Le Contrôleur général des lieux de privation de liberté

Annual report 2015

Contents

Glossary

AAH Allowance for disabled adults (Allocation pour adultes handicapés)
ACAT Action by Christians for the Abolition of Torture (Action des chrétiens pour l'abolition de la torture)
AFPA Association for the professional training of adults (Association pour la formation professionnelle des adultes)
AGDREF Application programme for the management of files on foreign nationals in France (Application de gestion des dossiers de ressortissants étrangers en France)
AMP Medico-psychological assistant (Aide médico-psychologique)
ANAFÉ French National Association for the Assistance of Foreigners at Borders (Association nationale d'assistance aux frontières pour les étrangers)
ANVP French National Association of Prison Visitors (Association nationale des visiteurs de prison)
APA Personal care allowance (Allocation personnalisée d'autonomie)
APIJ Public agency for real estate development for the legal system (Agence publique pour l'immobilier de la justice)
APT Association for the prevention of torture
ARS Regional Health Agency (Agence régionale de santé)
ASH Member of hospital staff in charge of maintenance and hygiene and sometimes also assisting in care and socialisation of patients (Agent des services hospitaliers)
ASP Public services and payments agency, a public corporation administrating funding of public policies (Agence de services et de paiement) (formerly the CNASEA)
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'Etat, 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)
AVS Home help and care provider (Assistant de vie sociale)
CAF Social security office (Caisse d'allocations familiales)
CAP Sentence Board (Commission de l'application des peines)
CARSAT Employment Health Insurance Fund (Caisse d'assurance retraite de la santé au travail) (replaces the CRAM state regional health insurance offices)
CCR Orders, behaviour, regime (Consignes, comportement, regime) (note used in the GIDE software application)
CD Long-term Detention Centre (Centre de détention)
CDSP Departmental committee for psychiatric treatment (Commission départementale des soins psychiatriques)
ECHR European Convention on Human Rights
CEF Juvenile detention centre (Centre éducatif fermé)
CEL Electronic liaison register (Cahier électronique de liaison)
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)
CFG School leaving certificate (Certificat de formation générale)
CGLPL Contrôleur général des lieux de privation de liberté [Contrôleur général of places of deprivation of liberty]
CHG General Hospital (Centre hospitalier général)
CHS Psychiatric hospital (Centre hospitalier spécialisé)
CLAN Food and nutrition liaison committee (Comité de liaison alimentation et nutrition)

CLIN Committee for fighting against hospital-acquired infections (Comité de lutte contre les infections nosocomiales)
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)
CMUC Supplementary Universal health care coverage (Couverture maladie universelle complémentaire)
CNE National Assessment Centre (Centre national d'évaluation)
CNIL French Data Protection Authority (Commission nationale de l'informatique et des libertés)
CNOM French National Order of Doctors (Conseil national de l'Ordre des médecins)
CNSA French national solidarity fund for the autonomy of elderly and disabled people (Caisse nationale de solidarité pour l'autonomie)
CP Prison with sections incorporating different kinds of prison regime (Centre pénitentiaire)
CPA Reduced sentencing training prison (Centre pour peines aménagées)
CPC Criminal sentence enforcement in the community (Contrainte pénale communautaire)
CPIP Prison rehabilitation and probation counsellor (Conseiller pénitentiaire d'insertion et de probation)
CPP Code of criminal procedure (Code de procédure pénale)
CPT Committee for the Prevention of Torture (Council of Europe)
CPU Single multidisciplinary committee (Commission pluridisciplinaire unique)
CRPC Appearance in court after prior admission of guilt (Comparution sur reconnaissance préalable de culpabilité)
CRUQPEC Committee for relations with users of health institutions and quality of health care (Commission des relations avec les usagers et de la qualité de la prise en charge)
CSAPA Centre for the Treatment, Support, Prevention and Study of Addictions (Centre de soins de prévention et d'accompagnement en addictologie)
CSL Open Prison (Centre de semi-liberté)
CSMJS Secure socio-medical-jurisprudence centre (Centre socio médico judiciaire de sécurité)
CSP Public Health Code (Code de la santé publique)
CRA Detention centre for illegal immigrants (Centre de rétention administrative)
DAP Prisons administration department (Direction de l'administration pénitentiaire)
DAVC Diagnosis for criminological purposes (Diagnostic à visée criminologique)
DGGN Central administration of the French national gendarmerie (Direction générale de la gendarmerie nationale)
DGPN Central administration of the French national police force (Direction générale de la police nationale)
DGOS Central health administration for the provision of health care (Direction générale de l'offre de soins)
DGS Central health administration (Direction générale de la santé)
DISP Interregional Department of Prison Services (Direction interrégionale des services pénitentiaires)
DPS High-security prisoner (Détenu particulièrement signalé)
DPU Emergency Allocation of Protective Clothing and Blankets (Dispositif de protection d'urgence)
DSM Diagnostic and Statistical Manual of Mental Disorders (current edition DSM-5)

DSPIP Department of prison services for rehabilitation and probation (Direction des services pénitentiaires d'insertion et de probation)
ELOI Software application programme for the management of files on foreigners removed from the country (Logiciel de gestion de l'éloignement)
EPM Prison for minors (Établissement pénitentiaire pour mineurs)
EPSM Public mental health institution (Etablissement public de santé mentale)
EPSNF National public health institution at the remand prison of Fresnes (Établissement public de santé national de Fresnes)
ERIS Regional emergency response and security teams for dealing with incidents in prisons (Equipes régionales d'intervention et de sécurité)
FAED French national fingerprints database (Fichier automatisé des empreintes digitales)
FASM Federation in support of mental health (Fédération d'aide à la santé mentale) (Croix marine)
FHF French Federation of Hospitals (Fédération hospitalière de France)
FNAEG French national DNA database (Fichier national automatisé des empreintes génétiques)
FNAPSY French National Federation of Psychiatric Patients' Associations (Fédération nationale des associations d'usagers en psychiatrie)
FIJAIS French national database of sexual offenders (Fichier judiciaire automatisé des auteurs d'infractions sexuelles)
FNARS National Federation of Associations for Reception and Rehabilitation (Fédération nationale des associations d'accueil et de réinsertion sociale)
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 application)
GIA Asylum Information Group (Groupe d'information asile)
GIDE Computerised prisoner management (Gestion informatisée des détenus, software application)
HAS Independent scientific public authority contributing to regulation of the quality of the health system (Haute autorité de santé)
HDT Hospitalisation at the request of a third party (Hospitalisation à la demande d'un tiers, has now become ASPDRE)
HL Free, i.e. voluntary hospitalisation (Hospitalisation libre)
HO Hospitalisation by court order (Hospitalisation d'office, has now become ASPDT)
HSC Compulsory Hospitalisation without Consent (Hospitalisation sans consentement)
IDE Qualified State-registered nurse (Infirmier diplômé d'Etat)
IGA General Inspectorate of the French Administration (Visit générale de l'administration)
IGAS General Inspectorate of Social Affairs (Visit générale des affaires sociales)
IGPJJ General inspectorate of the judicial youth protection service (Visit générale de la protection judiciaire de la jeunesse)
IGPN General Inspectorate of the French national police force (Visit générale de la police nationale)
IGSJ General inspectorate of legal services (Visit générale des services judiciaires)
IGSP General inspectorate of prison services (Visit générale des services pénitentiaires)
ILE Breach of the law on foreigners (Infraction à la législation sur les étrangers)
ILS Breach of the law on drugs (Infraction à la législation sur les stupéfiants)
IPM Public and manifest drunkenness (Ivresse publique manifeste)

IPPP Psychiatric infirmary of the Paris police headquarters (Infirmerie psychiatrique de la préfecture de police)
ITT Temporary unfitness for work (Incapacité temporaire de travail)
JAP Judge responsible for the execution of sentences (Juge de l'application des peines)
JE Juvenile court judge (Juge des enfants)
JI Investigating judge (Juge d'instruction)
JLD Liberty and custody judge (Juge des libertés et de la detention)
LC Release on parole (Libération conditionnelle)
LRA Detention facility for illegal immigrants (Local de rétention administrative)
LRP Software application programme for the drafting of procedures (Logiciel de rédaction des procédures) (PN: police; GN: gendarmerie)
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)
MCI Placement in a seclusion room (Mise en chambre d'isolement)
MDPH Departmental centre for disabled people (Maison départementale des personnes handicapées)
MILDT Interdepartmental Mission for the Fight against Drugs and Drug Addiction (Mission interministérielle de lutte contre la drogue et la toxicomanie)
OFII French agency in charge of migration and welcoming foreign people (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 OIP international prisons watchdog (French section) (Observatoire international des prisons, section française)
OMP Member of the State Prosecutor's Office (Officier du ministère public)
OPCAT Optional protocol to the United Nations convention against torture (Protocole facultatif à la convention des Nations-Unies contre la torture)
OPJ Senior law-enforcement officer (Officier de police judiciaire)
OQTF Obligation to leave French territory (Obligation de quitter le territoire français)
PAF Border police (Police aux frontières)
PCC Central control post (Poste central de contrôle)
PCI Central information post (Poste central d'informations)
PEP "Sentence enforcement programme" (Parcours d'exécution de la peine) as well as Main Entrance Door in prisons (Porte d'entrée principale)
PIC Information and control post (Poste d'information et de contrôle)
PP Police headquarters (Préfecture de police)
PJJ Judicial youth protection service (Protection judiciaire de la jeunesse)
PPP Public-Private Partnership
PSAP Simplified reduced sentencing procedure (Procédure simplifiée d'aménagement de peine)
PSE Electronic tagging (Placement sous surveillance électronique)
PTI Alarm system for isolated workers (Protection du travailleur isolé)
QA New arrivals wing (Quartier "arrivants")
QCP Short sentences wing (Quartier "courtes peines")
QPC Preliminary ruling on the issue of constitutionality (Question prioritaire de constitutionnalité)
QD Punishment wing (Quartier disciplinaire)
QNC "New concept" wing (Quartier "nouveau concept")

QI Solitary Confinement Wing (Quartier d'isolement)
QPA Wing for reduced sentences (Quartier pour peines aménagées)
QSL Open wing (Quartier de semi-liberté)
RIEP Industrial management of penal institutions (Régie industrielle des établissements penitentiaries)
RLE Local Teaching Manager (Responsable local de l'enseignement)
EPR European Prison Rules
RPS Additional remission (Réduction de peine supplémentaire)
SEFIP End-of-sentence electronic tagging (Surveillance électronique "fin de peine")
SEP Prisons employment service (Service de l'emploi pénitentiaire)
SL Partial release (Semi-liberté)
SMPR Regional Mental Health Department for Prisons (Service médico-psychologique régional)
SMR Minimum rate of pay (Seuil minimum de rémunération)
SPH Hospital Psychiatrists' Trade Union (Syndicat des psychiatres hospitaliers)
SPF Trade Union of Psychiatrists of France (Syndicat des psychiatres de France)
SPIP Prison service for rehabilitation and probation (Service pénitentiaire d'insertion et de probation)
SPT United Nations Subcommittee on Prevention of Torture
SROS Regional plan for the organisation of health (Schéma régional d'organisation sanitaire)
SSAE Social service for the assistance of migrants (Service social d'aide aux migrants)
STIC Database of records of offences (Système de traitement des infractions constatées)
TA Administrative court (Tribunal administratif)
TAJ Processing of criminal records (Traitement des antécédents judiciaires)
TAP Sentence execution court (Tribunal de l'application des peines)
TGI Court of first instance in civil and criminal matters (Tribunal de grande instance)
TOC Obsessive behavioural disorder (Trouble obsessionnel du comportement)
UCSA Prison medical consultation and outpatient treatment unit (Unité de consultations et de soins ambulatoires)
UFRAMA French National Union of Regional Federations of Associations of Accommodation Centres (Union nationale des fédérations régionales des associations de maison d'accueil)
UHSA Specially-equipped hospitalisation unit (Unité d'hospitalisation spécialement aménagée)
UHSI Interregional Secure Hospital Unit (Unité hospitalière sécurisée interrégionale)
ULSD Long-term treatment unit (Unité de soins de longue durée)
UMD Unit for difficult psychiatric patients (Unité pour malades difficiles)
UMJ Medical Jurisprudence Unit (Unité médico-judiciaire)
UNAFAM National Association of friends and families of (mental health) patients (Union nationale des amis et familles de maladies)
UNAPEI National Association of families and friends of mentally handicapped people (Union nationale de parents et amis de personnes handicapées mentales)
USIP Psychiatric intensive treatment unit (Unité pour soins intensifs en psychiatrie)
VAE Validation of knowledge acquired through experience (Validation des acquis par l'expérience)
HCV Hepatitis C virus
HIV Human immunodeficiency virus
ZA Waiting area (Zone d'attente)

Foreword

2015 had a cruel start with the attacks on 7, 8 and 9 January, and the resulting debate on the question of Islamist radicalisation in prisons. It was also marked by the immigrant crisis, mostly those from the war-torn areas of the Middle East. It ended with the horrifying attacks in November, the adoption of Law no. 2015-1501 dated 20 November 2015 proroguing the application of Law no. 55-385 dated 3 April 1955, pertaining to the state of emergency and strengthening the effectiveness of its provisions, and with the introduction of the constitutional bill on the protection of the Nation.

No one can deny that the seriousness of the situation has led the public authorities to ensure and reinforce the security of citizens. However, throughout the past year, **fierce debates have raged on the difficult balance between fundamental rights and security**.

Finding this balance is not an easy task, **and it is the reason for the very existence of the CGLPL: to ensure in all circumstances, even the most serious ones, that the fundamental rights of persons deprived of their liberty are respected**. There's no denying that this is not always the case; in this new national and international order, **the authorities are being forced to focus more on security at the expense of respecting fundamental rights**.

It therefore falls on the CGLPL to ensure that the public authorities are always reminded to respect the fundamental rights of persons deprived of their liberty. The situation in 2015 has given it plenty of opportunities to do so.

First, prison overcrowding must be denounced, as it has been pinpointed as the cause of several violations of the rights. There has been no change in the current situation when compared to earlier. Currently, the overcrowding rate in prisons is approximately 35%, with peaks approaching 100% in Ile-de-France and in certain overseas departments; this overcrowding has increasingly severe consequences: lack of privacy and tensions between fellow prisoners or with the prison guards, difficulty in accessing work and other activities, insufficient healthcare, weakening of family bonds due to a lack of visiting rooms and deterioration of the working conditions of the staff. In this situation, it is impossible to provide individual cells, despite legal obligations to do so. The said obligation has once again been deferred to 2019 in dubious conditions.

The public authorities must have the courage to implement a prison regulation mechanism, since it has not been able to curb prison overcrowding, despite the yet to be perceived effects of the *Law dated 15 August 2014, pertaining to the individualisation of sentences and strengthening the effectiveness of penal sanctions*. They must also question the effectiveness of short sentences, which cause significant ruptures in the life of a convicted person without allowing him/her to benefit from any aid in prison due to the shortness of his/her stay.

In an Opinion dated 11 June 2015, the CGLPL drew the attention of the Executive on the dangers that may result from **grouping together prisoners showing signs of radicalisation or those prosecuted in relation to cases of terrorism** in dedicated wings within penal institutions. This measure may lead to risks that do not seem to have been taken into account, especially the cohabitation of persons with highly disparate levels of attachment to the radicalisation process and difficulties in identifying the affected individuals. The CGLPL also highlighted that a continuous evaluation of the de-radicalisation programmes will be necessary and that it must be ensured that the resources allocated to them do not burden the care of the entire prison population.

