrivals' wing were refurbished in 2017;
- the architectural configuration of the institution does not allow for the visual and auditory separation of newly arriving prisoners;
- the identification of the most common foreign languages in detention has recently been initiated in order to translate the welcome booklet;
- special attention is given to the maintenance of the accommodation buildings, in particular that of the cells;
- several internal memos, including the latest one, dated 14 May 2019, reiterate the legal framework for individual searches, but nothing is said about the humiliating and arbitrary individual searches observed by the CGLPL;
- visitors can benefit from three visits per weekend (two on Saturday or Sunday, including one in the morning and one in the afternoon on that day); this possibility does not require extending the visits; local accommodation in an association is offered if necessary;
- the family reception room, in a deplorable and undignified state, has only been repainted and it has not been possible to find volunteers to ensure continuous presence in this room;
- the family visiting rooms have been renovated;

- the family living units and family visiting rooms built in 2015 have been in operation since 18 November 2019;
- the Defender of Rights' representative has been more closely involved in the life of the institution;
- an agreement for the establishment of national identity documents is currently being signed with the prefecture and is expected to come into force in January 2020;
- informational meetings were held before the 2017 elections, which resulted in a sharp increase in the number of people wanting to vote, although this still remains low;
- a treatment room reserved for medical staff now enables consultations to be held without the presence of a warder; various renovations have been carried out in the health unit;
- in December 2019, in collaboration with the USMP's services, the institution introduced an absence ticket that will be filled in by the health unit's supervisors in order to analyse, jointly with the USMP, the main causes of absences; to date, the number of cancelled consultations has not decreased;
- medical records are now kept in the nurses' office in locked cabinets and are not accessible to prison staff;
- since the beginning of 2018, two psychiatrists have been working at the institution in turn for four half-days, in addition to the psychiatric nurse;
- a dental surgeon is present one and a half days a week and a weekend on-call service has been set up;
- the memo on the means of restraint used during medical extractions was supposed be updated in 2019, but the institution reports that some practitioners have requested that the prison escort be present at all times during medical consultations regardless of the escort level;
- the health education and suicide prevention actions recommended by the CGLPL have not been undertaken;
- significant efforts are being made to increase the labour supply, but with mixed success;
- the labour inspectorate only very irregularly responds to requests for health and safety checks from the head of the institution;
- civilian foremen have been made aware of the need to follow instructions and wear safety clothing, and workstation sheets have been posted specifying safety obligations for each position;
- the institution ensures that any trainee who starts a training course is able to complete it in view of their remaining sentence;
- the SPIP's shortcomings identified in the summer of 2016 are no longer relevant and relations with the sentence enforcement judge, the health unit and the registry are now completely satisfactory;
- the arrival of a social worker for "access to rights" has enabled the social rights of detainees to be updated more regularly in preparation for release;
- the recommendation to create an "outgoing prisoners' wing" has not been implemented due to a lack of resources;
- video conferencing is only used in the event that travel difficulties are encountered by the judges of the sentence enforcement court: for the last two years, no discussions of the sentence enforcement court have taken place via video conferencing;

- given their workload, judges are not in a position to interview detainees before and after sentence enforcement commissions and adversarial debates;
- a memorandum from 2017 and a protocol from November 2018 set out procedures for processing applications for the renewal of residence permits for foreign detainees.

2.3 Prison complexes

2.3.1 *Orléans-Saran prison complex (Loiret) - Inspection from 4 to 14 April 2016*

The report identified eight good practices and made 31 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- the institution is not able to show a film on violence prevention as other facilities do, but posters on violence prevention are displayed in the new arrivals' wing;
- people detained in the new arrivals' wing cannot have sports activities but can go to the library on request;
- "sound traps" have been installed in the lobby of each building since December 2018;
- as the detainees have not made any comments regarding the organisation of outdoor time since the site reopened in November 2018, the CGLPL's request to provide "interim feedback" has not been executed;
- the personal laundry of the people placed in the punishment wing is now managed by the institution;
- the welcome booklet has been clarified to provide prisoners with information about how to manage their personal and canteen accounts;
- a request for training on stress management has been submitted to the training department for the team assigned to the solitary confinement and punishment wings to help them to gain the perspective that the function requires in relation to the state of punished and confined persons and to overcome aggressive behaviour to ensure respect for the rights of the people in their care;
- mailboxes were installed in the punishment and solitary confinement wings in the first quarter of 2017;
- the institution contacts the courts when judges' non-response to requests for family living units – an abstention not subject to appeal – is likely to harm the interests of prisoners;
- the postal officer no longer keeps photocopies of letters from detainees sent to judges, but some may be brought to the attention of the local prison intelligence officer if they are related to the radicalisation of individuals, or to the public prosecutor in accordance with Article 40 of the Code of Criminal Procedure;
- relations between the Prison Rehabilitation and Probation Service and the prefectural authority are fluid and points of contact have been identified to deal with complex situations; the prefect has been asked to designate a person to deal with situations involving foreign prisoners;
- the protocol provided for by the 1994 Act on healthcare for prisoners was finalised in April 2015 and has since been under review by the Orléans hospital's management team;
- the ventilation of the waiting rooms in the health unit has been improved, except for those in the psychiatry department;

- a new organisation of consultations and movements, to ensure greater flexibility and equity in the provision of care, was put in place when the institution reopened;
- twenty-five officers have been trained in the management of people with mental disorders; they now form a team dedicated to the safety of the mental health system;
- a training course on "psychiatry and prison practice" is being prepared and will be aimed primarily at officers in the new arrivals' wing and the health unit;
- since the inspection, women prisoners have had access to the therapeutic activities of the mental health system for half a day every two weeks; the gender-mixing of group CATTP activities is effective and adds value to therapeutic care;
- there have been no new cases of doctors using their personal opinion to refuse to issue the medical certificate that must be included with the application for the disabled adult's allowance;
- the prison administration concessionaire has posted work paces and their remuneration in the various workshops;
- ways of approaching businesses to improve the labour supply have been put in place, but nothing is said about their effectiveness;
- vocational training sessions are now organised;
- various measures have been taken to involve women prisoners in the sports life of the institution through mixed activities and sports opportunities in rooms in the women's wing, but their access to the gym remains limited;
- the individual sentence plan, which was well organised for the men in the detention centre at the time of the inspection, has been extended to the remand prison; several projects for pre-release arrangements are under way;
- the judicial authority has been informed of the CGLPL's recommendation that the interpreter present during adversarial debates master the meaning of the vocabulary used and translate the prosecutor's requests for the person concerned; nothing is said about any follow-up to this recommendation;
- despite the precautions taken, the institution occasionally notes the enforcement of new sentences shortly before the date of release, which ruins the pre-release work carried out;
- a release package for outgoing prisoners without resources has been set up by the service provider under the delegated management contract.