Even though, once again, proposals have been made for activating the **preventive detention** measure, instituted by the Law dated 25 February 2008, and have been rapidly gaining

support, especially for extending it to persons convicted for terrorist-related offences, the Contrôleur général, via an Opinion dated 5 October 2015, asked the Government to reject this measure. In fact, for the first time in French criminal law, preventive detention has removed the objective link between guilt and responsibility, between offence and punishment, in favour of the concept of dangerousness, while allowing a person to be kept imprisoned even after his sentence has been served, for a duration that can be renewed an infinite number of times.

Finally, in a Recommendation dated 13 November 2015, established according to the emergency procedure provided pursuant to Article 9 of the Law dated 30 October 2007, the Contrôleur général questioned the Minister of the Interior on the subject of the **collective transportation of foreign nationals who were taken in for questioning in Calais**. This mass processing resulted in a summary process that deprived the persons concerned of access to their rights, and therefore constituted a practice contrary to human dignity and misuse of administrative detention.

In addition to these news snippets, throughout 2015, the CGLPL pursued its task by visiting the institutions, on-site surveys and written exchanges with persons deprived of their liberty and with the administrations in charge of them. Even here, there is sufficient proof that the balance between necessary restrictions of liberty and the respect of the fundamental rights of persons deprived of liberty has not been respected.

It must be borne in mind that confinement, if it obeys differentiated regimes justified by different objectives, must still lead to the same end: **returning the person deprived of liberty to the free world**.

In prison, the detained person must be taken care of in conditions that help in his/her reintegration. Even if punishment is one of the objectives of the incarceration, it must never be the exclusive goal. Therefore, maintaining family bonds, learning, professional training, access to work, access to healthcare, exercising welfare rights and returning to employment must be part of the detention. And yet, very often, these fundamental rights are sacrificed in the name of security, or limited due to the lack of staff or due to overcrowding. Rules of security prohibit or restrict, sometimes to the point of abuse, several measures that are necessary for reintegration: accessing the Internet is almost always impossible even though today, it is vital for carrying out certain processes; permissions to leave for exercising welfare rights, maintaining family bonds and searching for employment are today looked upon with suspicion, and are reducing in number even though they are profitable and occur without any problem in a large majority of cases.

In other places, the deprivation of liberty is a means, but must never transform into a punishment. It must not be subject to generalised and systematic security measures, which implement precautions that are not always justified in the short term, and which compromise the chances of the cure of a patient or the reintegration of a minor.

In **psychiatric treatment**, the hospitalised patient must be treated to ensure that he/she can find a lifestyle that is as normal as possible. Psychiatric institutions must be places of re-socialisation, which aims at preserving the independence of patients or at helping in teaching them. And yet, the CGLPL notes that, very often, confinement leads to the infantilisation and the relieving of responsibility of patients, that the preoccupations of security intrude in psychiatric practices, and that the fear of absconding or the lack of caregivers result in the patients being deprived of the attention or the limited liberty that should have been granted to them. The therapeutic outing regime, for example, sometimes obeys security constraints that are greater than those provided by the laws, thereby resulting in making it impossible for measures that are known to be necessary. At the same time, security considerations sometimes result, without any legal basis, in excessive measures of deprivation of liberty: in certain departments, hospitalised patients are systematically placed in seclusion rooms; the presence of a patient hospitalised without consent

may result in an entire department being closed down; the refusal to consider the sexuality of patients can allow clandestine and dangerous practices involving coercion, venality and risky behaviour.

In administrative detention centres, the foreigner must only be detained in the limits and conditions strictly necessary for his/her deportation. Such is not always the case. House arrest, which should be implemented in numerous situations before deportation, is not treated as a substitute for administrative detention, but instead as an additional form of restraint. Detention becomes, above all, a tool that helps in managing deportations, since there is no need to monitor deported persons in their homes from the crack of dawn. This practice may result in placing children in detention, which must systematically be avoided, as promised by the President of the Republic.

In juvenile detention centres or prisons for minors, the imprisoned children retain rights specific to their age, above all the right to education and reintegration. They must also benefit from special protection against the violence that is often seen in these places. This special protection must be provided by a firm and level-headed authority. However, the means to exercise this protection, the educational competence and the capacity to take charge of the children in time are often lacking. The consistency between the surveillance and the educational function often leaves much to be desired. Unstable, precarious or poorly trained teams are in charge of a task that is sometimes beyond their abilities, and take care of the minors insufficiently, applying a variable, ambiguous and sometimes arbitrary discipline. Finally, the reform announced in the Order dated 2 February 1945, pertaining to juvenile delinquency, has yet to be applied, even though it has been a commitment of the President of the Republic since 2012.

In the police stations, gendarmeries or customs services, the person taken into custody or detained is deprived of liberty only to allow law-enforcement officers to investigate a case for presenting it to the State Prosecutor's Office or to a judge. It often happens that the custody measures are extended uselessly due to cumbersome procedures or organisation, such as a difficulty in finding a doctor or an interpreter, or even in contacting the State Prosecutor's Office. The state of certain detention rooms and rudimentary hygiene conditions, added to the tension that comes with being placed in custody, sometimes makes this procedural necessity, which must be applied frugally, a veritable punishment. While it is true that the reform of 2011 greatly reduced the number of people placed into custody, it is still uncertain whether we have done all that we can in this respect.

In general, and even if the **concern of security** is legitimate, it too often leads to **undifferentiated** measures that, by the spirit of the system, by concerns of simplicity or as a precaution, are applied to diverse situations. Therefore, certain practices, suited to situations or persons considered to be the most dangerous, are applied indiscriminately to everyone, at the expense of fundamental rights. Sometimes, these measures simply result from the regrettably justified fear of police officers of having their responsibility unfairly called into question.

Since 2008, the CGLPL has continuously recommended a **personalised treatment, suitable security mechanisms**, training measures, a health coverage similar to what free persons benefit from, the protection of family bonds and a sufficient quantity of work. All of these conditions are vital for the **effectiveness of the reintegration** that must result from the confinement, and are therefore vital for the long-term safety of persons as well as of the society.

Progress has certainly been made, for example concerning the number of persons taken into custody, the system of searches in prisons or the situation of young incarcerated mothers and their children. More recently, the rights of patients hospitalised without consent have been reinforced by the *law modernising our health system*, adopted on its last reading by the National Assembly on 17 December 2015. **However, progress is too slow and there is still a long way**

to go. Very often, the law remains less than desirable, as is the case of the right to work in prison. Sometimes, it has evolved, but is yet to become fully effective, as is the case in providing access to a lawyer in custody or the information of patients hospitalised without consent. More seriously, access to healthcare for imprisoned persons remains a source of great difficulty and the principle of equality of access to healthcare, established more than twenty years ago by the *Law dated 18 January 1994 pertaining to public health and social protection*, is still not respected.

However, **it is unacceptable that the CGLPL makes the same observations, denounces the same failures and formulates the same recommendations in every single domain that it monitors.** In fact, prison overcrowding remains abnormally high, hospitalised prisoners continue to be treated while handcuffed or shackled and in the presence of prison guards, and therefore decide to give up on healthcare, holding cells are not maintained and the teams assigned to look after minors are still not systematically stabilised and trained. The list of violations of the rights of persons deprived of liberty is even longer.

This is why the CGLPL decided to implement a tool that allows assessing the implementation of its recommendations, so that the public authorities are able to ensure their monitoring and application.

The requirement of respecting the rights and dignity of those deprived of liberty is a never-ending battle. The CGLPL will continue to fight it, fully embracing the concept of this "active intolerance", as spoken by Michel Foucault.

Adeline HAZAN

Chapter 1

Places of deprivation of liberty in 2015

In 2015, the CGLPL conducted 160 visits, with an average duration of slightly more than three days. Taking into account the size of the teams, this represents 491 days of presence in places of deprivation of liberty. In penal institutions, juvenile detention centres and administrative detention centres, almost all of these visits were second visits and, in very few cases, third visits. Therefore, they allowed measuring the changes in practices.

Using these works and in-depth knowledge acquired over the past seven years, the CGLPL wishes to highlight the major themes that currently characterise each category of institution as regards the respect of the fundamental rights of persons deprived of liberty who are held there.

1. In psychiatric treatment, in the context of a great diversity in practices, the reforms of 2011 and 2013 on notifying patients of the measures of hospitalisation without consent, providing information to the patients and the legal check of the liberty and custody judge have not been implemented properly

The Contrôleur général of places of deprivation of liberty has made the visits of psychiatric institutions a priority in her mandate. In this respect, psychiatric institutions comprised 60% of the tasks executed for the visits of large-scale institutions in 2015.

During these visits, the attention of the inspectors was especially drawn to the question of the use of restraint and seclusion, which will shortly be subject to special studies, as well as to the normal conditions of life of the patients. In fact, questions such as maintaining family bonds, the mandatory use of pyjamas, the definition of free and restricted spaces, sexuality, access to telephones or computers or the management of personal expenses have revealed several disparities that are not always connected to the requirements of the medical treatments. This diversity can be observed between institutions, between departments and sometimes even between floors. These differences are related to the exercising of individual liberties; the observed heterogeneity casts a major doubt on the question of the equality of treatment.

> These practices often do not result from therapeutic decisions, but from considerations of simple organisation, economy or management. In one place, there was never any telephone booth; in another, there is no Internet connection. In yet another institution, the layout of the rooms forced the department to close down when a person was placed there for treatment without consent. In one department, sexual relations were allowed, while there were not in others and therefore no prevention or educational measure was implemented. In still other places, visits were forbidden at certain times as there was no one to receive visitors.

Access to computers and the Internet remains especially difficult and rare in psychiatric institutions. In the best case scenario, the patients have the right to keep their computer with a release of liability against theft - note that very few of these rooms are equipped with cupboards that can be locked by the patient. In the worst case scenario, computers are forbidden, without any justification related to the treatment. During its visits, no therapeutic activity organised around computers was observed by the CGLPL. Similarly, the institutions do not generally have access to the Internet or an internal network open to the patients.

It appears that the need for safety, and especially the fear of absconding, is sometimes considered much more important than the need for healthcare. Therefore, the freedom of movement is abnormally restricted. Outings of patients admitted for psychiatric healthcare on the request of a third party (ASPDT) within the premises of the institutions are sometimes only permitted if accompanied by caretakers, for security reasons, even if the psychiatrists believe that the patient's condition does not justify it; this practice is contrary to the provisions of the Public Health Code. Outings of patients admitted for psychiatric healthcare on the request of a State representative (ASPDRE) outside the institution are sometimes subjected by the government agency to conditions that go beyond the medical prescriptions (progressive conditions: first, accompaniment by two caretakers, then by one caretaker before authorising an accompaniment by a family member).

It is also necessary to allow patients the possibility of being by themselves if they wish. In this respect, access to the rooms is often difficult: sometimes, the patients do not have the right to remain in their room during certain times "to present themselves for activities", even though there are no or very few activities. Due to this, they remain in the living room, drowsy or even asleep.

These restrictions are violations of the fundamental rights as they do not result from a requirement connected to the state of health of the patient and are not the subject of a medical decision. Such a decision must be explicit, proportional, personalised and justified by the requirements of healthcare. The absence of any recourse against this only makes for a stronger case in favour of a strict assessment of the patient's needs.

> This does not imply advocating the definition of a standard institution, but reflecting on this question is a prerequisite to question whether we wish to progress in respecting the fundamental rights of persons deprived of liberty in psychiatric institutions.

In 2015, the attention of the inspectors was especially drawn to the application of the new provisions of the Public Health Code. In fact, when these provisions were modified by the Law dated 5 July 2011, and then by the Law dated 27 September 2013, the legislator consolidated the rights and guarantees given to persons placed under psychiatric treatment without consent, in particular revising the terms of informing the patients and the intervention of the liberty and custody judge (JLD). The new provisions, integrated in Articles L 3211-1 et seq. of the Public Health Code, are fully applicable with effect from 1 September 2014.

1.1 Notifying the patient of the measure of hospitalisation without consent and informing the patient about his rights are done in principle, but this poorly controlled and often too formal act does not appear to fulfil its objective

Article L. 3211-3 of the Public Health Code states that when a person is affected by mental disorders and is subjected to psychiatric healthcare without consent, any restriction upon the exercise of their individual liberties shall be adapted, necessary and proportioned to their mental state and to the implementation of the required treatment. In all circumstances, the dignity of the

person shall be respected and their rehabilitation sought. The patient is, as far as his condition allows, informed as early as possible and in an appropriate manner about his condition, the decision to admit him, his rights, the remedies that are open to him and the guarantees that have been offered to him. The opinion of this person on the terms of the treatment must be sought and taken into consideration as far as possible.

> In practice, the procedures and forms for notifying patients of their rights have not yet been fully mastered.

Hence, for example, the notification of the rights may be done inappropriately by healthcare supervisors. The measures are sometimes notified on the basis of old forms, the users of which themselves acknowledge that an update is necessary. Even though they are aware of their role, the healthcare supervisors do not appear to always know how to exercise it and lament that the procedure is too complicated. The admissions office sometimes does not perform any check, and it is therefore impossible to know if and when all the decisions were effectively notified.

On the other hand, there are some places in which the opposite was observed, which also has limits. The "admissionists" are perfectly knowledgeable of the laws in force and all of the formalities required by law. While this method is secure as regards the procedures, the "human" involvement of the administrators is somewhat lacking, according to the healthcare staff. Certain healthcare supervisors prefer to carry out this task twice, to alleviate its impersonal and administrative nature.

Numerous visits highlighted unsatisfactory procedures of notifying and informing the patients. Also, even when the healthcare supervisors are perfectly comfortable with the procedure and the associated pedagogy, sometimes, the notification is made very late (48 - 72 hours) due to a lack of availability. In other cases, in general hospitals, the information given to the patients and their families is insufficient, with a welcome booklet that contains practically nothing on psychiatry, and very little information is displayed in the units.

> Even when the procedures are adopted and implemented, it is still difficult to provide satisfactory information on patients hospitalised without consent, since for certain healthcare professionals, this obligation seems paradoxical. The observations on patients hospitalised without consent are generally collected, the rights are notified, an information document summarising them is drafted and then displayed in the units, and is often given to the persons involved. Therefore, everything that must be done is done, but the notification lacks pedagogy and everything is done as if the the persons stating the rights see no use in it, since they are, often rightly, convinced of their ethics and the necessity of the treatment that they dispense. In fact, what is the use of giving patients the means to protect themselves from people who only want the best for them?

In one of the institutions visited by the CGLPL, these difficulties were identified by the administration department, which made significant efforts in notifying the patients of the measures and informing them of their rights. On observing that informing the patient on the means of recourse, as required by law, were not always properly executed by the healthcare professionals, the administration department set up an administrative staff-healthcare professional pair to carry out the notifications. In this same institution - a general hospital - there was also a welcome booklet specific to psychiatry.

The CGLPL visited only one institution in which notifying patients hospitalised without their consent of their rights is not conducted as a general rule, either at the time of admission or even anytime later. The professionals only care about the summons for the hearing by the liberty and custody judge, who himself is not all that concerned about the absence of this notification.

Overall in this institution, providing information to hospitalised persons is not properly taken into account: neither the welcome booklet nor the internal rules (not updated since 2008) are provided, no information is given in the units on the opening hours of the cafeteria, prayer times or the hotlines to various associations. Moreover, the information, when provided verbally, is not always reliable.

In conclusion, the provisions of the Public Health Code appear to be complied with formally, and yet do not fulfil their true goal. A supervision therefore seems to be necessary to ensure the effective updating of the procedures in all of the institutions and to help in reforming it through education; without this, the procedures will undoubtedly discreetly remain useless.