2.3.2 *Lannemezan prison complex (Hautes-Pyrénées) - Inspection from 6 to 10 June 2016*

The report identified 10 good practices and made 34 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- the new arrivals' booklet is now available in French, English and Spanish;
- the inventory of personal belongings is still not carried out in the prisoner's presence in light of the large volume of packages received, but a joint notification is issued once it has been drawn up;
- the sanitary areas of the cells in the new arrivals' wing have not yet been renovated to date;
- hygiene products are systematically given to all prisoners once a month and not on request: there is a basic allocation for everyone and an additional allocation for those without sufficient financial resources;

- the unsuitability of the computer-related prohibitions listed in a 2009 circular is acknowledged by the Minister of Justice, who indicates that a "Digital in Detention" portal is currently being developed and mentions an online work experiment in progress at the Melun detention centre;
- in the context of issuing visiting permits, time frames for returning investigations have not been reduced;
- a new children's area was inaugurated at the end of 2018;
- the specific rules of procedure of the family living units are not yet available in several languages;
- condoms have been made available in the health unit;
- mail is now only picked up by an officer "positioned at the mail room";
- the mailbox for the medical department is now identified, but there is not yet a mailbox distinguishing between internal and external mail;
- the calling point installed in the corridor of the punishment wing has been modified;
- humanitarian numbers and the CGLPL's number have been posted several times in all telephone booths;
- there is no lawyer's office in the absence of requests from prisoners, but the offices of an association allow for individual interventions when specifically requested by inmates;
- despite several attempts, it has not been possible to set up a permanent office of the Primary Health Insurance Fund within the institution, but no particular difficulties have been noted in this respect;
- during the European elections in May 2019, a polling station located in each building enabled prisoners to vote by post; the organisation of the voting procedures was satisfactory;
- GENESIS now ensures the efficient traceability of queries with the creation of the query system in 2018;
- advisory committees for prisoners' activities are organised quarterly; the institution participated in the great debate in 2019 and there are also support groups, within the framework of prevention programmes in particular;
- the waiting time for hospitalisation at the UHSA, which was abnormally long during the inspection, has grown even longer; in 2018, the UHSA did not accept any involuntary hospitalisation of prisoners from the institution despite several requests;
- safety at work has been improved, including through the introduction of additional controls;
- the training courses offered have been expanded and all are now paid;
- additional CPIPs have been recruited; a CPIP is now an advisor for health actions and the SPIP participates in commissions for monitoring the execution of sentences;
- a joint inspection of outgoing prisoners' belongings has been introduced, giving prisoners the right to examine their inventory.

2.3.3 *Majicavo prison complex (Mayotte) - Inspection from 13 to 21 June 2016*

The report identified eight good practices and made 49 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the recommendations have given rise to the following measures:

- no remedy has been found for the saturation of the institution;

- the rules of procedure have been updated and are accessible in different places within the detention facility;
- the intercom system does not enable communications to be recorded; however, the night officer has a mobile phone and can let the prisoner in question communicate with emergency medical services in order to describe their symptoms themself;
- the internal controls necessary for the proper functioning of the institution have been put in place, but nothing is said about visits by the authorities;
- prisoners temporarily assigned to the new arrivals' wing have access to sport;
- prisoners' requests are now recorded and replies are systematically provided;
- nothing seems to have been done to compensate for the idleness of the people assigned to the detention centre wing;
- as soon as they arrive, detainees in the detention centre wing are informed of the rights to which they are entitled to fight against marginalisation and isolation; a guide to accessing rights, given to prisoners, covers reintegration issues such as sentence adjustments, housing, social benefits, healthcare, and integration associations;
- the institution's structure favours natural ventilation in hot weather and any prisoner who would like to obtain a blanket could to do so, but no requests to that end have been made;
- a reminder memo has been distributed to ensure that warders do not disclose reasons for detention;
- the female warders in the women's wing now seem to be slightly better supported;
- the call system in the minors' cells has been repaired;
- each minor now benefits from one hour of outdoor time per day;
- rubbish is collected three times a week and kitchen waste is stored in a refrigerated airlock;
- the institution serves a wider variety of food and provides menus that respect medical diets under the authority of a technical assistant;
- the glass ceramic hobs received by the institution have been handed over at the request of prisoners since September 2018 and cutlery is given to new arrivals and renewed if necessary;
- the prices of canteen products are visible and legible to prisoners as soon as they leave their cells on each floor;
- full-body search decisions are programmed in GENESIS software; searches are now scheduled and carried out by the head of detention and the officers in charge of the various units; random searches seem to have ceased;
- means of restraint are now adapted and defined in advance in accordance with the applicable legal provisions, but the escort manager can adapt these measures during the journey based on new information; nothing indicates that the theory that means of restraint in hospitals are useful for shaming a detainee has been taken up and corrected by the management team;
- the electrical light switch in the punishment cell can now be operated by the person placed there;
- a register of entries and exits to and from solitary confinement, separate from the solitary confinement wing's logbook, has been created;

- pending an appearance before the disciplinary committee, minors are no longer deprived of activity, unless there are security reasons; if this is the case, the disciplinary committee meeting is scheduled to take place within a shorter time frame;
- there is no indication that the recommended flexibility in the granting of visiting permits by the institution's management has been adopted as practised by the court for remand prisoners; on the other hand, as requested by the CGLPL, the officers on duty at the family shelter explain to detainees the reasons for refusing a visiting permit;
- clothes or shoes brought in by families are no longer refused, except for security reasons;
- prisoners may be visited by their children, if they are accompanied by a third person who has obtained permission from the holder of parental authority;
- a procedure for creating and renewing identity documents is being implemented; the procedure for opening social rights is carried out;
- an internal memo has been drawn up for the purpose of accounting for medical appointments not kept;
- the translations required for consultations are provided by Mahore healthcare workers rather than by warders;
- patients are taken to the consultation room and remain alone with the doctor unless the doctor requests otherwise, as the medical appointment rooms are equipped with windows that cannot be opened;
- prisoners who are selected to work now have a copy of their commitment form;
- after a lost year for administrative reasons, vocational training has resumed;
- the identification of an officer in charge of managing movements, which would facilitate activities, has not been adopted by the institution;
- a study is in progress to organise activities in the women's wing;
- contrary to the CGLPL's recommendation, the Prison Rehabilitation and Probation Service has not benefited from additional staff;
- a protocol is currently being drawn up to ensure continuity of care for young adults between the PJJ and the SPIP;
- nothing seems to have changed to improve the educational follow-up of minors leaving detention.

2.3.4 *Mont-de-Marsan prison complex (Landes) - Inspection from 5 to 15 September 2016*

The report identified 10 good practices and made 56 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- the changes to the rules of procedure made by the institution are pending validation by the interregional directorate; the rules of procedure will be accessible from the institution's library;
- the fitting out of a cell in the new arrivals' wing to accommodate a person with reduced mobility is subject to a procedure managed at regional level;
- prisoners are selected for the "respect" module on request followed by an interview, while warders are selected based on applications examined by management; nothing is said in response to the risk of crowding-out highlighted by the CGLPL;

- steering committees for the "respect" module have been set up within the institution to support the major changes in professional practices that this type of management entails;
- self-assessment procedures have been put into place for the "respect" module to evaluate the positive or negative effects, whether induced or produced, on the persons or the building concerned as well as on the other buildings in the prison complex;
- the activities proposed under the "respect" module have been enriched, but the limited partnership network that can be activated locally does not allow for a number of hours such that it would constitute a real programme for people who do not work;
- the system for distributing bad points is regulated to avoid any risk of arbitrariness; despite its condescending nature, the Minister of Justice considers it to be effective and accepted by the prison population, as it helps objectify non-compliant behaviour and establish the warders' authority without resorting to incident reports for infra-disciplinary events;
- it seems that a discussion is being held on the process leading prisoners to be admitted to respect modules, in order to limit exclusions, which are very numerous;
- the differentiated detention regime in detention centre 2 is now mentioned and described in the rules of procedure;
- the "protecting the vulnerable" system in the closed regime has been replaced with integration into the calmer "respect" module; only prisoners whose behaviour is inappropriate and those who are voluntary are placed in the "closed" regime;
- persons whose behaviour is unsuitable and who need to be monitored more closely are placed in the controlled regime, while others are placed in the semi-open regime which is now a place of observation for the transition to the "respect" module;
- prisoners in the open wing without sufficient resources can now receive indigence assistance;
- the canteen department now keeps the service provider's response in order to evaluate, over time, the number of settled claims and the types of incidents;
- the Minister of Justice states that means of restraint are tailored to the determined escort level and to the prisoner's profile in accordance with the memoranda of the Prison Administration Department on professional practices;
- the work to develop the exercise yards in the solitary confinement wing, described by the CPT as "cages used as walking spaces", has not been prioritised due to budgetary constraints;
- the recommendation to give priority to weekend visits has not been implemented, but instructions have been given to ensure that double visiting rooms are allocated more regularly and fairly;
- the office in the family reception centre recommended by the CGLPL could not be set up due to a lack of available volunteers;
- children who are not accompanied by adults can visit their father in the visiting room when volunteers from a non-local association are able to care for them;
- there are no plans to install mailboxes in the punishment and solitary confinement wings, nor in the new arrivals' wing, as the senior officer is responsible for receiving and distributing internal and external mail;
- the bar has been made aware of the difficulties arising from the low presence of lawyers at the Citizens' Advice Centre (PAD);
- without the prefecture services holding office hours in the institution, Prison Rehabilitation and Probation Counsellors have developed expertise in foreigners' rights litigation;

- since 2017, the registration process for the Primary Health Insurance Fund has been covered by a national procedure;
- a procedure for processing requests is now implemented in GENESIS software;
- the large number of placements in emergency protection cells (CProUs) is justified by the Minister of Justice and the Minister of Health makes no comments about it;
- the protocol was due to be reviewed at the end of 2019 as the hospital's decision is to prioritise medical time for consultations with detainee patients;
- the health unit has reorganised its appointment scheduling process: warders are informed the day before without having access to reasons for consultations;
- the traceability of appointments not kept by detainees is already effective in each patient file and this information can be retrieved on request, but this does not seem to be systematically monitored or analysed;
- the health unit is vigilant about situations where medications are misused and chooses, as far as possible, packaging that limits trafficking;
- the health unit has medical expertise in addiction; an association specialising in this field is present within the unit and a monthly meeting on this subject is organised with the SPIP;
- a joint memorandum is currently being drawn up between the prison administration and the hospital on restraint measures during extractions and treatments; the ARS is overseeing this project and plans for on-site outpatient specialist consultations are being studied; the Minister of Justice specifies that prison officers are only present at consultations when medical staff require it;
- the UHSA cannot take in patients from the prison in case of emergency; the ARS would like to enter into discussions with the hospital to increase its capacity to take in detainee patients;
- the difficulty of cancelled extractions for consultations in Bordeaux seems to be confirmed by the Minister of Health but is not identified by the Minister of Justice;
- the institution ensures a fair division of labour between prisoners who are members of the "respect" module and others during selection committees;
- indigent people are prioritised in the allocation of jobs; in order to respond to the shortage of work, two teams of operators alternating over the week have been set up;
- in the context of the new 2019-2021 training contract, the range of courses has been reconsidered in line with the labour market and the needs identified by the institution; collective information is given in the new arrivals' wing on the vocational training provided; a regional catalogue of training courses drawn up by the DISP is distributed to all parties concerned;
- the management has issued several reminders for officers to pick up detainees who are supposed to go to the local education unit; it is unclear whether this result has now been achieved;
- the grant against illiteracy is now awarded regardless of the prisoner's nationality;
- the time taken by the Interregional Directorate for Prison Services to process assignment referral files and requests for changes of assignment has been reduced from 119 to 56 days;
- the health unit is present when the CPU deals with suicide prevention and during new-arrival CPUs;
- it is not known whether the CPIPs' presence in detention has been developed as recommended by the CGLPL;

- if a person does not have enough money to go to their home, the institution buys the ticket and provides meal vouchers.