> It is necessary to come up with a protocol of the terms of informing a patient and notifying him on the measures of treatment without consent. The issuing of this information requires time, consideration and great care. The CGLPL recommends that the Ministry of Health should draw up a model document explaining the various different types of hospitalisation without consent and the means of remedy open to patients, in simple terms. Every patient must also be informed about the rules of living in the hospital and any information useful to his/her stay, via a welcome booklet or by displaying the rules in each room. Finally, hotlines for access to legal advice, based on the model used in certain institutions, must be generalised. These actions require supervisors for the hospitals and must be subject to a systematic visit via common law visits.

1.2 A hearing before the liberty and custody judge is systematic, but the persons involved are still not sufficiently professional

The role of the liberty and custody judge is defined in Articles L. 3211-12-1 to L. 3211-12-6 of the Public Health Code. The application of these provisions is systematic, but has certain practical aspects that are not always legitimate.

Holding weekly hearings is the most common system, and **the principle of mobile court hearings** was widespread even before the Law of 2013 made them mandatory. In several cases, the judge holds one session per week in the institution. Therefore, patients only have to be transported to court in case of an emergency or if they are summoned. The feedback is unanimous in showing the benefits of mobile hearings for the peace of mind of the patients.

Difficulties mainly crop up when the institution is too far from the seat of the court, and holding hearings is therefore considered to be too time-consuming by the judges. Several judges therefore take turns in holding these hearings, which sometimes causes difficulties in acquiring the necessary competence in psychiatry, which is somewhat complex and requires regular investment, which is not possible when the judges are on continuous rotation. Moreover, certain patients refuse to meet the JLD on the grounds that the latter may also be in charge of family affairs, "which could have negative consequences on a patient, for example in the case of divorces". In other places, a single judge executes the functions of a JLD; hearings are regular and this makes the processing of dossiers more fluid.

> In certain remaining cases, there is no room reserved for the hearings of the JLD within the healthcare institution. There are implementation difficulties related to the standards set by law, even though in the court of first instance (TGI), the hearings of the JLD occur in a small room similar to the meeting rooms that exist in every hospital and even though, as we will shortly see, other jurisdictions organise satisfactory mobile hearings without the imposed standards being strictly complied with.

In fact, the law imposes the provision of a courtroom that ensures the clarity, security and fairness of the debates, along with access for the public. It must have a nearby room for deliberations and a room that allows a confidential interview with the patient and his/her lawyer. This courtroom is allocated to the Ministry of Justice, and is specially arranged in the premises of the host institution, under the circumstances and according to the terms provided by an agreement concluded between the TGI and the regional health agency (ARS).

In practice, these provisions are not applied equally, without necessarily harming the rights of the patients. In multiple cases, the room used as the courtroom, selected in consultation with the hospital administration, is a meeting room, sometimes used as such, but always arranged properly before a hearing is held. No agreement is signed between the institution and the court, and the specifications that were determined in 2011 by the Ministry of Health are not complied with. The requirements that they impose were deemed to be "draconian". However, the parties involved consider that everyone finds this room suitable and that this choice, as well as its layout, are not sources of difficulties. In these situations, the material provisions appear, according to the inspectors, to respect the dignity of persons deprived of liberty and all of the parties involved (judge, patients, medical staff, administrative staff) are satisfied with the provisions.

> The difficulty in permanently assigning a courtroom that complies with the standards set by law is therefore not valid to justify discontinuing mobile hearings. It is the responsibility of the supervisors of the healthcare institutions and the Minister of Justice to ensure this.

The law states that the person under psychiatric treatment without consent is to be heard, assisted or represented by a chosen lawyer, appointed as a legal aid or appointed by the Court. In practice, this provision is not applied equally.

Sometimes, lawyers are not even present. The president of the Bar states that sometimes, in an institution that is far from the court, "a colleague cannot be forced to spend half a day travelling to such a place with the current conditions of remuneration". Earlier, when the hearings were held via videoconferences, the lawyers were present beside the JLD.

In several institutions, the patients do not often ask to be assisted by a lawyer; "I can't imagine how they are given this option" states one of the spokespersons of the CGLPL.

For several hospitals located in the area where the court is located, the president of the Bar has established a list of Court-appointed lawyers, who volunteered for the task and specialise in matters of healthcare without consent. The lawyers are appointed in turns to the role of counsellor. Therefore, there is no difficulty in the lawyers being present. Several times, the CGLPL also noted that a board showing the Bar association is not displayed anywhere in the institution.

Specific training for lawyers in assisting patients hospitalised without consent is rare. However, when it exists, it is observed that the development of the competence of the defence forces the administration to strengthen its own arguments, which most often backs the decisions of the judge. In a city where lawyers voluntarily attend a training course organised by the Bar twice a year, they were quickly aware of the specificities of the procedure and numerous releases were thus obtained. In light of this situation, the director of the institution himself called on a lawyer to represent the hospital "in order to balance the debate and ease tensions. The lawyer can reply to the judge's questions when interrogated on the functioning of the hospital". Nevertheless, this practice is not free from ambiguity. In fact, in the hearing, this lawyer does not restrict himself to replying to any possible questions of the judge, but challenges each dossier before the patient's lawyer, thus giving the debates a contentious connotation that is not compatible with the spirit of the law.

The absence of training produces various consequences. It is sometimes believed that the lawyers are competent, as claims for invalidation are filed regularly. On the other hand, it is also observed that the procedure is misunderstood by the lawyers since the releases are always raised ex officio by the judge. The lawyers rarely appeal, and thus there is very little case law on these questions, often leaving the judges, the police officers, the hospital staff and administration with no direction when faced with certain legal loopholes.

> It therefore appears that the rare initiative of specific training for lawyers must be encouraged, but it must be organised such that it does not change the hearing of the JLD into a dispute with the institution on one side and the patient on the other.

The remuneration of the lawyers is also subject to debate. Firstly, only cases that are pleaded are effectively remunerated. However, in the case of hospitals that are far from the seat of the Bar, the lawyers are obliged to travel for hearings that are sometimes cancelled at the last minute. Scheduling efforts are therefore necessary to solve this difficulty, wherever it occurs.

The remuneration for legal aid is also an obstacle to the availability of lawyers. According to a president of a Bar, "this legal aid pays a miserly sum that does not cover the economic costs incurred by a lawyer for exercising his business. This is all the more evident when the lawyer intervening in the hearing is an employee, as the payment made to the firm is not sufficient to cover his hourly rate."

Finally, note that since the decision of the legal aid office generally occurs two months after the hearing, several patients with greater resources than the limit imposed by law were refused legal aid and yet were billed the fees even though they did not wish to be assisted in the hearing but are onliged to do so by law.

> The question of the lawyer's role and the terms of his involvement do not seem to have been treated satisfactorily anywhere. Everywhere, one or another aspect of this role faces obstacles or uncertainty, which harms the interest of the patients.
>
> The public authorities must, in consultation with each Bar of lawyers, ensure the removal of the local obstacles to the presence of lawyers at the hearings of the liberty and custody judge, and ensure that legal training specific to hospitalisation without consent is offered to the lawyers concerned.

The Public Health Code states that **after both sides have been heard, the judge will give his ruling publicly**. He may decide to hold or continue the debates in chambers if the public nature of the debate violates privacy, if disturbances occur that affect the tranquillity of the court or if one the parties requests such. This request is granted when it is made by the person subject to the psychiatric treatment.

The material organisation of the hearing varies from one hospital to the other, and sometimes even in the same institution when multiple judges are working. Some JLD use the place reserved for them as the presiding chairman, while others organise the room as if for a meeting, with all parties involved sitting around a table. The first arrangement emphasises the solemnity of the session, while the second helps in relaxing the patient. The JLD can thus choose his position and thereby provoke different reactions from the patients brought before him/her. The patients are rarely invited to remain standing in the podium, since the JLD believe that allowing them to be seated at the table helps in reducing stress.

Diverse attitudes exist as concerns wearing robes. Certain judges wear them to remind others of the dignity and majesty associated with their role, while others believe that this formality needlessly frightens patients, some of whom may have faced a criminal judge in the past. In the

institutions visited in 2015, most judges did not wear their official robes; there was only one case in which the judge and clerk systematically wore their official robes. Healthcare professionals believe that this formality may be a source of anxiety for certain patients.

As a rule, the psychiatrist in charge of the patient does not attend the hearing. On the contrary, a nurse accompanies the patient, sometimes systematically and sometimes on request, and it may happen that the JLD has questions for the nurse or asks him/her to speak. In other places, on the contrary, a nurse is very rarely present during the hearing; sometimes, a JLD has even refused entry to a healthcare supervisor. Sometimes, the JLD asks the patient for his/her prior approval of the presence of a person who wishes to attend the hearing.

In a hospital, detained patients, along with two healthcare professionals, are escorted by police officers from their room[1] until they return to the said room after their court appearance. The police escort generally comprises three officers, but can have up to five; the patients are often handcuffed during the journey and sometimes are kept handcuffed even during the hearing, while police officers attend the hearing. Simply being a prisoner, without any personalised and formal risk analysis, cannot justify such a practice. Strict directives must therefore be given by the Minister of Justice for the proper use of means of restraint during the hearings of the liberty and custody judge.

In all of the visited institutions, the prosecution abstains from attending the hearing and limits itself to written requisitions. Nevertheless, certain prosecutors have assigned a judge to these types of cases, who can be contacted over the phone.

> The Minister of Justice should analyse the experience gained in executing hearings of the liberty and custody judge, taking into account the healthcare professionals, in order to provide them with the best practices and to organise training courses or experience sharing.

In general, **the relationships between the hospitals, the judges and the lawyers** have been described as satisfactory, even though they are not identical everywhere. Not everyone is satisfied with the same thing.

Sometimes, the only time the judges meet the psychiatrists is the year-end review meeting chaired by the ARS in the presence of the authorities concerned: prefect, hospital director, Prosecutor of the Republic and president of the TGI. There have never been plans to organise a more informal meeting between doctors and JLD; according to certain judges "it is not needed; everyone must remain in his role: the judge judges and the doctor treats". On the other hand, some other judges and doctors are extremely in favour of and interested in the idea of holding regular informal meetings, where everyone can express themselves freely. They believe that the annual and formal meetings do not allow working on simple and practical subjects such as the behaviour that ought to be adopted by those involved in the hearing, which they feel is still very uncertain. The CGLPL definitely agrees with this opinion.

There are positive examples. Since 2013, a day of exchange between "psychiatry and justice" is organised every year in the CHS. Also, a hospital visit was organised for volunteer lawyers. Such initiatives will probably not be sufficient to bring the required level of maturity to hearings of the JLD, but seem to be a necessary step towards it. The hospitals and courts would have the benefit of organising informal meetings between judges and the healthcare staff, and assign lawyers as and when required.

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[1] *It must be noted here that the inspectors observed a widespread practice of placing imprisoned patients in seclusion rooms, sometimes even restrained, for the entire duration of their stay in the hospital. These placements must not be systematic, but must be subject to a personalised medical decision corresponding to a therapeutic necessity.*

The conditions in which the hearings of the liberty and custody judge take place are heterogeneous. This must not be allowed to continue. While we should not impose too strict formalities as regards the layout of the rooms at the expense of the principle of mobile hearings, it appears necessary for the courts and the hospital supervisors to jointly identify the best practices and make them known via national directives and, locally, via training courses, awareness campaigns or sharing between healthcare professionals, judges and lawyers.

2. In prison, the persistence and concentration of prison overcrowding coincides dangerously with an insufficient number of prison warders

Since 2012, the CGLPL, having visited almost all of the penal institutions[2], has undertaken a series of second visits. Most often, since the first visit, the vocation of the institution has remained unchanged, as has its structure, and sometimes, even the same managers are still in place.

Therefore, the inspectors are capable of making comparisons and measuring the consequences of their earlier recommendations. In numerous cases, the situations remained unchanged and the commitments made after the first visits were either partially upheld, or not at all. Sometimes, the building itself prevents any true progress, even when certain superficial measures are implemented, such as repainting, for example. Sometimes, the situation had rather worsened. Of course, there are also cases where the new visit of the CGLPL showed improvements, often caused by changes in the prison administration department teams.

For these reasons, the CGLPL set up a procedure for following up on its recommendations and is happy to note that, for its part, the prison administration department has done the same.

> In general, the inspectors noted in several visits that there was an increase in tensions and violence in prisons: while their number has increased only slightly, they are much more violent in nature. Thus, in certain institutions, a large portion of the prison population chose to distance themselves in various ways to ensure their own safety. This point will be given special attention by the CGLPL during the 2016 visits.

In addition, the older observations of the CGLPL and the related recommendations still remain pertinent.

For example, as regards **maintaining family bonds**, which is essential for reintegration, the Contrôleur général regrets that some penal institutions still do not have family living units, and that when they do exist, they are not used very often due to red tape or due to the fact that confidentiality in the visiting rooms is still not fully ensured due to poor soundproofing or due to the continuous presence of warders.

As regards **access to work**, the CGLPL, deploring the fact that the Constitutional Council declared the organisation of work for incarcerated persons to be compliant with our Constitution, wishes for the law to clearly indicate the role of work in prison in terms of preparing the prisoner for integration or re-integration, to define broader rules concerning labour relations, especially concerning the breaking of these relations and remuneration, and to determine the general framework of the rules of security and protection of the worker in prisons. However, the legal

[2] *Some institutions, such as the prisons of Orléans-Saran and Vendin-le-Vieil, have not yet been visited, due to the fact that they have opened quite recently.*

regime of work in prison is not the only obstacle: the fact that very few establishments offer work remains a subject of concern.

In matters of **correspondence**, the CGLPL issued an opinion that is similar to a best practices guide[3]. It states that incarcerated persons must be physically capable of corresponding with their entourage (free distribution of paper, pens and envelopes). It also states that distinct letterboxes must be provided for each type of letter (internal, external, health-related), and that these must not be processed by the warders but only by the mail officer, who must be bound by professional confidentiality, and that letters addressed to the medical staff must be collected by the medical staff themselves. Despite these specific recommendations, there still are institutions where letters are submitted to warders or where dedicated letterboxes have not been installed.

Finally, the **offer of education** remains insufficient with respect to the objectives of reintegration, which must be the focal point of the prison organisation. In some places, minors have only one hour of classes per day, in others, there are no tests for illiteracy, and in yet others, the teachers complain about systematic delays caused by the absence of staff in charge of their movements.

> The situation in prisons in 2015 was especially marked by debates and experiments related to controlling Islamist radicalisation in prisons. Chapter 2 of this report takes into consideration the Opinion dated 16 June 2015 concerning the treatment of detainees in healthcare institutions. This chapter mainly focuses on two pieces of data that are integral to prison life: prison overcrowding and difficulties related to the number of warders. In addition, two special points are taken into consideration: the placement of detainees in secure rooms in healthcare institutions and the application of the Prisons Act of 2009 concerning searches.

2.1 Prison overcrowding continues to increase and the means to reduce it seem to be lacking when compared to the scale of the problem

Prison overcrowding in France is an old and well-known phenomenon, having national statistics as well as an objective for reducing it, which is presented every year in Parliament in the *Annual Performance Programme* of the *Justice* mission. However, this phenomenon is not homogeneous; it is more concentrated in remand prisons since prisoners are assigned to penal institutions depending on the availability of places and, in addition, even within remand prisons, it is subject to extreme disparities.

> First, it has been observed that there are institutions that are not experiencing overcrowding, including a few remand prisons. In other cases, there is significant overcrowding, but it is locally on a decline.

In these conditions, the overall prison overcrowding, which is increasing, tends to be concentrated in certain institutions that are victims of both "basic" overcrowding as well as of its increase. Two categories of institutions are especially confronted with this difficulty: those in the Paris region and those in French overseas territories.

In an Ile-de-France institution designed to hold 580 detainees, there were 928 detainees in March 2015, which represents an occupancy rate of 161%. In another, the occupancy rate was 165% overall, whereas it was 148% during the previous visit: 830 people were being held, while its theoretical capacity was 500 places.

[3] *Opinion dated 21 October 2009 concerning detainees' exercise of their right to correspondence.*

Overseas, having a theoretical capacity of 504, an institution instead had 607 beds and an additional 132 mattresses placed on the ground. In another, the theoretical capacity was 130 beds and the actual number of beds was 244; the number of detainees at the time of the visit was 185, i.e. an occupancy rate of 142%.

In the other visited institutions, overcrowding is frequent, but not as bad. In principle, it is managed by setting up additional beds. For example, in a remand prison, despite an occupancy rate of 171%, every detainee had a bed. The same applies in several recent institutions, where additional beds were set up from the start in all of the individual cells, so that there would never be any need to spread a mattress on the ground. However, there are a few exceptions to this practice: setting up mattresses on the ground is sometimes necessary.

> In these conditions, the right to individual cells seems to be an exception rather than the norm in remand prisons for men. The proportion of persons benefiting from an individual cell in remand prisons is approximately 13%, while in other institutions it can go up to one-quarter, or even one-third. On the other hand, this right is generally respected in detention centres.

The situation observed today is therefore not very different from what was observed in 2012 and 2014, which had led the CGLPL to send opinions to the Government on prison overcrowding[4] and on individual cells in penal institutions[5]. Its consequences are well known: overcrowding aggravates lack of privacy and risks of conflict in the cells, reinforces inaction due to a more difficult access to work or activities, reduces the possibility of communication and treatment by the prison officers and the option of having relationships outside the prison (telephone, visiting rooms); it also reduces the effectiveness of reintegration efforts and worsens access to healthcare, sometimes to great extents. It deteriorates the working conditions of the staff, even more so as the staff strength is calculated according to a number of detainees that is equal to the number of places, which is probably what provokes the current vivid sense of neglect.

> However, there does not seem to be any serious measure to help fight against the regular increase in prison overcrowding.

The principle of individual cells became part of the law on 5 June 1875, which was when the people wished to keep defendants and the accused separate at all times for the purpose of preventing repeated offences by preventing "moral contagion". The Prisons Act of 2009 set a period of five years to execute this objective, which has been pending for close to 131 years now. The moratorium lasted till 24 November 2014. According to the law, the State must, by this date, be able to guarantee an individual cell to each detainee. And yet, with respect to the number of people sent to prison on this date, there are 17,592 lacking cells. A new moratorium, the fourth since 1875, therefore pushed the objective to 2019. When voting on it, the Government announced the creation of new prison places, with 6,300 having already been financed and 3,200 that are likely to be financed shortly.

However, the official forecasts of the Government do not imply a serious perspective of improvement. Thus, the budget proposal of the Minstry of Justice for 2016, which does not list managing overcrowding as one of its strategic objectives, includes construction projects that do not correspond to the announced objectives: "The real-estate programme of the Minstry of Justice plans for the closing of dilapidated institutions, the opening of new institutions and the launch of new projects that allow restructuring or constructing new structures with the creation of 2,298 places net during the period of 2015-2017, of which 216 will be created in 2016".[6]

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[4] *Opinion dated 22 May 2012 pertaining to the number of detainees.*
[5] *Opinion dated 24 March 2014 pertaining to the use of individual cells in prisons*
[6] *Annual performance project for 2016, p. 82.*

Logically, the indicators related to the occupancy rates in remand prisons and to the number of detainees per cell show predictions of change that, henceforth, will cause everyone to lose faith in the objective of individual cells in 2019:

- the occupancy rate of places in remand prisons, 134% in 2013 and 2014, should increase to 135% in 2015 and will barely reduce to 132% and 131% in 2016 and 2017;
- the number of detainees per cell should change in similarly modest limits, i.e. from 1.36% and 1.35% in 2013 and 2014, to 1.29% in 2015, stagnating at this level in 2016 and 2017.

It is not easy to picture that by 2018 and 2019, sufficient progress will be made to achieve individual cells.

> It has been noted that reducing prison overcrowding and the damage to the objective of individual cells cannot result from real-estate measures. We therefore need to count on the changes of the population of offenders.

The only way to reduce it is by reviewing certain prison practices, especially by seeking the development of alternatives to incarceration such as electronic tagging, work release or day parole, as well as by re-examining the suspension of sentences on medical grounds or even by the terms of judicial supervision and public service, or by inventing other forms of penal sanctions. It would also be appropriate to reflect on the execution of short or very short sentences, or on very old sentences. These measures were recommended by the CGLPL in the aforementioned Opinion of 2012.

Nevertheless, setting up a prison regulation mechanism appears to be necessary today to guarantee the effectiveness of reducing overcrowding and the damage to the objective of individual cells. It therefore involves delaying incarceration when the accommodation capacity of a remand prison is full, and freeing certain detainees at the end of their sentence, by offering them aid, i.e. a project and oversight suited to their situation. The Contrôleur général spoke about this matter on 13 November 2014, during her hearing before the Law Commission of the National Assembly on the question of individual cells.

> It is the responsibility of the Government to set up means to effectively combat prison overcrowding, in addition to its project to increase the accommodation capacities, via an effective research of alternatives to incarceration and a prison regulation mechanism. The resources that are currently mobilised are not sufficient to achieve this.

2.2 The fact that the warders are understaffed causes a deterioration of the working conditions that has significant consequences on the detention conditions

In September 2015, the closing of one building of the detention centre of Villenauxe-la-Grande[7] due to insufficient warders, as reported by the press, highlighted a difficulty that is frequently observed by the teams of the Contrôleur général: the lack of staff in certain penal institutions. This phenomenon results from several causes that frequently add up. This leads to situations that are impossible to manage, such as in Villenauxe-la-Grande.

> The first cause of insufficient staff lies in the insufficient design of the reference organisation charts. In fact, certain institutions were designed from the start in the false belief that technology will replace humans and that

[7] *Institution not visited by the CGLPL in 2015.*

> architectural optimisation would allow remote monitoring that demands fewer human resources.

The error made here is not taking into account that prison administration requires human contact and that an essential part of the warders' time is spent not just in surveillance, but also responding to the needs of the inmates. Therefore, it is not the architecture that dictates the staff requirement, but the number of detainees. If the reference organisation chart used to be hardly suitable in the beginning, prison overcrowding becomes a headache to manage. Several institutions visited in 2015 demonstrate this fact.

In one prison, between 2012 and 2015, the number of prison staff increased by only two officers. Even so, the lack of staff, evaluated by fourteen inspectors in 2010 and addressed to the prison administration, still remains pertinent. During the first visit of the CGLPL in 2012, the institution's request remained unheeded and in 2014, the director of the prison administration finally stated that it will not be heeded due to budgetary reasons. Nevertheless, during the 2015 visit, one task of the prison administration led to the execution of an analysis on the adaptation of the prison staff, the result of which is not known to the CGLPL.

In another prison, an audit identified thirteen missing posts. Elsewhere, in one of the very few institutions with a suitable number of staff, the administration stated that the reference workforce is less than what is required by approximately 11 posts in every 150 officers.

Of course, employment is being created, but this situation is rare. For example, in one prison, since an visit in November 2010, the number of directors increased by one person, the number of administrative staff by six persons, and that of prison warders by fourteen persons, i.e. 8%. In another prison, the organisation chart was modified to include nine additional posts, but this was due to a new task, the opening of the day parole wing.

Secondly, the vacancies of the posts may be a result of their penalising nature. This sometimes results from the fact that the institution is not very attractive (poor location, difficult conditions, poor reputation, etc.), and sometimes from causes that are more difficult to identify. Vacancies of more than 10% are not rare. In one institution, out of a total requirement of 170 warders, only 148 posts were filled, which means 22 jobs without any takers; in another, there were 182 corporals and warders and 20 vacancies, as well as 20 new warders and 2 vacant posts; in a third, there were 183 corporals and warders and 16 vacancies, i.e. almost 10%.

Thirdly, absenteeism severely penalises the institutions, in which the rhythm of work is highly stressed. In the prison that had only 148 out of 170 warders, the situation was worsened further by the fact that in practice, absenteeism brings down this number to approximately 130 officers. In these conditions, the functioning of the institution is a daily struggle. Elsewhere, the prison administration department hopes that the recent creation of jobs will help in reducing absenteeism, especially by reducing the number of accidents at work, as well as the overtime clocked by the warders. The absenteeism rate makes the various shifts in the institution complex, and leads to resentment in the officers who are always present. Sometimes, even when overstaffed, absenteeism is recurrent; palliative measures restricting fundamental rights are sometimes taken, such as doubling cell capacity using mattresses, which allows closing down the cells that cannot be monitored.

Two examples have allowed analysing the consequences of all of the aforementioned factors.

In the first case, the institution has an inhumane architecture, the inmates are tough, there is significant overcrowding and it is located in an area with a high cost of living. This makes it, in all respects, an institution that is not very attractive to police officers.

It suffers from a massive understaffing of warders. The reference organisation chart determined that there should be 276 prison officers; the current number is 51 less than the standard: 28 job vacancies and 23 out of activity (secondment, maternity, long-term sick leave, etc.). While each of the seven teams posted should theoretically have 25 officers, in practice there are only 21. The continuous recalls of officers on leave to alleviate this lack of staff cause significant absenteeism and also a physical and mental tiredness in the entire staff.

However, the reference organisation chart is still calculated with respect to the theoretical capacity of the establishment, despite an overcrowding rate of 65%, and remains set on the basis of a volume of 39 hours per week. In addition, the objectives of limiting overtime by the prison administration remain the same.

Therefore, a number of officers do not wish to remain at their job for much longer, to the extent that their rotation, which severely damages the stability of the structure, is considerable, which worsens tension related to working conditions. The average monthly overtime in 2014 was 29 hours per officer, i.e. a total of 348 hours a year, even though the national objectives for this type of institution limits overtime to 120 hours. With respect to 2013, the year 2014 displays an increase of almost 7,552 hours of overtime.

The prison administration department attempted to curb the significant absenteeism via medical examinations: in 2014, thirty-eight examinations of this type were executed; this measure seems trivial when compared to the rate of understaffing.

In the second case, on 1 June 2015, there were twenty-two prison officers less than the theoretical requirement of sixty-two, i.e. a deficit of 35%, along with additional absences for leave.

The CGLPL was able to measure the consequences of this absenteeism:

- the day shift has eighteen fixed posts, out of which only thirteen are filled. Each person is forced to exercise functions beyond their assignment or skill (the detention head may thus be forced to manage an extraction);
- the night shift is theoretically taken care of by six teams of eight warders; in reality, there are only five teams of five warders and one team of seven;
- the psychiatrist cancelled all of the appointments one afternoon as there was no warder available for filtering the health block;
- there is no sports monitor, even though the theoretical requirement is two. The sports ground therefore lies unused and the weights room is underused.

The number of hours of overtime increased progressively from approximately 6000 in 2010 to more than 9000 in 2013 (i.e. +50%). On an average, every warder clocks twenty to forty hours of overtime per month. According to the terms of the 2013 activity report of this institution, "this is a consequence of the increase in the number of days of ordinary sick leave and, more significantly, in the number of days of sick leave caused by work-related accidents".

This significant absenteeism leads to shifting the burden on the same warders who express fatigue and, for certain of them, the need to stop due to sickness.

> In these conditions, the rights of the inmates are neglected and the very tasks of the prison administration are not executed properly. The monitoring of detainees is too remote, which negatively affects the perception of changes in behaviour: one detainee may retreat into himself due to suffering, another may become radical and yet another may either cause or be a victim of violence, and the administration will not even be able to perceive this. The detention conditions are continuously deteriorating: several times, the

> teachers have complained that the detainees are delayed on the grounds that the overwhelmed warders have no time for escorts. It has reached the point that even the disillusioned detainees, complaining of a lack of information or various delays, state that the overworked warders "have no other option". The warders themselves, cut off from any exchanges with their colleagues, can be faced with insecurity or suffer from a continuous, excessive psychological strain.

Apart from simply creating jobs, which is not possible as far as the budget is concerned, only finding a way to control overcrowding can solve these difficulties.

Recruitments and assignments of warders must be matched with the identified requirements of surveillance and the reintegration of detainees, taking into account the actual strength of the prison population and not the theoretical capacity of the institutions.

2.3 The numerous and recurring failures in the use of secure rooms sometimes dissuade detainees from asking for healthcare, and must lead to a reflection on the pertinence and application of the current system

In addition to what is stated in the Opinion dated 16 June 2015 concerning the treatment of detainees in healthcare institutions, the terms of removal from prison for medical reasons do not respect the dignity of the detainees. Handcuffs are systematically used; dedicated paths are not always provided, and the shackled detainees are exposed to the sight of other patients or visitors. The detainees are shackled or handcuffed in their room, sometimes even during the treatment.

In certain small institutions, the terms of transporting and guarding detainees who must be hospitalised are not clearly established between the police and the prison administration, which can result in uncertainties on the possibility of conducting extractions, to the extent that they are sometimes impossible.

> The violation of medical privilege is also almost systematic. On the grounds of safety, the warders are always beside the detainees, attend the medical consults and examinations, are present for the doctors' explanations and, in rare cases, for surgeries, even when the person is not conscious.

The conditions of treatment during the stay of detainees are not satisfactory. There is no traceability for the hospital stays, and no specific welcome booklet; the general welcome booklet of the hospital is only rarely given to the patient; there are no internal rules or charts of the hospitalised patient, except in only one of the visited institutions; the personal effects of the patient are often stored in a garbage bag or plastic bag on the ground, since there is no cupboard; hygiene is not guaranteed: the patient has to request to go to the bathroom and is often accompanied by a warder, with the door being left open; sometimes, going to the toilet is not allowed: a urinal or a commode are given on request; sometimes there isn't even any bathroom linen given.

The hospitalisation conditions of detainees are more restricting than the detention conditions. The detainees are not informed of the date or physical conditions of their extraction; no list of objects allowed during their stay is provided; in most cases, even the terms of the lawyer visit are not provided. The family is not informed of the hospitalisation of a detainee by the prison administration, except in a few rare cases. Visits are permitted so long as a permit is obtained from the police headquarters, but is *de facto* impossible due to a lack of terms and procedures meant for this purpose. Access to telephones is not allowed in most cases.

> Except for very few institutions, no activity is offered to hospitalised detainees; taking a walk outdoors and inside the institution is strictly forbidden, as is access to the library. Access to a television is not allowed in most institutions and, if it is allowed, the detainee is not always given access to the remote control. Detainees complain about the lack of activity, sometimes deeming that "it is worse than prison".

Finally, a stay in a secure room is often longer than the legal duration of forty-eight hours in cities. This situation, linked to a lack of available places in interregional secure hospital units (UHSI), plays a significant role in harming the fundamental rights of hospitalised detainees.

> In addition to the specific anomalies of the operation of the secure rooms, their very principle, based exclusively on security concerns, must be re-evaluated after analysing their occupancy rate, the installation and the operation of the UHSI.