2.3.5 *Aix-Luynes prison complex (Bouches-du-Rhône) - Inspection from 28 November to 9 December 2016*

The report identified eight good practices and made 80 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

The organisation of the institution

- the opening of a new accommodation wing has reduced prison density and improved accommodation conditions and a high level of staffing has led to the disappearance of most vacancies;
- the rules of procedure have been updated;
- a reflection was initiated at the end of 2018 to reduce specific adapted surveillance and the procedure allowing a detainee with a health problem at night to be put in direct contact with the emergency services in order to describe their own symptoms has been validated;
- the "activity-work-training" team has an additional officer and a chief warder;
- a study is currently in progress to improve access to the institution, particularly for people with disabilities, but this difficulty has been reduced by the opening of Aix-Luynes 2;
- the opening of Aix-Luynes 2 in April 2018 has improved security with an increase in staffing, a reduction in overcrowding and a more substantial security budget, as recommended by the prison services inspectorate in a report dated 14 December 2015;

Arrival in detention

- the new arrivals' wing and the cloakroom are now located in a new facility;
- general upkeep and maintenance work is carried out in the facilities of the reception area, cells and toilets;
- certification of the Aix-Luynes prison complex's new arrivals' process was renewed in December 2018;
- the new arrivals' wing is no longer used for the management of situations normally requiring solitary confinement;

Life in detention

- a project has been organised by a multidisciplinary team in order to make referral to a specific wing for young adults useful and coherent;
- the cell for persons with reduced mobility in the minors' wing and two emergency protection cells (CProUs) are now available for use;
- educational measures aimed at respecting cells have been put into place to limit damage in minors' cells;
- measures taken to ensure the safety of minors in the exercise yards have led to a clear reduction in incidents;
- a post of warder for the minors' wing was filled at the end of 2018;

- the shift organisation of the youth workers in the minors' wing should be reviewed in order to ensure a more sustained presence with minors;
- the refurbishment of the healthcare facilities recommended by the CGLPL has not been considered a priority in relation to the other major phases of work planned for the 2018-2020 three-year period;
- the multidisciplinary team in charge of the minors' wing is working to make known the provisions relating to the management of minors in detention to any officer who may be required to make decisions outside working hours and when no specialised professionals are present; it is faced with a new problem: that of unaccompanied minors;
- the multidisciplinary team is endeavouring to shape minors' pathways as best it can; however, the regular overcrowding of the minors' wing and the high proportion of unaccompanied minors do not allow for optimal treatment;
- persons eligible for a stay in the wing for adjusted sentences are identified in the new arrivals' wing to optimise their chances of reintegration;
- the opening of Aix-Luynes 2 and the decrease in overcrowding have led to a reduction in violence associated with differentiated treatment arrangements, including the pre-release wing and the trust regime in particular;
- delivery times for products ordered in the canteen have been reduced due to the change of service provider;
- people without resources now benefit from the financial aid provided for by the regulations with no budgetary limit;

Security and discipline

- the video surveillance system will be completely overhauled in 2020;
- the organisation of service has been reviewed to reduce the duration of movements and make them safer;
- based on the response to the recommendation to end the systematic searching of all prisoners during a round (?), every day without any probable cause on which to base the measure and without any time limit, it is not clear what action has been taken;
- the material conditions in which searches are carried out have been improved;
- a traceability procedure for full-body searches has been put in place;
- since September 2018, escort levels have been periodically reviewed by a CPU;
- the Minister of Justice states that the means of restraint used during medical extractions are tailored to the prisoner's profile and dangerousness but does not provide any information about the number of persons concerned by each type of escort;
- the opening of Aix-Luynes 2 has reduced the saturation of disciplinary committees and a reminder has been issued to the officers carrying out investigations to improve their quality;
- prisoners in solitary confinement are now only placed in the solitary confinement wing; the possibility of them having activities in pairs will be studied with the creation of the new solitary confinement wing;

Relations with the outside world

- the organisation of appointments and the frequency of visits have been improved with the opening of Aix-Luynes 2, which has also enabled the opening of family living units and the promotion of father-child links;
- the opening of Aix-Luynes 2 has helped regulate the seriously deficient running of the mail service;
- it has been agreed that prisoners will be able to have a landline telephone in their cells in 2020;

Legal information and advice

- the time of access to the lawyers' visiting room by prisoners was reduced in 2018; a procedure for making appointments by e-mail has been set up in collaboration with the Chair of the Bar;
- no renewal of identity documents or residence permits is implemented in the institution, which does not have biometric kits;
- instructions have been given to the management secretariat to set up a chronological register of arrivals and departures to ensure the traceability of prisoners' requests;

Health

- an agreement was reached between the health unit's team and the institution's management on the specific issue of the USMP's opening hours: these hours could not be extended due to the warders' attendance times;
- medical records have been computerised and are therefore no longer accessible to unauthorised persons;
- nothing seems to have been done regarding the number of doctors to enable them to intervene at greater length;
- two secure rooms have been created at the Aix hospital since July 2018;
- the USMP's teams are involved in a training plan on suicide risk prevention and communication methods (e-mail and telephone in the event of an emergency) have been set up between the prison and the USMP to prevent people from committing suicide;

Work, vocational training and activities in detention

- workers in workshops can now go to activities and sports from 2 pm after eating and showering, but for those in general service, access to sports remains weekly;
- a review is currently under way to update job descriptions; the commitment documents specify the remuneration terms and conditions;
- the state of hygiene in the workshops has been improved as recommended by the CGLPL;

Preparation for release

- all prisoners (remand and convicted prisoners) in the Luynes prison complex can now identify a primary CPIP after the review by the CPU for new arrivals;
- the Minister of Justice considers that the Prison Rehabilitation and Probation Service is becoming more involved and more persistent in the search for suitable jobs and accommodations;
- since the first half of 2019, the prison administration has been organising a procedure for collecting the wishes of convicted persons regarding their orientation in penal institutions;

- the institution is now prioritised for assignments to the Salon-de-Provence and Tarascon prisons.

2.4 Open prisons and wings

2.4.1 *Haubourdin open wing (Nord) - Inspection from 15 to 17 March 2016*

The report identified one good practice and made 17 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practice remains in force and that the recommendations have given rise to the following measures:

- an on-call service has been put into place during the night shift, but there is no senior officer present during this period;
- a job description for Chief Open Wing Warder has been drawn up;
- the future of the institution has been clarified: it will close in 2023 or 2024;
- access to the exercise yard is now more flexible and meal times have been extended;
- the wing has been renovated and the furniture changed; the prisoner in charge of cleaning and hygiene on the premises has been trained in rules of food hygiene;
- due to the outdated electrical network, prisoners cannot purchase hotplates;
- the setting up of a larger exercise yard (studies, land and work) is an investment that is not a priority due to the forthcoming closure of the institution;
- activities remain inaccessible to people who return late from their outside work; open-access sports and cultural activities have been set up on weekends and in the late afternoon; numerous external partnerships have enabled activities to be developed in 2018 and 2019;
- the possibility of letting persons in the open wing keep their mobile phones during detention hours appears to be under discussion with the DISP's departments;
- there is still no calling point in the open wing;
- the setting up of Internet access with a printer and scanner, usable by detainees in tandem with a CPIP or one of their partners, is currently in progress;
- detainees in the open wing are now monitored by a CPIP from the closed environment.