Mandatory and effective training is desperately needed for all healthcare staff intervening on detainees in hospitals, concerning the ethics, medical privilege and the rights of detainees.

National rules specifying the conditions of recourse to secure rooms and the system of staying in these rooms, as well as the terms of mutual respect of the rights of detainees and the security requirements must be established jointly by the ministries of Health, Justice and the Interior, with the help of the French National Order of Doctors.

2.4 The provisions of the Prisons Act dated 24 November 2009 concerning searches are applied in all of the institutions, but monitoring and harmonising the practices is still necessary

In Article 57, the Prisons Act dated 24 November 2009 states:

"Searches must be justified by a suspicion of an offence or by the risks that the behaviour of the detainees may cause to the safety of people and to maintaining order in the institution. Their nature and frequency are strictly adapted to these necessities and the personality of the detainees.

Full-body searches are not allowed unless pat-downs or the means of electronic detection are not sufficient."

In this respect, the Contrôleur général, in its earlier reports, formulated a certain number of recommendations that should be noted here.

Searches of detained transsexuals must occur in conditions that allow preserving their dignity and by officers of the same sex as the gender they identify themselves with, without waiting for a change in the civil status (*Opinion dated 30 June 2010 concerning the treatment of incarcerated transsexuals*).

Extraction to hospitals must not provoke a full-body search when the health condition of the patient is at risk of getting worse and when this condition makes it highly improbable for the patient to transport forbidden objects (*Annual report of the CGLPL for 2011*).

It would be preferable to establish a register indicating the results of searches (number of persons and methods) and to show it to any competent judge on request (*Annual report of the CGLPL for 2011*).

The ministerial directives pertaining to the traceability of full-body searches conducted on detainees must be implemented immediately (*Annual report of the CGLPL for 2011*).

When the full-body search of a person with reduced mobility is justified, it must be conducted in a closed room (*Annual report of the CGLPL for 2012*).

The documents found in the cupboards during searches should be examined in the presence of the detainee and only by officers or warders specially appointed in writing by the head of the institution, and for the sole purpose of verifying that there are no hidden forbidden goods or substances; examining the documents themselves for the purpose of reading them must be banned (*Opinion dated 11 July 2013 concerning the possession of personal documents by detainees and concerning their access to communicable documents*).

Children of incarcerated mothers may be searched only if there are serious suspicions that a rule may be violated, and the search must be strictly limited to the diaper of the child, by its own mother, in front of a third party, but must exclude any contact between the said third party and the child; this search must be subject to a written note, assigning this request to an officer or a warder; the mother must not be searched in the presence of her child (*Opinion dated 8 August 2013 concerning young children in prison and their detained mothers*).

In the institutions visited in 2015, in general, the necessary measures were applied. Metal detectors were installed, and directives related to the personalisation of searches were distributed.

However, the visits showed that the searches are still conducted according to different regimes, which must be used to identify the best practices and to correct a few inappropriate applications of the law.

Several institutions state that body searches retain a systematic nature related to certain circumstances. Sometimes, there is a rather long list of situations in which detainees are systematically subjected to full-body searches, and several institutions have drafted such lists, which are very restrictive in general.

As regards full-body searches on exiting the visiting rooms, they are generally conducted on detainees listed by a single multidisciplinary committee (CPU), but follow quite different methods: in one institution, the list is revised fortnightly, in most cases, it is revised every month, and in one case, it is revised only once every quarter. However, this method is still not systematic; for example, sometimes, the CPU does not meet and the list of persons to be subjected to full-body searches is proposed by the persons responsible for the buildings, updated by the first warder of the visiting rooms and is then validated by the detention head.

In total, the proportion of detainees subjected to full-body searches is quite variable: 25 to 35% in one place, 15 to 25% in another, and even slightly less than 5%.

The reasons for the measures, the traceability of the searches and the recording of their result are still not determined equally. While certain institutions provide the exact reason for the decision to subject a detainee to full-body searches, others only provide general reasons, and still others do not provide any reason at all. Sometimes, the searches and their results are recorded in the electronic liaison register, and sometimes in a physical register, but this is done very irregularly.

Finally, the CGLPL collected testimonies of inappropriate practices. For example, in one institution, the methods for searching a transsexual do not respect their dignity. In another institution, during the in-processing of an inmate, the institution asks for an attestation from the escort, who always refuses to give it. In practice, this makes full-body searches of arriving inmates systematic. Multiple testimonies have mentioned humiliating and relentless practices; *a posteriori*, it

is not possible to verify the alleged facts, but the recurring nature of the complaints should be alarming enough.

The CGLPL recommended to the Minister of Justice to carry out an evaluation of the ongoing practices in the penal institutions concerning searches, and to draft the directives necessary for a more homogeneous application of the Prisons Act.

3. The situation in detention centres for undocumented migrants is not improving at all

The visits conducted by the Contrôleur général in administrative detention centres (CRA) are systematically second, or even third visits. With just a sole exception, caused by a change in the management of a CRA, the visits did not find any improvement in the detention conditions.

The **physical conditions** of accommodation of detainees are unsatisfactory in several cases, certain rooms require a complete renovation, others in basements are cramped, cold and noisy; in other places, the treatment is rudimentary and in one building, only the administrative rooms are air-conditioned and the protection against mosquitoes is not suited to the local conditions.

In a few cases, in buildings that are otherwise in a good condition, the treatment of the detainees is close to that of imprisonment, where the detainee is only allowed outside rarely and where the detainees leave the accommodation building only for common meals and administrative formalities.

The **information provided to detainees on the functioning of the CRA** is often lacking: there is no "welcome booklet"; the information issued by the OFII is not sufficient and several internal rules of life do not appear in the internal regulations, while the rest is not always displayed in a sufficient number of languages.

The administrative detention centres constitute the category of places of deprivation of liberty in which the **behaviour of the law enforcement officers** is subject to the highest number of criticism.

The criticism results from a lack of sufficient staff, which affects the respect of the rights of the detainees: therefore, visits were cancelled on the grounds that there were not enough officers to supervise the movement and the monitoring. However, most often, it is the professional practices that are questioned, by mails addressed to the CGLPL, by testimonies collected on site, especially by associations and sometimes by direct contact with the inspectors.

In a CRA where the practices of the staff were already reported to the authorities and were subject to disciplinary proceedings, there was no reminder of the rules, for example on the consumption of alcohol, ethics or the presence of policemen within the detention area. In another place, there seems to be a certain routine that the prison administration department does not wish to disturb, even when its instructions are not followed; the treatment is not subject to any specific protocol and misconducts are often reported. In yet another place, the CGLPL received several complaints concerning the abusive behaviour of certain policemen. On site, mechanical and indifferent attitudes border on inhumanity, and an extreme lack of communication leaves several detainees completely disoriented. In one CRA, police violence and abusive placements in detention were reported. Physical violence has decreased, and one policeman was subject to criminal proceedings on the demand of the CRA commandant, and was transferred.

Moreover, the CGLPL received reports that women were sometimes subject to pat-downs that violated their dignity; in one case, there is not sufficient assurance of women's dignity being preserved with respect to the policemen in the accommodation areas.

However, one example shows how implementing an attentive and strict hierarchy can cause significant improvements between two visits of the Contrôleur général. Contrary to the observations made during the previous visit, it appeared that the concern of the quality of treatment of the detainees and of the respect of their rights was predominant thanks to managers who ensured that this concern was shared, even if it was not executed uniformly. The policemen stay in the living areas, the detainees are called by their surname, the communication of the police officers regarding the detainees is respectful, and meals are adapted to the food habits of the people present. None of the external staff had anything negative to say about the administration of the CRA; on the contrary, one of them stated that "here, we work together to give meaning to what we do".

> The CGLPL observed that **notifying the detainees of the rights** is frequently done with the least possible information, and only in the rare cases in which it is not done by the detaining agency. The operation is rapid, a translation is sometimes provided over the phone and no document summarising the rights is provided to the persons involved. This procedure can sometimes ressemble somewhat of an assembly-line approach, and sometimes the rights of appeal and the rights in detention are notified via a partially erroneous print-out, and the policemen themselves act as interpreters.

Lack of activity is a frequent concern in CRA. Often, there is no activity other than television; in some places, an activity room that used to exist has now disappeared, there is no equipment such as games or books, the exercise time is reduced and boredom is rampant. Activities, especially physical ones, must be organised.

In principle, the **CRA** have solitary confinement rooms, the use of which is not always related to reasons based on security or public order. When their use is recorded in a register, which should be done systematically, these rooms may be used for disciplinary reasons. Sometimes, the solitary confinement rooms are designed such that they are worse than the disciplinary wing cells in prisons; the video surveillance covers only a part of the room and there is no rule for their use, nor is there any possibility of appeal. In a few rare cases, these chambers are used very rarely and on sufficient grounds.

Finally, **extra-prison relationships**, especially via visits, are not organised equally. In one place, two visiting rooms with no *ad hoc* arrangements are available for the detainees; they are not monitored properly. In another place, the visiting room can be blocked from view with a screen, but there is no soundproofing. In yet another place, there were no signposts or place for parking to make visiting easier. Finally, in several cases, mobile phones were confiscated from detainees if they contained an in-built camera, even though there is no rule stating that a person placed in administrative detention must be deprived of all means to communicate with the outside.

> Even if they are not used often, **administrative detention facilities** (LRA) remain places that toe the line when it comes to respecting the fundamental rights or needs. In general, the duration of administrative detention in these detention facilities is short, since they are used only while waiting for a transfer to a detention centre. It is rare that a person is detained here for more than the maximum 48 hours, but it does happen sometimes.

The **rights of defence and access to legal aid** are not properly guaranteed in LRA: the lists of lawyers registered in the competent Bar are not displayed; sometimes, they have not made this journey for several years as they have not been paid; the organisation providing aid to foreign

nationals are not always present, and their contact details, as well as those of the consulate authorities, are often not displayed; the internal regulations of the LRA are never provided to the detainees; it is impossible request for asylum.

The conditions for receiving people detained in LRA do not sufficiently maintain their **dignity**. In general, the rooms are well maintained, but there is no access to an outdoor area for smoking or just to get some fresh air, to the extent that outings are very rare and strongly depend on the needs of the services and officers present. This situation can cause significant tension and result in the detainees being tranquilised. Access to telephones, while often granted, is not accompanied with any protection of the confidentiality of the conversations, and mobile phones are sometimes tolerated, unless they have an in-built camera. However, administrative detention should not include any restriction in this matter.

The precariousness of LRA and the lack of resources have led the CGLPL to recommend to the Government that the specific situation of each LRA must be audited so that all of those that are not strictly necessary can be shut down.

> The CGLPL, having visited each of the CRA several times and having issued recommendations that do not fit comfortably with the facts, has requested the Government to schedule a systematic implementation of these recommendations and to ensure that they are monitored. As regards the LRA, he suggests that the situation of each facility must be audited so that all of those that are not strictly necessary can be shut down.

4. The visit of the conditions of execution of forced returns is being conducted by the Contrôleur général of places of deprivation of liberty

The Law no. 2007-1545 dated 30 October 2007, instituting a Contrôleur général of places of deprivation of liberty, specifies in its first Article, amended in 2014, that "the Contrôleur général of places of deprivation of liberty is [...] in charge [...] of monitoring the conditions in which persons deprived of liberty are dealt with and transferred, in order to ensure that their fundamental rights are respected. For the same purpose, he controls the exercise by the administration of deportation measures against foreign nationals up until the hand-over to the recipient State authorities." This latest assignment, which results from a legislative amendment dated 26 May 2014, is now taken care of by the CGLPL.

> This new task was subject to a cooperation protocol on the oversight of forced returns, concluded on 5 March 2015 between the Contrôleur général of places of deprivation of liberty, the Director General of the French national police force and the Director General for foreign nationals in France. According to the terms of this protocol, the CGLPL controls the forced returns under escorts and not the voluntary departures of foreign nationals. His intervention may involve any mode of transport (aircraft, ship, vehicle). The CGLPL has direct and systematic access to information on the programming of forced returns, and has full freedom of accessing ports, airports and the modes of transport used to carry out the escort operation till the foreign national is handed over to the authorities of the destination State. He has full freedom over making the choice, the preparation and the execution of his oversights.

However, organising the oversight of forced returns is particularly complex due to the extreme variability in predictions until the last moment, the diversity in the aerial means used and the large number of staff required. In fact, while a team of two people is capable of carrying out an entire escort operation organised on a State aircraft (an aircraft with eighteen seats would allow escorting six people, and another with sixty-four seats would allow escorting twenty people), two teams are necessary when the person has to be escorted on a commercial flight, since the team that controls the flight phase and the phase of handing over the person to the authorities of the destination State must board with the public and, therefore, cannot simultaneously be present in the police offices.

Ever since this oversight procedure was implemented, **the CGLPL has carried out seven missions**. They include forced returns to Albania, Algeria, Cameroon and Georgia, as well as one readmission in Italy. All of the aerial modes of transport used by the central administration of the French national police force (DGPN) have been visited.

This sample is still too limited for the data obtained at this stage to be considered representative. A few general themes are still apparent. Forced returns are executed by police forces that are trained and dedicated to this task, such that the treatment of the escorted people is correctly understood. During this period, the adapting of means of restraint appears to be the most desirable point for improvement. The weaknesses of the procedure are mostly in the earlier phases, in the information given to the escorted people and to their families, and in the later phases in the relationship with the authorities of the destination States.

The CGLPL, who is still conducting his investigations, will send a report on this theme to the Government in 2016.

5. In juvenile detention centres, well-identified difficulties persist, but the Government appears to be willing to take care of them in a suitable manner

Ever since its creation, the CGLPL has visited at least once, and mostly twice, the forty-nine juvenile detention centres (CEF) of the territory. The main risks that these institutions face are well known:

- the fragility of the management teams;
- the insufficient qualification and instability of the staff;
- the resulting lack of quality of service projects and educational programmes;
- idleness or an inconsistent succession of activities, which mitigates the weakness of the educational projects;
- the inconsistency between the declared discipline and what was observed in reality.

> The tasks conducted in 2015 show proof of an actual improvement in certain situations. In one case that had been subjected to harsh criticisms in the past, the CGLPL observed a fixed, precise framework, which also had a certain degree of flexibility. The minors were taken care of intelligently, and benefit from very timely moments of inactivity. In another place, a solid educational project was set up. In yet another place, a recently updated team was being built with a focus on consistency, pertinence and trust, with a supervisory team that appeared to be solid and which promoted the professional commitment of each person. It offered the youth several personalised projects in an inclusive and helpful environment that they could lean on to progress.

On the other hand, certain other centres showed that progress is still necessary. Thus, in one CEF, an insufficiently qualified team had difficulties in implementing an educational project and resorted to using complicated punishments and reward methods in a very security-focused treatment. In another CEF, the difficulties observed in 2009 became worse. Poorly maintained rooms, deplorable hygiene, extreme confusion in the management of rewards and punishments, all resulting from the team's inability to properly take care of minors. Most of the educators are contract agents, recruited for periods of four months and not trained properly. Since 2009, the institution has experienced three shut-downs, without these periods having improved the operation of the institution.

In another case, an institution was asked, in 2013, to set up an identifiable educational project controlled by the competent territorial services, to appoint a teacher and to set up an educational help desk. After shutting down for more than six month, the CEF reopened without any of its difficulties being solved. The team, essentially being composed of people with insufficient qualifications and an inexperienced supervisory staff in restricted boarding school structures, experienced severe problems in cohesion. The contract teacher resigned after one month in the structure, and no replacement was found.

However, these difficulties can still be overcome. This was displayed by an even more fragile example. The institution had been subject to an administrative closure due to an overall deteriorated situation, which resulted from frequent changes in the management team and a lack of consistency in the teachers' responses to misbehaviour among the minors. Verbal and physical violence among the minors frequently forced them to return to detention centres after the failure to have them fostered. The situation six months after the reopening was still precarious, but was guided by the territorial department of the judicial youth protection service (PJJ). A credible service project was formulated, but the team's dedication to this project was not consistent; this required significant investment from the territorial department.

> In June 2015, an inter-ministerial mission on the apparatus of juvenile detention centres was subject to general visits by the judicial and social affairs departments, assisted by the visit of the judicial youth protection service conducted by the Minister of Justice and the Minister of Social Affairs, Health and Women's Rights. It was meant to evaluate the degree of implementation of the recommendations made in 2013 by an earlier mission on this theme, and to update them with those issued later by the French Court of Accounts (*Cour des comptes*), the *Contrôleur général of places of deprivation of liberty* and the visit of the judicial youth protection service (IPJJ).

The mission observed that the direction of the youth protection service had implemented the recommendations of the inter-ministerial report of January 2013, and that three-thirds of them had been completely or partially executed. Their recent or ongoing implementation has not yet produced measurable effects. In particular, it highlighted that a voluntarist action was executed to improve the CEF apparatus, especially by a legal consolidation that is still underway, and by a territorial adjustment. Moreover, it highlighted "*an approach focused towards the better governance of the CEF apparatus*" resulting from a better structured oversight and the implementation of a monitoring and evaluation process. Finally, it noted the strengthening of the educational and healthcare workforce and a support plan for public sector staff that is still being formalised.

The mission also suggested actions to be taken to "eliminate the structural difficulties of CEF and reduce the risks of the apparatus". These recommendations are in line with those of the CGLPL, especially:

- professionalise and consolidate the CEF teams to take better care of minors;
- make the qualification of professionals mandatory and continue to strengthen the workforce;
- recruit staff according to a required level of qualification and a suitable profile;
- implement specific training courses;
- optimise education during fostering;
- strengthen support for minors for outings;
- anticipate crises and functional problems;
- intensify and clarify the oversight of the apparatus.

Since the diagnosis on the situation of CEF has been established, since reforms have been started by the administration, and since the prospects have been established in a pertinent manner by an inter-ministerial report of general visits, the CGLPL would be quite justified in evaluating the implementation of these encouraging intentions into the daily life of minors deprived of liberty.

6. The rights of people deprived of liberty for short periods are not sufficiently protected due to the scattered nature of the facilities in which they are placed, and due to the lack of adequate oversights that they are subjected to

Alongside penal institutions, psychiatric institutions, administrative detention centres and juvenile detention centres, for which the list is stable and understood, France also has **several thousand "small" places of deprivation of liberty**. These places are scattered and dedicated to an activity of which confinement is a consequence; perhaps necessary, but still an extra: their main purpose is for conducting investigations, dispensing healthcare, awaiting a summons, or simply managing a transfer to a more permanent structure.

> Ever since its creation in 2008, the CGLPL has visited 220 custody facilities of the national police, 109 custody facilities of the national gendarmerie, 77 court jails and 36 customs detention or custody facilities. The visits are conducted without any prior notice and by two or three inspectors.

In 2015, the CGLPL made a double innovation in using the investigations conducted in these facilities:

- she replaced the individual sending of the visit reports to the ministers with a collective periodic report, which allowed to draw transversal conclusions for each of the categories of the facilities, in which the problems encountered are, in the end, more or less homogeneous;
- she sent these visit reports to the Minister under whose purview each of the facilities concerned would fall, as well as to the Minister of Justice (i.e. the Keeper of the Seals), since all of these facilities are placed under the supervision of the judicial authority, which sometimes finds it difficult to exercise this prerogative.

The situation of these small facilities varies due to the different legal systems that are applicable as well as the variety of texts used as their foundation, as well as due to the diversity of their administrative attachment. Thus, it is not the same if a person is placed in custody in the facilities of the police, the gendarmerie or the customs department. However, certain rights related to confinement give rise to relatively similar questions: personalisation of security measures, confidentiality of interviews with lawyers, access to healthcare, surveillance of the prosecution, etc.

6.1 The upkeep and hygiene of the rooms in which people deprived of liberty are roomed are generally guaranteed, but the police and court jail facilities are not up to the mark on these points

> The lack of operating funds for the national police severely impacts the custody conditions as well as the working conditions of the officers. A certain number of observations can be drawn from this: dirty, dilapidated, poorly lit or poorly heated rooms, unsatisfactory physical hygiene conditions, access to showers often impossible, even if there are some, either because the detainees are not offered any, or due to a lack of hygiene products or bathroom linen. This situation is well known, but the means to remedy it have not been mobilised.

In court jails, despite several satisfactory observations, the Contrôleur général regrets the continued existence of poorly maintained and often very small rooms, which does not contribute to appeasing the detainees, as well as that of washrooms that do not allow maintaining the privacy of those who use them and which are sometimes not sufficiently clean. Even worse, the absence of washrooms in the jails sometimes forces the detainee to travel to common washrooms along with his/her escort. Hygiene is not always maintained in these places. This situation must be improved.

6.2 The hierarchical visit of places of deprivation of liberty and the conditions of execution of confinement must be developed; in this respect, the appointing of officers specifically in charge of ensuring this and a satisfactory traceability are two ways through which this can be ensured

In the national police, the police custody officer is in charge of ensuring the execution of the hierarchical visits conducted on the custody cells; this function will improve the effectiveness of the rights. However, the function is not sufficiently identified and the associated responsibilities have not yet been fully taken into account. Specifically defining the role of the police custody officer in the job descriptions or internal memos and improving the training of the law enforcement officers in their role would allow this function to be better implemented.

> In the customs department, appointing a referral officer would allow the physical conditions of deprivation of liberty to be taken into account. Generalising such an apparatus does not seem to a very difficult task.

In court jails, the frequent absence of occupancy registers or the fact that they are not updated hinders the traceability of inbound persons, the duration of their stay and the enforcement of their rights. Therefore, it is impossible to verify the existence of an effective oversight of the legal and hierarchical authorities concerning the rights of detainees and the condition of the jails.

6.3 A continuous monitoring of people deprived of liberty must be ensured properly in the facilities of the gendarmerie

In the gendarmerie services, there is often no night-time surveillance of the persons in custody: no visual or auditory surveillance is continuously present, and there is no call button, intercom or CCTV system. The gendarmes themselves express their uneasiness with this situation, since they can be held personally responsible for this source of concern.

The only truly satisfactory formula that could guarantee the safety of the persons and protect the responsibility of the law enforcement officers is to place the persons in custody in facilities that are continuously under surveillance. In the meanwhile, the traceability of the nocturnal surveillance measures of people in custody must be systematically ensured, as provided by the inconsistently applied directives of the Central administration of the French national gendarmerie (DGGN).

6.4 Transporting people deprived of liberty in public areas or in places open to the public must be organised such that the former are not exposed to the sight of third parties

Within the facilities for the deprivation of liberty, as well as in the area used to access them, separate routes must be used every time possible to ensure that the captives do not encounter the public.

This necessity affects all categories of services that have confinement facilities, but is not limited to this scope: it also includes hospitals which persons deprived of liberty are brought for examinations.

6.5 The security measures applied for people in custody or customs detention are sometimes excessive

Very often, these people are forced to remove their glasses and bras. Ever since its first activity report in 2008, the Contrôleur général has continuously contested the grounds for this measure, highlighting its lack of alleged effectiveness in terms of safety as well as its evident humiliating consequences on persons in custody, thereby making them feel even more vulnerable.

> Moreover, apart from a few rare exceptions, handcuffing people in custody while transporting them is followed as if it were a rule; in certain customs facilities, this is even extended to people placed in detention. For these cases, an assessment of the circumstances as well as of the behaviour and profile of the person concerned must result in a more moderate application of the security rules. At the very least, it appears necessary to refrain from handcuffing detainees as much as possible when exposed to the sight of the public, especially in hospitals.

Apart from these examples, it is necessary to ensure that the officers and gendarmes who are in charge of implementing the measures of taking people into custody are not encouraged to use excessive precautions due to an excessively extensive definition of their disciplinary responsibility. In fact, once an officer has correctly assessed the risks of a situation and has taken reasonable suitable measures, he should not be held responsible for any unforeseen event. In other terms, the security of the people in custody must be subject to an obligation of due diligence and not an obligation of result.

6.6 The conditions in which people deprived of liberty are provided access to their lawyer are not equally guaranteed

In principle, the officers in charge of the measures of taking a person into custody have good relations with the Bars, and good cooperation seems to be a norm. Nevertheless, difficulties persist at the local level: the law enforcement officers sometimes find it difficult to contact the lawyers; the court-appointed lawyers do not always travel; they travel only in the daytime, or only for the 30-minute interview and the first hearing.

> The confidentiality of the interviews with the lawyers is not properly ensured. With a few rare exceptions, the police stations and gendarmeries do not have facilities dedicated to interviews with lawyers; sometimes, the interviews with the lawyers are even held in a room with windows or in cells with the door kept ajar.

On the other hand, the more recent facilities are, in principle, designed to comply with this requirement: a room specifically allocated to accommodate persons in custody or in detention and their lawyers is equipped with a call button, electric sockets and the Internet, and the list of members of the Bar is displayed in it. This description is adequate for an interview room.

6.7 The terms of enforcement of the right of people deprived of liberty to have themselves examined by a doctor are variable

Having a general practitioner conduct the examination in the actual confinement facilities is the preferred method as long as it is possible, since this allows verifying the compatibility of the health of the examined person with the measure taken in the actual conditions of its execution. If the doctor is unable to travel, the persons deprived of liberty are presented to hospital services or medical jurisprudence unit, in which the waiting periods are very long, sometimes even to the extent that the time spent in custody is extended.

6.8 The relationship of the departments in charge of the custody with the Prosecutor's offices should be improved

For night-time custody, the most commonly used procedure consists of informing the Prosecutor by fax or email addressed to the court, which is only processed the next morning. Only in very rare cases do these placements into custody systematically result in a telephone call (in general, telephone calls are reserved for criminal cases and those involving minors). Today's technology ought to allow real-time information. Even during daytime, it happens that the waiting period for contacting the Prosecutor's Office on telephone is so long that the investigators call them only at the end of their investigations, which means that there can be no oversight of the lawfulness and the execution of the measure, thereby also resulting in the custody measure being prolonged. In a few rare cases, the reasons for extensions of the period for which people are held in custody are labelled as "comfort", only meant to allow postponing the person's appearance before the judge to normal working hours.

The oversight function of the prosecutors on the places of deprivation of liberty is frequently exercised unsatisfactorily. These annual visits are conducted in the police or gendarmerie facilities, but the resulting comments are of limited scope. In the services that use confinement more infrequently, this oversight is less regular. However, this is an essential guarantee for respecting a person's rights, especially since it promotes a meticulous maintenance of registers, which is not always observed. In certain constituencies, advisors have been appointed to the Prosecutor's Office, or several meetings are organised during the year. These measures help improve the quality of the oversight and the effectiveness of the enforcement of rights. Directives must be given to the prosecutors to help them in executing a pertinent oversight. In autumn 2015, the CGLPL had the opportunity to help the government in drafting these texts.

The CGLPL recommended to the Government that, despite the scattered nature of the "small" places of deprivation of liberty and their relatively small size, specific national directives must be adopted on the terms of their use and oversight.

The preferred option would be to, locally, place the conditions of accommodation, hygiene and enforcement of rights under the control of an identified manager. It is also necessary to carry out general visits of systematic administrative oversights, and for the former to use the control points recommended by the CGLPL. It is also the duty of the legal authority, in the annual oversights provided by law, to systematically ensure the respect of the fundamental rights of the persons deprived of liberty for short periods.

The CGLPL has neither the vocation nor the resources to control each place every year. However, it can, as it already has, provide its expertise to those who are given this responsibility.

Chapter 2

The opinions and recommendations published in 2015

1. Two emergency recommendations

Pursuant to paragraph 2 of Article 9 of the amended Law of 30 October 2007 that was instituted, the *Contrôleur général of places of deprivation of liberty* has the possibility, if he observes a serious violation of the fundamental rights of persons deprived of their liberty, to call on the competent authorities, giving them a fixed deadline to respond, and to verify that the reported violation is no longer taking place. If he deems it necessary, the Contrôleur général can make his observations and the received replies public.

In 2015, the Contrôleur général implemented this emergency procedure twice.

1.1 Urgent Recommendations dated 13 April 2015 concerning the remand prison of Strasbourg (Bas-Rhin)

> During the visit to the remand prison of Strasbourg from 9 to 13 March 2015, the observations revealed serious violations of the fundamental rights of the detainees in the said institution. The physical detention conditions severely violated the dignity of the incarcerated people: insalubrious water sources and the exercise yard washrooms, no separating walls in the showers, no hot water in the cells, moist and degraded cells, very low temperatures in the cells, etc. Moreover, it was noted that the observations made after the first visit of the remand prison in 2009 were not taken into account and that the general situation of the institution had worsened.

A severe violation of medical privilege was observed, with the presence of CCTV cameras in the rooms dedicated to the therapeutic activities of the psychiatric service. The CGLPL recommended the removal of this CCTV apparatus.

The attention of the inspectors was drawn to the absence of effective measures implemented by the prison administration after a declaration was made by a detainee, telling the medical service that he was a victim of violence perpetrated by his fellow prisoner. In fact, while an emergency report was made by the doctor to the institution, recommending that the detainee concerned should be moved to another cell, the detainee was visited by an officer, in the presence of his fellow prisoner, to give details on the alleged violence. The detainee was not moved to a different cell. On the next day, the person concerned stated that he was raped by his fellow prisoner at night. The Contrôleur général deemed that the lack of follow-up measures to the report constituted a serious violation of the preservation of the physical integrity of the person concerned, and this was made worse by the fact that the confidentiality of the exchanges was not maintained. He stated that the protection measures should be taken as soon as possible by the administration in order to protect the integrity of the detainees.

The low number of requests for interviews, the opening of a large number of letters addressed to the Contrôleur général (in violation of the provisions of Article 4 of the Prisons Act

of 24 November 2009) and the testimonies of detainees on the opening and lack of sending of their correspondence constituted a violation of the principle of liberty and of the confidentiality of the correspondence. Finally, several concurring testimonies described behaviours contrary to the code of ethics among the warders, as well as concerns regarding possible reprisals, with the prison administration department being unable to make a strong statement against such behaviours.

The Keeper of the Seals, i.e. the Minister of Justice, sent her observations by post on 27 April 2015. As regards the absence of effective measures taken by the prison staff to preserve the physical integrity of a detainee after he was subjected to violence from his fellow prisoner, the Minister indicated that the Prosecutor was immediately informed of these facts, concerning which a preliminary investigation is underway, that the victim was placed in a cell with a supportive cellmate and that the alleged instigator was placed in solitary confinement. She contested the emergency nature of the request for changing cells that was made the day before by the detainee who was the victim of the violence, which was relayed by the psychiatrist of the SMPR, who did not use the reporting method required by Article L. 6141-4 of the Public Health Code in the case of a serious risk to the safety of persons within a penal institution.