2.4.2 *Briey open prison (Meurthe-et-Moselle) - Inspection from 3 to 6 October 2016*

The report identified two good practices and made 8 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- the service commitments between the centre and the SPIP were updated in 2015 and are monitored at regular meetings in accordance with a good practice guide developed at the inter-regional level;
- shower times are now more flexible;
- the obligation to provide detainees with three meals a day is only complied with on request;
- the recommendation to appoint a person from the open prison as a paid assistant responsible for maintaining collective facilities has not been adopted at this point;
- the use of mobile phones is authorised for detainees who request it, based on the availability of the warder in a waiting room outside the detention area;
- individual electric sockets have been installed in the lockers of all the detainees in the open prison;
- a welcome booklet was drawn up in 2017 and has since been systematically given to each new arrival;
- resources are being deployed to improve the return to employment of persons placed in the open prison, but nothing is said about their effectiveness;
- a meeting with the addiction treatment support and prevention centre took place with the aim of forging a partnership.

2.5 Saint-Maur long-stay prison (Indre) - Inspection from 7 to 17 March 2016

The report identified eight good practices and made 35 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- the warder job occupancy plan has been reviewed;
- twice-daily department meetings, which bring the institution to a standstill for one hour each morning and afternoon, are maintained and only allow for urgent or anticipated movements;
- officers have been assigned to the new arrivals' wing and can intervene indiscriminately in one of the three specific wings subject to certification, including the new arrivals' wing;
- the recently renovated building has been put into operation;
- shower curtains have been installed;
- temperature checks are systematic when sending meal trolleys to detention; a random weight check started in 2019;
- posters have been put up throughout the institution and in the family reception area to inform people of the existence of video cameras and of the rights associated with them;
- the search cubicles in the visiting rooms were refurbished in 2019;

- damage and deterioration have been noted following cell searches, but according to the Minister of Justice, this is mainly the result of clumsiness and gives rise to compensation;
- radios have been available in the punishment wing since the end of March 2016;
- the shower in the punishment wing was stripped and repainted within a month of the CGLPL's inspection;
- the three family living units finally opened in December 2016;
- five mailboxes reserved for mail addressed to the health unit were set up in February 2018;
- the CGLPL has been added to the list of authorities whose mail is protected;
- the rules of procedure of the punishment wing now mention the times when the calling point can be accessed, as does the welcome booklet;
- even though lawyers do not systematically hold consultations at the Citizens' Advice Centre in case of low demand, they are available for the handling of emergencies;
- requests have been tracked in GENESIS since October 2016 and prisoners can be informed about the processing of their requests;
- a right to collective expression, in accordance with the provisions of Article 29 of the Prison Act of 24 November 2009, has been implemented within the institution thanks to the creation of the User Committee since 2018;
- in medical consultations, the doctor is now alone with prisoners and the presence of prison staff during treatment is indicated on a case-by-case basis; the memorandum which provided for the obligatory presence of a warder during treatment has been repealed;
- it has not been possible to set up shifts for physiotherapists;
- it is difficult to set up an annual medical check-up due to the lack of medical presence;
- there were plans to develop more active therapeutic education and prevention actions by the end of 2019 and 2020;
- the shortage of psychiatrists worsened in 2018 before being remedied in 2019;
- the referral of people with mental disorders to UHSAs appears to be fluid, but the referral of elderly and dependent people to adapted structures remains difficult, particularly due to the difficulty of mobilising often remote professionals;
- meetings between health and prison teams, to share information on the specificities and behaviour of detainee patients, take place as frequently as possible, adapting to the small number of staff;
- use of the Internet is not currently being considered for distance learning from the institution, including for university studies;
- the possibility of opening the socio-cultural spaces on Sundays has not been adopted;
- prisoners are involved in an in-depth reflection on the meaning of their sentence through a CPU hearing, at their request or at the initiative of the SPIP, to define lines of thought or directions of action for their sentence, showcase efforts made, and prevent recidivism or possible violent acts; this discourages the use of violence and leads the person to distance themself from radical opinions thanks to a well thought-out and well-considered life project.

2.6 Orvault prison for minors (Loire-Atlantique) - Inspection from 9 to 12 May 2016

The report identified five good practices and made 13 recommendations. The Minister of Justice and the Minister of Health declare, each in their own right, that the good practices remain in force and that the recommendations have given rise to the following measures:

- the institution offers staff the opportunity to discover the profession through discovery courses set up by the interregional directorate, but no specific training is required prior to assignment to the prison for minors;
- a weekly timetable is now given to each minor;
- the television is now kept on until 12:30 am;
- breakfasts are no longer distributed the evening before: they are now distributed in the morning;
- panels have been installed in the visiting rooms to ensure visual privacy for families during visits;
- telephones are now installed behind screens, so that movements are not blocked when the telephone is in use;
- the Nantes bar has been asked to set up a Citizens' Advice Centre; pending a response, the institution promptly responds to requests from prisoners who would like to be assisted by a lawyer;
- prison officers are not systematically present during consultations except when there is a risk to security (risk of escape or aggression), when the practitioner requests it, or when there is a risk that at the last minute, the minor will refuse an important medical examination concerning them;
- the medical extraction forms filled in by the institution specifically mention that, except in special situations, medical examinations must take place without the presence of prison staff in order to guarantee confidentiality;
- a youth worker has been appointed, among other things, as head of the library, which has enabled the selection to be expanded;
- collective activities now take place in the living units;
- the provision of systematic and multidisciplinary support for outgoing prisoners by the institution's departments seems complex, since actual dates of release cannot be known in advance; nevertheless, alternatives to incarceration are regularly proposed by the PJJ and accepted by judges;
- the opening of a unit is planned for 2020 in order to work on releases from the institution from a multidisciplinary standpoint (adulthood, sentence adjustment or return to family).

3. Detention facilities for illegal immigrants inspected in 2016

3.1 Petite-Terre temporary detention facilities for illegal immigrants (Mayotte) - Inspection of 17 and 20 June 2016

The report made four recommendations. The Minister of the Interior did not respond to the first three, either at the time or in 2019. They concerned:

- the conditions under which detained persons are notified of their rights and those under which they are subsequently accommodated, which needed to be improved to enable detained persons to exercise their rights;
- the fact that it is not appropriate to accommodate people in a space where they have no choice but to sit on the floor;
- the need to carry out searches in a separate room preserving privacy in order to respect the dignity of the persons detained.