As regards the physical detention conditions, the Minister disputed the observations made; a bailiff was therefore called on 16 April 2015. She stated that the water sources and washrooms were renovated on 23 April (i.e. after the visit) in both yards, that a cleaning schedule of the exercise yard was set up, that a plan for renovating the showers is underway and that each of them will have separating walls. The works for connecting the institution to the urban heating network were executed; in addition, it was specified that the low temperatures in the cells was mainly due to the detainees blocking the air vents. The Minister specified that all of the the cells have been provided with hot water ever since the institution opened, but that the hot water production installations were calibrated for a theoretical number of places, which has been largely exceeded due to overcrowding in the institution.

As regards the presence of CCTV cameras in the rooms used for medical activities, the Minister stated that their installation was approved by the SMPR manager and the management of the associated hospital. She specified that the images are not sent to a monitoring station, but to a computer in the crisis room that can be only accessed by members of the administration department, and that the images are not used unless a serious incident occurs that endangers the safety of the healthcare staff and requires the triggering of the "crisis" cell.

The Minister disputed the violation of the protected correspondence, stating that only one letter addressed to the CGLPL had been opened. Finally, she denied any failure of the administration department in supervising the staff of the remand prison and highlighted the lack of proof concerning the violation of the code of ethics observed by the surveillance staff.

> The Contrôleur général upheld the statements that were made and deemed that they constituted serious violations of the fundamental rights of the detainees in this institution. Moreover, she stated that the prison administration department believed it necessary to establish a bailiff's report contradicting the statements of the inspectors. This was the first time that such a practice was observed ever since the creation of the CGLPL. The Contrôleur général therefore swiftly invited the Minister of Justice to give any useful instructions so that similar behaviour would not occur again.

In a reply dated 6 May 2015, the Minister of Social Affairs, Health and Women's Rights stated that the CCTV cameras had been installed by the prison administration, without receiving an approval from the Regional Mental Health Department for Prisons (SMPR). She confirmed that three nursing staff members had lost their authorisations after they blocked the CCTV cameras using fabric that bore the words "medical privilege". Finally, she specified that on the day of the

reply, the CCTV cameras were still installed in the room used for the medical activities of psychiatry.

1.2 Emergency Recommendations dated 13 November 2015 pertaining to the collective transportation of foreign nationals who were taken in for questioning in Calais

During an visit of the administrative detention centre (CRA) of Coquelles in July 2015, the CGLPL observed a practice of group transfers of people even though the centre was not full. In a letter addressed to the Minister of the Interior on 7 August 2015, the Contrôleur général stated her concerns about the risks of violation of these people's right to effective remedy and the consequences of these movements.

In October 2015, the CGLPL was alerted of the implementation of a similar process of transfers, but on a larger scale, to seven CRAs in the national territory (Metz, Marseille, Rouen-Oissel, Paris-Vincennes, Toulouse-Cornebarrieu, Nîmes and Mesnil-Amelot). The inspectors therefore decided to carry out verifications on site. They visited the border police (PAF) station of Coquelles on 26 and 27 October 2015 to fully monitor the transfer, by aircraft, of forty-six people to the Nîmes CRA on 27 October 2015; they also attended the arrival of thirty-five other people to the Paris-Vincennes CRA on 3 November 2015, and once again, along with the Contrôleur général, visited the Coquelles police station on the night of 9-10 November 2015.

The observations made on site led the Contrôleur général to issue emergency recommendations, which were addressed to the Minister of the Interior on 13 November 2015. The latter acknowledged the observations through a letter dated 24 November.

➢ *A collective processing of transfers resulting in a collective and summary treatment that deprives people of access to their rights*

Due to the collective management of situations, the detainees' access to their rights and to information is insufficient. Most of the notifications of the administrative decisions and the rights of the detainees, which the inspectors had attended, were carried out unsatisfactorily: collective notifications in especially crowded and noisy places, poor interpreting conditions or absence of interpreters (replaced by submitting written documents), lack of information on life in the CRA and the missions of the legal aid associations, etc.

On examining eighty-one administrative procedures (OQTF and administrative detention), the CGLPL observed that the decisions were based on stereotyped motivations and identical arguments; certain of them are printed beforehand (handwritten notes added in blank spaces: date of the procedure, civil status of the person and destination) and several decisions do not even determine a specific country of destination. These documents, evidently prepared in advance, are proof of a lack of examination of the individual situation of each person.

Moreover, these collective transfers limit legal aid and damage the effectiveness of the right to remedy, since a large portion of the period is neutralised by the duration of the journey. The CGLPL gave a reminder of its recommendation to reduce the intervention period of the liberty and custody judge to 48 hours, which would allow a more effective oversight of the lawfulness of the procedures. Finally, the CGLPL stated that several persons were released on the decision of the administration before the legal check of the liberty and custody judge.

➢ *Disgraceful conditions for detainees as well as staff*

At the Coquelles police station, the inspectors saw up to four people living in individual cells (7 m^2), and sometimes up to thirteen in collective cells (11 m^2). Most of the people slept on the ground, and some did not even have covers. Since the collective cells did not have toilets, the persons in them had to comply with the availability of policemen to visit the toilets. In the overcrowded single cells, the detainees were forced to use the toilets in the presence of their cellmates, which does not respect human dignity.

The policemen and gendarmes seem to be concerned, but are exhausted due to the workload. All of the policemen of the Coquelles police station are under great stress due to the collective processing that they are forced to do. In the destination CRA, the number of people moved simultaneously weighs heavily on the quality of reception and the delivered information, and also hinders the treatment of the other detainees.

➢ *A misuse of the procedure of placing a person in administrative detention*

A group of elements showed a willingness to distribute people over the national territory in order to "unclog" Calais: the number of persons transferred every day is high and stable, the remarks are heard by the inspectors and the observations made tend to show that a number of placements is determined in advance depending on the capacity of the means of transport to the CRAs of the national territory, and the scheduling of the transportation seems to be organised according to a predefined frequency (every five to nine days for the same institution). This therefore assumes that the persons who arrive at the CRA in the first convoy leave it by the time the second one arrives with more transferred persons.

The sole purpose of administrative detention should be to allow the government to organise the deportation of the person. A foreign national may be placed in detention only for the period strictly necessary for his departure and if the application of less coercive measures is not sufficient. The countries of origin of most of the transferred people are particularly sensitive: Syria, Afghanistan, Iraq, Eritrea and Sudan. And yet, taking into account the risks incurred concerning their physical integrity if they are deported, a number of these people cannot, in practice, be sent back. The large number of people released on the decision of the administration shows a lack of willingness to execute the issued OQTF.

> Even knowing of the seriousness of the national situation created by a large-scale migration crisis and the complexity of the local situation, the CGLPL believes that this procedure of collective transfers over the entire national territory deprives the persons concerned of access to their rights and is implemented in physical conditions that violate their dignity. Moreover, this is a misuse of the administrative detention procedure, since it is not being used to organise deportations to countries of origin, but is instead used for moving hundreds of people and distributing them across the territory of France, with the goal of "unclogging" the city of Calais. The CGLPL therefore recommended that this procedure should be stopped.

In his response, the Minister of the Interior firstly reminded the CGLPL of the challenges of the migration crisis in Europe and its consequences in the Pale of Calais, a known passage for migrants journeying to Great Britain, which therefore faces several intrusions in the cross-Channel link.

He then mentioned the measures taken by the government: easing access to requests for asylum in France, offering accommodation in reception centres outside the Calais zone for migrants who are open to reconsidering their migration plans. Simultaneously, stronger measures have been taken to prevent the illegal crossing of the border with the United Kingdom.

The Minister specified that the Coquelles CRA does not have the capacity to meet the atypical requirements of the numerous migrants that need to be placed in detention, and it is therefore necessary to place a part of them in other CRA across the national territory. He stated that, every day and across the territory, people are placed in administrative detention outside the department and even outside the place in which they were taken into custody, and that moreover, since the objective of the detention is to identify the detainees, priority is given to placing them in administrative detention in CRA in the Paris region (close to the consulates) or in those close to the France-Italy border due to the Schengen or Dublin re-entries.

As regards access to legal remedy, the Minister stated that the placement in a faraway CRA is determined at the same time as the decision to place the person in detention, and that these procedures do not hinder the exercising of the right to asylum. In addition, he informed the Contrôleur général that the intervention of the liberty and custody judge was reduced to 48 hours in the bill pertaining to the rights of foreign nationals.

As regards the physical conditions of custody and detention for the purpose of verifying the right of residence, the Minister indicated that each person is provided with sheets and that toilets were present in the individual cells. The Minister specified that the law dissociates the decision of the obligation to leave French territory (OQTF) from the decision determining the country of destination. He indicated that the obligation of not separating minors from their parents is meticulously respected. A reminder of the instructions was given concerning the absence of interpreters in the Paris-Vincennes CRA.

As regards the misuse of placing people in administrative detention, the Minister disputed the analysis of the Contrôleur général. He indicated firstly that the prefect cannot and must not presume the completion of the deportation procedure when he initiates it and that it is physically impossible for the questioning services to carry out the documentary verifications of people before they are placed in administrative detention. He specified that pursuant to applicable law, the prefects do not demand for the foreign national to be kept in administrative detention beyond five days if no identification information on that person was found within this period; the person is freed in this case. On the other hand, extending the detention period is systematically done if there is a possibility of identification and therefore the deportation of the person involved. He added that the Pas-de-Calais prefecture supported extending the detention period in 45% of the cases.

Finally, concerning the scheduling of the transfers organised according to a predefined frequency, the Minister justified this practice using the size of the migration flows and the intense activity of taking people in for questioning. He added that the rhythm of these transfers has decreased, from forty-three people per day on an average at the start of this practice to an average of twenty-seven from 1 November, specifying that the reduction of placements should allow improving the monitoring of the measures and an increase in the rate of execution of deportation measures.

> The Contrôleur général upheld her observations and her analysis of the collective transfers. She was satisfied concerning the fact that the intervention of the liberty and custody judge was reduced to 48 hours in the bill pertaining to the rights of foreign nationals, which had been a recommendation of the Contrôleur général for several years. She regrets that, while the number of people transferred daily has reduced, this practice has not yet been ended.

2. Three opinions published in the *Journal Officiel* [Official Gazette]

Pursuant to Article 10 of the amended Law dated 30 October 2007, the *Contrôleur général of places of deprivation of liberty* issues opinions and, after having informed the authorities in charge, makes public these opinions as well as the observations of these authorities. An opinion is a text pertaining to a transverse theme, summarising the observations made by the Contrôleur général and her team during the visits of the institutions and the treatment of the addressed referrals.

In 2015, the Contrôleur général published three opinions in the *Journal officiel*.

2.1 Opinion dated 11 June 2015 on the controlling of Islamist radicalisation in prisons

The opinion related to controlling Islamist radicalisation in prisons was sent to the Prime Minister, the Minister of Justice as well as the Minister of the Interior, who were given a period of two weeks to make the necessary observations. The Government merged its observations into a single response, addressed by the Minister of Justice to the CGLPL.

This opinion falls within the scope of the reflections conducted after the visits of the Contrôleur général to the prisons of Fresnes and Réau, as well as to the remand prisons of Osny and Bois-d'Arcy. These observations simultaneously led to the drafting of an investigation report, which was also sent to the ministers.

The phenomenon of radicalisation is not recent and has not been sufficiently taken into account by the public authorities. Moreover, the Contrôleur général observed that prison overcrowding feeds proselytism and favours the influence of radical detainees over the more fragile detainees.

> The grouping together of radicalised detainees in dedicated wings, announced by the Prime Minister in January 2015, is not without risks: cohabitation of detainees with varying levels of involvement in the radicalisation process, difficulties in identifying the targeted persons, ignorance of the methods of controlling the detainees concerned. The CGLPL stated that grouping together these people in dedicated wings does not come from any existing legal provision, and since this *sui generis* system does not fall under ordinary detention or solitary confinement, it is therefore not susceptible to any of the normal means of remedy. The absence of accurate information on the methods of supervision and the detention conditions in these new wings raises fears of this regime possibly sliding towards a *de facto* isolation of these people.

While the so-called de-radicalisation programmes draw on the willingness of the persons concerned, a continuous evaluation of their execution is necessary. It is already necessary to ensure that the funds allocated to these programmes do not come at the expense of the reintegration efforts of other detainees and do not burden the treatment of the entire prison population.

Finally, the CGLPL requested that the public authorities put more thought into the nature of the treatment of youth returning from zones of conflict, since it has been observed that incarceration cannot be an undifferentiated method of treating a phenomenon that affects several hundreds of people with varying degrees of intensity.

> In her response, the Keeper of the Seals first stated that the works related to Islamist radicalisation in prisons were implemented before the attacks of January 2015. The objective of these units was to offer an adapted treatment of radicalised people, or of people being radicalised, and to maintain the security of the other detainees from proselytic behaviour.

As regards the regime of detention of affected persons in these units, the Minister specified that they are subjected to the ordinary regime and benefit from all of their rights. While the main criterion for selecting these people is the reason for their detention (people taken into custody for acts of terrorism related to violent radical Islamism), people incarcerated for other reasons who exhibit radical behaviour can also be placed in these units. Plans have been made to improve intelligence in prisons. Efforts are being made to improve the detection grid for radicalisation phenomena. The method and tools of evaluation of the people assigned to these units are still being defined.

The first programmes for controlling radicalised detainees started in May 2015, for which a progress report should have been submitted in July, before the start of two new programmes in September 2015. The Minister stated that along with these actions, two other action researches in closed environments have been started by the prison administration.

As regards the freedom of worship, plans have been made to recruit sixty Muslim Chaplains, as well as to double the Muslim chaplaincy budget. Studies are underway, with the Minister of the Interior, to improve the status, remuneration and qualification of chaplains working in prisons.

Collective interventions shall be set up in the arrivals wing of the remand prisons and instructional units of secularism-citizenship shall be implemented for minors and young adults below 25 years of age.

The Minister stated that the training of staff is essential and in this respect, training courses have already been implemented and shall be updated by a more in-depth training with respect to supervisors. The staff assigned to the dedicated quarters will receive an orientation training when they take up the functions. Finally, the Minister indicated that 80 million euros (in addition to salaries) have been allocated to the fight against terrorism in prison administrations.

> The Contrôleur général will keep an eye on the implementation and methods of operation of these units as well as the de-radicalisation programmes. She reserves the option, in accordance with her prerogatives, to once again visit the institutions to make new observations.

2.2 Opinion dated 16 June 2015 concerning the treatment of detainees in healthcare institutions

On 16 July 2015, the Contrôleur général published an opinion concerning the treatment of detainees in healthcare institutions in the *Journal officiel*. The Minister of Justice, the Minister of the Interior and the Minister of Health, Social Affairs and Women's Rights, to whom this opinion was addressed, made their observations in turn.

> Pursuant to Article 46 of the Prisons Act of 24 November 2009, the quality and continuity of healthcare are guaranteed to detainees in conditions that are equivalent to those that the rest of the population benefits from. And yet, despite the numerous recommendations made by the CGLPL with regard to the question of provision of healthcare to detainees within local health institutions, difficulties still persist as regards the fundamental rights of the detainees.

To reduce the numerous removals from prison for medical reasons, the intervention of medical specialists in prisons must be reinforced and more thought must be put in to ensure that detainees meeting certain legal conditions can benefit from permissions to leave in order to check into a healthcare institution by themselves. The observations made on the functioning of

telemedicine in the remand prison of Bois-d'Arcy show that telemedicine in prisons is a practice that allows a rapid and high-quality access to medical specialists. While it is still too early to measure its impact on the reduction of recourse to removal from prison for medical reasons, the CGLPL is still keeping an eye on the developments of telemedicine in a prison environment.