Lastly, it was recommended that dignified conditions be guaranteed in two detention facilities under the authority of the gendarmerie; the Minister of the Interior did not respond to this recommendation on the grounds that these facilities are not under the authority of the police, even though the gendarmerie has also been under its authority since 2008.

However, the Minister has indicated in 2019 that, following the CGLPL's recommendation, the facilities are being mobilised according to their reception qualities, with the most basic facilities now being used only as a last resort, on a very exceptional basis. He also specifies that the port facilities of Dzaoudzi are no longer mobilised.

The answers given make it clear that no concrete measures have been taken to improve the facilities or the conditions in which rights are notified, as recommended by the CGLPL.

3.2 Waiting area at the Pamandzi airport (Mayotte) - Inspection of 20 June 2016

The report made four recommendations which gave rise to the following measures:

- the legal references on printed materials have been corrected and the name of the competent court is now indicated on rights notification forms;
- decisions for maintenance in a waiting area in Mayotte now specify that it is possible to apply for asylum;
- necessary measures have been taken since 2016 to ensure that the rooms offer better sleeping conditions: plastic mattress covers have all been removed; a fitted sheet and a hygiene kit, replenished every 24 hours, are distributed to the people accommodated in the waiting area; with no new information given in 2019, there is reason to believe that these measures will continue.

3.3 Pamandzi detention centre for illegal immigrants (Mayotte) - Inspection from 9 to 22 June 2016

The report made 12 recommendations which gave rise to the following measures:

- no response has been given to the CGLPL's request to carry out inter-ministerial work in conjunction with the departmental council to find a solution to the precarious situation of abandoned minors on the territory and set up an appropriate care system;
- the reality of the relationship between a deported minor and an adult is, according to the Minister of the Interior, verified in a detailed manner, contrary to what the CGLPL had observed in 2016; if necessary, the arresting officials can take the case to court for temporary placement, which is done before arrival at the CRA;
- the contact details of the two associations present at the CRA are mentioned on the notification of rights form; their telephone numbers are posted in the accommodation area as well as outside the institution, for visitors; the list of humanitarian associations and independent agencies with access to the detention facilities, the list of associations authorised by the OFPRA to propose representatives to accompany asylum seekers, and the list of lawyers registered with the bar should soon be posted in the accommodation units;
- doctors are no longer asked to issue medical certificates stating that a person's state of health is compatible with placement in detention; since 2017, they have simply had to draw up "*certificates of non-contraindication to a detention measure*";
- in 2017, the Minister of the Interior indicated that interpreters were being sought so that the nursing staff could interact with people, few in number (less than 2%), who do not speak one of the three main local languages; in 2019, he indicate that this search is still ongoing and that the recruitment of nursing staff for the CRA takes linguistic needs into account;
- in coordination with the healthcare department, nursing staff visit each accommodation unit as soon as they start work at 8 am, accompanied by officers from the on-call unit;
- to preserve patients' privacy, medical examinations are now carried out in the doctor's office; the medical unit's means of telecommunication have been enriched;
- ramps now make it easier to enter the CRA and the institution is equipped with a lift; in accordance with the legislation, all disabled persons are provided with adapted care;
- toys were put back in the playroom in 2016 and changing tables have been set up in the nursery;
- plastic mattress covers have been removed; a cleaning campaign for walls and mattresses has been carried out and should be renewed as necessary;
- games for adults have been distributed regularly in each living area but they "disappear" quickly; changing television programmes requires a remote control kept at the guard station that can be requested via the intercom system;
- the administration's supplier has been asked to provide a wider variety of foods;
- any event disturbing public order is now recorded in the detention register, in addition to being included in the logbook.

4. Juvenile detention centres inspected in 2016

4.1 Saint Venant juvenile detention centre - Inspection from 11 to 14 January 2016

The report highlighted six good practices and made 21 recommendations.

The Minister of Justice states that the good practices remain in force and that the recommendations have given rise to the following measures:

- several recommendations were made regarding the necessary rehabilitation of the buildings, which were in a state of disrepair and had security loopholes. These have been repaired and the buildings now seem to be receiving attention to protect them from further damage;
- the CGLPL also recommended resuming the centre's institutional project, which has taken place and is now benefiting from the stability of the team and a return to normal operation of the CEF. This project is still evolving;
- this stability has also made it possible to focus more on prepared arrivals, which ensure that children receive better care; upon their arrival, each minor spends one day outside with a youth worker during which they integrate the rules outside the group;
- the report also recommended developing or reactivating various activities that were dormant at the time of the inspection; most of them have resumed, in particular sport and therapeutic activities and a nutritional education activity. Similarly, the collective expression of the minors has been developed;
- the CGLPL called for a coherent, intelligible disciplinary policy that would be in line with the institution's educational project and set out in rules known to all. In 2016, the Minister of Justice indicated that the institution's operating rules had been reworked and that they now clearly explained the process for managing transgressions and sanctions. His current successor states that these procedures are respected and that work is being undertaken within the CEF on the subject of sanctions;
- lastly, as recommended by the CGLPL, relations with families have been strengthened and family outings are better prepared.

4.2 Valence juvenile detention centre - Inspection from 15 to 17 February 2016

The report highlighted 11 good practices and made four recommendations.

The Minister of Justice states that the good practices remain in force and that the recommendations have given rise to the following measures:

- the CGLPL recommended that the CEF put into place satisfactory food service that did not exist on the date of the inspection. The institution seems to have had difficulty in doing so because it could not stabilise a cook; it seems to have done so since 2017;
- a recommendation was also made regarding the confidentiality of minors' telephone calls to their families, on which the centre has made progress: conversations are now monitored without a loudspeaker; the CGLPL recommends that listening to minors' telephone conversations with their families should be exceptional and duly motivated;
- the CGLPL recommended health education actions, particularly with regard to the consumption of tobacco and psychoactive substances, and a better link between tolerance and consideration of the health of minors when managing the smoking ban. These points were initially addressed in a training course for the team, which is now in a position to organise awareness-raising sessions for minors and support them in their tobacco consumption. At the same time, young people can be brought into contact with an outpatient addiction service at their request or at the request of the centre.

4.3 Saverne juvenile detention centre - Inspection from 13 to 16 September 2016

The report highlighted two good practices and made 10 recommendations.

The Minister of Justice states that the good practices remain in force and that the recommendations have given rise to the following measures:

- with regard to links with families, the report recommended that holders of parental authority be represented on the participatory board; this has not been done, but they are involved in this body through the systematic mailing of the agenda and minutes; it also recommended that the confidentiality of correspondence be respected, except in cases that are justified; this practice has been adopted by the CEF;
- the monitoring of incidents has been improved according to the CGLPL's recommendations, as has the practice of searches, including on the return of runaways, which now excludes the strip-searching of minors;
- the CGLPL recommended clarifying the reflection on the conditions under which an imprisoned minor may or may not be readmitted. This point has been considered and the possibility of returning to the structure after a period of detention is now offered, whenever the young person so requests and when the project has meaning in terms of their educational plans. The CEF's department head maintains contact with the minor by going to see them in prison;
- similarly, in accordance with the CGLPL's recommendation, the centre now provides support for minors in their criminal cases;
- the CGLPL recommended that the CEF, which so wished, be authorised to contribute more actively to the preparation of releases and continue to support minors for a few weeks after they have materially left the institution, in parallel with the care provided by the open environment. The Minister of Justice indicates that after various administrative measures aiming to better manage continuity of care on leaving CEFs, the Act of 23 March 2019 on 2018-2022 Justice Programming and Reform now enables temporary accommodation to be organised in a place separate from the juvenile detention centre in the final stage of placement in order to prepare for the gradual release from the juvenile detention centre. This act also creates, on an experimental basis, an educational day-care measure with the aim of diversifying the judicial arrangements for educational care, continuity of pathways and adaptability of care.

4.4 Soudaine-Lavinadière juvenile detention centre - Inspection from 10 to 13 October 2016

The report made 19 recommendations; the Minister of Justice declares that these recommendations have given rise to the following measures:

- the accommodation work recommended by the CGLPL has been completed;
- similarly, the institutional project has been rewritten and this document is now considered to be efficient. The recommendations made by the CGLPL regarding its content have been followed and improved management of the written material relating to pedagogical monitoring has been initiated;
- the CGLPL recommended improving training for youth workers. According to the information provided in 2019 by the Minister of Justice, all have a diploma recognised by the collective agreement (ES, ETS, BEJEPS, Instructor) or are involved in an accreditation of prior learning process with a view to obtaining one of these diplomas;
- the creation of a council for social life or another form of participation for young people in care, recommended by the CGLPL, seems to have been the subject of unsuccessful attempts. New arrangements, in force since 2019, will need to be evaluated after one year of operation;
- the CGLPL recommended that the the dynamic of outdoor sport and cultural activities be continued, which seems to be the case;
- it also recommended initiating a partnership with a psychiatric institution and setting up health education activities which, according to the Minister of Justice, has been done;

- the CGLPL recommended that the centre strengthen its links with judges and the open custody section of the PJJ, and that it commission an external evaluation of its work. A first visit by judges took place in 2018 and a "contact" group of all managers of custody facilities was set up in 2019 in the Limousin region. The Minister of Justice underlines that the CEF is not required to carry out an external evaluation. The CGLPL does not disagree but continues to think that such an evaluation would be useful.

4.5 Nîmes juvenile detention centre - Inspection from 6 to 8 December 2016

The report highlighted four good practices and made 20 recommendations.

The Minister of Justice states that the good practices remain in force and that the recommendations have given rise to the following measures:

- the report recommended improving some communal facilities; this was carried out immediately after the CGLPL's inspection, but they were degraded again; new repairs are under way;
- it also recommended an overall review of the documents structuring the institution, which was carried out following an operational audit. All of the CGLPL's recommendations regarding the content of these documents have been taken into account;
- improving the individual care files (DIPCs), recommended by the CGLPL, has been the subject of a reflection whose results seem modest: a questionnaire for holders of parental authority has been created but is seldom used, and a charter of good practice, planned for 2016, is currently being drawn up. Steps have also been taken to ensure their confidentiality;
- actions were recommended to strengthen socio-professional support for minors. They have given rise to procedural measures, but the institution does not seem to have given full consideration to the matter and has not reported any concrete results in this area. On the other hand, it has made progress in involving families in the educational process;
- the report asked the CEF to ensure the regular presence of a general practitioner and a child psychiatrist at the centre in accordance with a protocol signed in 2013 with the hospital. The Minister of Justice provides no information about the presence of a general practitioner, but that of a psychiatrist is still not guaranteed. Talks with the hospital seem to be continuing. On the other hand, the recommendation on the confidential distribution of drug treatments seems to have been implemented in 2019;
- extended stays of minors for longer than six months, which result from difficulties in finding a suitable accommodation, continue to exist.

Appendix 5

Inspectors and staff employed in 2019

Chief Inspector:

Adeline Hazan, *judge*

Secretary General:

André Ferragne, *Chief Inspector of the French armed forces*

Assistants:

Franky Benoist, *administrative manager*

Brigitte Bodeau, *executive assistant* (until 1 March 2019)

Nadia Dahi, *executive assistant* (from 2 April 2019)

Juliette Munsch, *executive assistant*

Permanent inspectors:

Adidi Arnould, *Director of the Judicial Youth Protection Service* (until 30 June 2019)

Chantal Baysse, *Director of Prison Rehabilitation and Probation Services*

Mathieu Boidé, *counsellor to the administrative court and administrative appeal courts*

Anne-Sophie Bonnet, *former ICRC delegate* – delegate for international relations

Alexandre Bouquet, *Director of prison services*

Luc Chouchkaieff, *public health medical inspector*

Matthieu Clouzeau, *Chief Superintendent of the French National Police Force* (from 7 January 2019)

Candice Daghestani, *judge* (from 1 September 2019)

Céline Delbauffe, *lawyer*

Thierry Landais, *Director of prison services* (until 30 September 2019)

Anne Lecourbe, *President of the judiciary of administrative courts*

Cécile Legrand, *judge* (until 1 September 2019)

Agathe Logeart, *journalist* – delegate to the scientific committee

Danielle Piquion, *judge*

Yanne Pouliquen, *former lawyer in the associations sector* – communication delegate

Vianney Sevaistre, *civil administrator*

Bonnie Tickridge, *health executive*

Cédric de Torcy, *former director of a humanitarian association*

Fabienne Viton, *Director of prison services*

External inspectors

Julien Attuil, *juvenile justice expert at DEI-Belgium* (until 30 June 2019)

Hélène Baron, *former attaché of prison services*

Christine Basset, *lawyer*

Dominique Bataillard, *psychiatrist, hospital practitioner*

Betty Brahmy, *psychiatrist, hospital practitioner*

Edith Chazelle, *former employee of a humanitarian organisation* (until 1 November 2019)

Michel Clémot, *general of the gendarmerie*

Marie-Agnès Credoz, *judge*

Isabelle Fouchard, *research officer at the CNRS in comparative law*

Jean-Christophe Hanché, *photographer*

Gérard Kauffmann, *Chief Inspector of the French armed forces*

François Koch, *journalist* (from 23 December 2019)

Augustin Laborde, *assessor at the National Court of Asylum for the UNHCR* (from 23 December 2019)

Agnés Lafay, *judge*

Gérard Laurencin, *psychiatrist, hospital practitioner* (until 8 October 2019)

Murielle Lechat, *Chief Superintendent of the French National Police Force* (until 30 November 2019)

Philippe Lescène, *lawyer*

Pierre Levené, *former president of Caritas France*

Bertrand Lory, *former attaché to the City of Paris*

Pierre-Henry Maccioni, *former prefect* (until 30 June 2019)

Jacques Martial, *lawyer* (from 30 June 2019)

Annick Morel, *General Inspector for Social Affairs*

Philippe Nadal, *Chief Superintendent of the French National Police Force*

Dominique Peton-Klein, *public health chief physician*

Bénédicte Piana, *judge*

Marie Pinot, *public health medical inspector* (from 23 December 2019)

Bruno Rémond, *former chief auditor at the Court of Auditors*

Michel Rozewitch, *former company director*

Dominique Secouet, *former manager of the Baumettes prison multimedia resource centre*

Koman Sinayoko, *Director for Prison Rehabilitation and Probation Services* (until 30 June 2019)

Michel Thiriet, *hospital director* (from 23 December 2019)

Departments and centre in charge of referred cases

Legal Affairs Director:

Jeanne Bastard, *judge* (until 1 September 2019)

Hanène Romdhane, *judge* (from 1 September 2019)

Financial and administrative director:

Christine Dubois, *Senior Attaché of Government departments*

Archivist in charge of monitoring opinions:

Agnès Mouze, *Attaché of Government departments*

Inspectors responsible for case referrals:

Lucie Montoy, Deputy Legal Affairs Director, *Attaché of Government departments* (until 14 January 2019)

Maria de Castro Cavalli, Deputy Legal Affairs Director, *Attaché of Government departments* (from 14 January 2019)

Benoîte Beaury

Kévin Chausson

Sara-Dorothée Guérin-Brunet

Maud Hoestlandt

Mari Goicoechea

Estelle Royer

In addition, in 2019, the CGLPL hosted, for professional training or on fixed-term employment contracts (CDDs):

Amélie Ben Gadi (lawyer)

Marie Guillaume (law student)

Marion Grolleaux (law student)

Capucine Jacquin-Ravot (doctoral student)

Garance Le Meur Abdalain (law student)

Clio de Meric de Bellefon (trainee administration attaché)

Gaëlle Naquet (judicial trainee)

Alissa Ozeki (law student)

Justine Perez (student at University of Paris 2)

Fabien Pommelet (law student)

Léa Stabler (judicial trainee)

Appendix 6

The rules of procedure of the CGLPL

The Act of 20 January 2017 conferring general status on independent government agencies and independent public authorities provides for the adoption of rules of procedure within each authority. In light of said provision, the CGLPL has merged two existing documents: the Code of Conduct and Service Regulations. The CGLPL's rules of procedure were published in the *Journal officiel* (Official Gazette) of 23 December 2018.

This text, as well as all of the other reference texts, may be consulted in full on the institution's website: www.cglpl.fr

The purpose of the CGLPL is to make sure that persons deprived of liberty are dealt with under conditions which respect their fundamental rights and to prevent any infringement of these rights: right to dignity, freedom of thought and conscience, to the maintenance of family bonds, to healthcare and to employment and training, etc.

Cases may be referred to the Chief Inspector by any natural person (and corporations whose purpose is the promotion of human rights). For this purpose, they should write to:

Madame la Contrôleure générale des lieux de privation de liberté
CS 70048
75921 Paris cedex 19

The centres in charge of referred cases deal with the substance of letters sent directly to the CGLPL by persons deprived of liberty and their close relations by verifying the situations recounted and conducting investigations, where necessary on-site, in order to try to provide a response to the problem(s) and identify possible problems of a more general order and, where need be, put forward recommendations to prevent any new breach of a fundamental right.

> Above all, apart from cases referred and on-site inquiries, the CGLPL conducts inspections in any place of deprivation of liberty; either unannounced or scheduled a few days before arrival within the institution.

Inspections of institutions are decided upon, in particular, according to information passed on by any person having knowledge of the place and by staff or persons deprived of liberty themselves.

Thus for two out of four weeks, four to five teams each composed of two to five inspectors or more according to the size of the institution, go to the site in order to verify the living conditions of persons deprived of liberty, carry out an investigation on the state, organisation and operation of the institution and, to this end, hold discussions in a confidential manner with them as well as with staff and with any person involved in these places.

In the course of these inspections, the inspectors have free access to all parts of the institutions without restriction, both during the day and at night and without being accompanied by any member of staff. They also have access to any documents except, in particular, those subject to investigatory and professional privilege applicable to relations between lawyers and their clients. Under certain conditions, they also have access to medical documents.

At the end of each inspection, the teams of inspectors each write a draft report, which is sent to the head of the institution, in order to obtain the latter's comments on the facts ascertained during the inspection. Except in special circumstances, the head of the institution is given one month to reply.

In the absence of a response within this deadline, the Chief Inspectorate may commence drafting the final report. This report, which is not definitive, is subject to rules of professional privilege which are binding upon all members of the CGLPL with regard to the facts, acts and information of which they have knowledge.

After receipt of the comments of the head of the institution or in the absence of a reply from the latter, the head of the assignment once again convenes the inspectors having conducted the inspection, in order to edit the report if necessary. The final report, referred to as the "inspection report", is sent by the Chief Inspector to the appropriate ministers having competence to deal with some or all of the facts ascertained and recommendations contained therein. Except in case of urgency, a deadline of between five weeks and two months is set for responses from ministers.

Once all of the ministers concerned have made their observations (or with no response forthcoming after three months), these inspection reports are then published on the CGLPL website.

In addition, the Chief Inspector may decide to publish specific recommendations concerning one or several institutions as well as overall assessments on cross-cutting issues in the *Journal Officiel de la République Française* when he considers that the facts ascertained infringe or are liable to infringe one or several fundamental rights.

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