> The terms of removal from prison for medical reasons are not satisfactory: the evaluation of the security level must be personalised and the means of restraint forced on the persons must be strictly proportional to the risk presented by the said persons.

Maintaining medical privilege is every patient's right and is an absolute duty of the doctor. The CGLPL recommends that the medical consultations should be conducted without the presence of an escort and that the surveillance must be indirect (out of sight and hearing of the detainee).

The CGLPL gives a reminder on the necessity of providing reception procedures and specific areas in the healthcare institutions in order to prevent the escorted detainees from being exposed to the sight of the public. To maintain the quality of the healthcare, the security of the staff and the dignity of the detainees, the secure rooms must be located in a department where the healthcare team is willing and prepared to receive detainees for short-term healthcare. Currently, these places resemble places of detention rather than places dispensing healthcare.

> Hospitalisation conditions in secure rooms are more restricting than the detention conditions as regards the patient's rights. The CGLPL stated that the detainee is still a patient and must therefore benefit from the rights guaranteed to detainees as well as those granted to patients. The detainees must be informed beforehand of their hospitalisation conditions (list of authorised and forbidden personal effects), and on their arrival at the healthcare institution (welcome booklet pertaining to the terms of hospitalisation in secure rooms as well as the related rights). The CGLPL also recommends drafting a specific internal regulation for secure rooms. The fundamental right to maintain family bonds is not respected: access to telephones is not effective and detainees find it impossible to receive visits from their kin and their legal counsel, and to receive or send letters. In almost all of the secure rooms, the detainees do not benefit from any activity and do not even have an outdoor area to get some fresh air and, if needed, to smoke.

In her reply, the Minister of Justice stated that the organisation rules for removal from prisons for medical reasons (security measures, restraint measures, level of escort, etc.) will soon be reminded. For the purpose of updating the methodological guide related to the healthcare treatment of detainees, specifications will be made on the conditions of receiving detainees in associated hospitals and the hospitalisation conditions of detainees in secure rooms shall be examined. The Minister announced that the prison administration will study the question of providing access to telephones, televisions and the radio in secure rooms, in collaboration with the Minister of Social Affairs and Health. A modification of the specifications of the inter-ministerial circular dated 13 March 2006 is also being planned.

> The Contrôleur général will keep an eye on the reminders given pertaining to the rules applicable to removals from prison for medical reasons and to the modification of the specifications of secure rooms. To date, she has not been informed of their contents or their application.

The Minister of the Interior, in his reply dated 10 July 2015, stated that the systematic use of handcuffs on a hospitalised detainee is forbidden and remains limited to only those people who are considered to be dangerous by the prison administration or those who are particularly agitated.

The Minister specified that reminders are regularly given to the police services and that all measures of restraint are recorded in the daily register, controlled by the hierarchy. As regards the security measures implemented in secure rooms, the Minister stated that they are exclusively applied on the request of the healthcare staff and, in all cases, always with their agreement.

The Minister of Social Affairs, Health and Women's Rights sent her observations by a letter dated 10 July 2015. As regards the recourse to removals from prison for medical reasons, the Minister stated that the institutions are faced with recruitment difficulties; thus for certain specialities such as dermatology, the development of telemedicine would be preferred over specific recruitments, the implementation and finding conditions of which are being drafted. The protocol signed between the healthcare and penal institutions allows drafting procedures aiming at coordination and the reciprocal informing of teams. Reminders are still given to the staff in charge of the surveillance during removals from prison for medical reasons. Two regions (Ile-de-France and Midi-Pyrénées) have benefited from focused support in implementing telemedicine, and an evaluation was conducted. Currently, approximately 25 telemedicine projects in prison environments are underway, since telemedicine constitutes a key factor in improving access to healthcare and allows better coordination of healthcare. The Minister stated that the healthcare professionals are committed to always maintain medical privilege and the confidentiality of the treatment. She also stated that the updating of protocols between the penal institutions and the healthcare institutions allowed redefining their terms of functioning of secure rooms; the drafting of the conventions for using secure rooms is in progress. An awareness-raising campaign for medical supervisors of the healthcare units on providing information to detainees on their hospitalisation conditions shall be conducted by officers of the regional health agencies (ARS).

> To date, the Contrôleur général has not been sent the updated protocols or the conventions for using secure rooms. It shall endeavour to verify, during the visits to these facilities, the effective implementation of the commitments of the Minister of Social Affairs.

2.3 Opinion dated 5 February 2015 concerning preventive detention

On 5 November 2015, the Contrôleur général published an opinion concerning preventive detention in the *Journal officiel*. It was sent to the Minister of Justice as well as to the Minister of Social Affairs and Health, who were given a period of one month to reply.

> In an earlier Opinion dated 6 February 2014 pertaining to the implementation of preventive detention, the CGLPL recommended that clarifications should be made on the nature of the regime applicable to this measure and that improvements should be made in the treatment of people placed in the secure socio-medical-jurisprudence centre (CSMJS) of Fresnes. He also called for a reflection on the soundness of a deprivation of liberty being applied to people ignorant of the obligations of a preventive surveillance with respect to the principles of criminal law. The absence of any developments in this measure, the execution of a second visit of the CSMJS in October 2014 as well as the study and monitoring of individual dossiers of the people placed there have led the Contrôleur général to once again pronounce on this practice, on its terms of implementation and on the very foundation of this measure.

The CGLPL observed an absence of activity for the people placed in CSMJS due to the de facto solitary confinement situation of the detainees, the absence of any specific educational, professional or socio-cultural project, and the absence of a medical and psychological examination. Moreover, he stated that the functioning of the CSMJS was not very different from that applied to detainees in penal institutions.

Studying the individual situations of five people placed in CSMJS since its opening has shown that, for each of them, the placement in preventive detention was used as a punishment for not complying with the obligations imposed on the convict related to a preventive surveillance, even though their dangerousness was not proven. The possibility offered by law to indefinitely keep a person imprisoned on the grounds that he exhibits a very high probability of repeating his offence, combined with severe personality problems, constitutes a new institution of penal law, which removes the objective link between guilt and responsibility, between offence and punishment, and replaces it with the concept of dangerousness. In addition to its subjective nature, the concept of potential dangerousness must be considered to be contrary to the fundamental principles of French criminal law, in particular to those of the legality of crimes and penalties and of the proportionality of the penal response.

> Due to all of these reasons, the CGLPL recommended that the measure of preventive detention should be removed.

In her reply dated 13 November 2015, the Minister of Justice stated that she has asked the committee, chaired by Mr Bruno Cotte, to re-examine the consistency and soundness of the security measures and punishments that could be classified as preventive measures (socio-judicial monitoring, court supervision, preventive detention and preventive surveillance) before the end of 2015. As regards the medical and psychological monitoring, the Minister specified that the detainees benefit from a medical-psychological treatment and a healthcare project that combines individual and collective treatment, and considering that it is offered to detainees, a continuous medical, psychological and social treatment is offered, aiming at ending the use of preventive detention. She added that the detainees can benefit from cultural, leisure and sports activities, for which the supervision and organisation is carried out by the educators. Sector-based social workers are in charge of monitoring the detainees in exercising the maintaining of family bonds, their welfare rights and their reintegration processes, whereas the SPIP of Val-de-Marne carries out the interface functions between the services of the CSMJS and the legal authority. Finally, the Minister specified that the CSMJS is located in the premises of the EPSNF, a *sui generis* structure meant for healthcare purposes, and its special feature is that it operates under the aegis of the dual auspices of the Minister of Justice and the Minister of Health.

The committee chaired by Mr Bruno Cotte submitted its *Report on the rewriting of sentencing law* to the Keeper of the Seals on 18 December 2015. These works fall in line with the position of the Contrôleur général and recommend abandoning preventive detention in these terms: "the observation thus made that highlights a real fragility of preventive detention and surveillance in terms of its conventional use, the most limited application currently practised for these measures, the significant inaccuracy of the concept of dangerousness that is nevertheless one of the conditions for them to be implemented, the existence of similar measures capable, once redefined, to meet the same necessary requirement of preventing a reoccurrence of an offence, have all led the committee to recommend the repealing of both of these measures[8]".

Therefore, the Contrôleur général will keep an eye on the consequences of these recommendations on the Minister of Justice, and reiterates her recommendation for repealing the preventive detention measure.

[8] Report on the rewriting of sentencing law, *Committee chaired by Mr Bruno Cotte, 18 December 2015, page 51.*

Chapter 3

Actions taken in 2015 in response to opinions, recommendations and cases taken up by the Contrôleur général

As has been the case every year since the institution was created, the Contrôleur général of places of deprivation of liberty ensures that its recommendations are effectively taken into account. In this respect, he monitors, on the one hand, those sent to the Government formally in the documents provided under Art. 10 of the Law dated 30 October 2007 - opinions, recommendations and proposals for modifying legislative and regulatory provisions - or in the annual report provided under Art. 11 of the same law; and on the other hand, he monitors those that he formulates on each visited institution, in the form of new visits of the institutions.

In addition to the recommendations issued during 2015, shown in the previous chapter, this chapter will evaluate the consequences of earlier ones, which underwent significant evolutions or in which the absence of any evolution appears abnormal. Thus, the Contrôleur général decided to evaluate:

- the Opinion dated 10 January 2011 pertaining to the use of telephones by persons deprived of liberty, due to the Government's renunciation of authorising the use of mobile phones in an open prison (*centre de semi-liberté*) and the renewal of the public service delegation related to telephones in detention;
- the Opinion dated 15 February 2011 pertaining to certain terms of hospitalisation by court order, to recommendations related to mental health and the rights of patients formulated in the annual report 2013 and to the recommendations dated 15 February 2011 pertaining to the psychiatric infirmary of the police headquarters, due to the provisions of the law modernising our health system, adopted on its last reading by the National Assembly and submitted to the Constitutional Council as at the date of drafting of this report;
- the Opinion dated 20 June 2011 pertaining to the access to computers for detainees, due to the deliberate omission of this population in the bill for a digital Republic, submitted before the National Assembly on 9 December 2015.

In this chapter, the Contrôleur général also focuses on the consequences of the referrals, the progress made and the persisting difficulties.

1. The consequences of the Opinion dated 10 January 2011 pertaining to the use of telephones by persons deprived of liberty

The possibility for a person deprived of liberty to use a telephone to contact their family and administrative bodies is one of the provisions of the right to protection of privacy and family life and the right to defence, both of which are recognised as fundamental rights. Telephone use is also

one of the means of carrying out a certain number of steps necessary in the preparation for release - for prisoners - or departure - for foreigners held in detention centres or in waiting areas. This is why, in this opinion, the CGLPL recommended a certain number of measures for facilitating access to telephones for persons deprived of liberty, while respecting certain legitimate security constraints and the rules of execution of the punishments.

> As regards the prison population, recommendations were made to install telephone sets in places that prevent access to the telephone being dependent solely on detainees, which would lead to all sorts of pressure, and to set them up such that the confidentiality of the conversations is maintained.

Recommendations were also made to remove certain procedural obstacles in the procedure of designating the persons that can be contacted by telephone, of arranging call times, especially for the benefit of persons from overseas territories, and of authorising international communications pursuant to the same conditions as national communications.

It has also been indicated that the cost of the phone call, which results from the provisions of the contract binding the administration and its service provider, is completely out of sync with the very low rates offered outside prisons.

Finally, it highlighted that access to the telephone must be provided for spouses or partners, both of whom are incarcerated, which is not the case today (e.g. by authorising a call to a telephone booth located in a detention facility) and that the detainee should be allowed to contact his kin, even when the detainee himself or the family member is hospitalised.

> The rigid practices related to the access to telephones in detention can legitimately be viewed as a significant cause for prisoners to resort to mobile phones, which everyone knows are used in prisons despite being prohibited.

As regards detained foreigners or those in waiting areas, the CGLPL recommended that the administrative detention facilities should be equipped with telephones for the detainees and that the booths installed in administrative detention centres must guarantee the confidentiality of the conversations. Recommendations were also made to review the frequent practice of confiscating mobile phones from detainees if they contain an in-built camera.

> The public service delegation, concluded with the company SAGI for the management of telephones in detention, was renewed in June 2015 for three years. According to the Keeper of the Seals, this was a "limited term" renewal, which was meant to allow the government to prepare for the implementation of a new telephone system that will be more accessible and more permanent.

The DAP has initiated a dual strategy, on the one hand aiming at defining new specifications for telephony and multimedia services to be implemented in 2018, and on the other hand aiming at experimenting, in the detention centre of Montmédy, from 2015, on the implementation of a new service of telephones in cells, possibly extending to other multimedia services.

The guidelines of the future process and the call for projects should be ready in 2016. On this occasion, **the CGLPL reiterates all of its recommendations pertaining to the access to telephones for detainees, and stresses that, in the current technological context, this access cannot be separated from a more global access to services related to the information society.** It will ensure that the solutions adopted in the future will not include any restrictions other than those imposed by legitimate security concerns.

In an visit report pertaining to an open prison, the CGLPL made the following recommendation: "it should be made possible to keep mobile phones when returning to an open prison. In fact, it is paradoxical to be forced to place phones in a locker on entering the open

prison; although every person is free to use them for a part of the day outside the centre, they are not allowed to use them in the evening, when it is more convenient to contact family members after they have finished their day of work, and moreover, there isn't even a telephone booth installed inside the building that permits this. Moreover, this open prison does not adjoin any other penal institution that may possibly raise concerns of mobile phones being provided to detainees".

In reply, the Minister of Justice indicated that "from 1 January 2015, persons detained in open prisons have been allowed to keep their mobile phones on returning to the prison". She even specified that she planned "to allow detainees held under the day-parole regime to keep their mobile phones, under the express condition, in the case of a wing integrated in a penal institution, that there is a strict separation between the living area dedicated to day-parole and the rest of the institution."

> However, there seems to have been no results from this intention, since the project was abandoned for no apparent reason in February 2015. The context of the fight against terrorism cannot explain such a renunciation, since there is no apparent link between this policy and the situation of people in the process of reintegration, placed under a day-parole regime, who are free to contact anyone throughout the day.
>
> The CGLPL can only regret that the intentions of the Government did not lead to any results.

2. The consequences of the Opinion dated 15 February 2011 pertaining to certain terms of hospitalisation by court order and to the recommendations related to mental health and the rights of patients formulated in the 2013 annual report

> This set of recommendations, the first of which were formulated before the laws dated 5 July 2011 and 27 September 2013, tend to favour a delicate balance between the rights of persons deprived of liberty, the requirements of public order, the need for healthcare and the consideration of the fragile nature of the persons concerned. The need to provide healthcare cannot eclipse the deprivation of liberty, which must come with all of the necessary guarantees, especially as the person concerned is not necessarily capable of easily exercising his rights.

The CGLPL recommended that the authorities in charge of granting preliminary discharges or the measures of ending hospitalisation by court order must take into account that between the start of the measure and the day of discharge, there had been a veritable healthcare process that has borne fruit. The CGLPL observed that the administrative officers were reluctant to agree to these measures, thereby resulting in an increase in the number of hospitalised patients and in the duration of their stay.

With the manner in which they were carried out, these two practices became an obstacle to preliminary discharges that were justified by the patients' condition, and moreover allowed patients to be kept in hospital, even though the doctors attested that their conditions did not justify holding them against their wills. They could, in certain cases, lead to a shortage of hospital beds and possibly block the hospitalisation of persons who, on the contrary, are truly in need of it.

Considering that, if we are entitled to demand from practitioners that they give medical assurances, we are also entitled to expect the authorities to establish the risk that they claim justifies the extension of a deprivation of liberty; the CGLPL recommended that in case of a disagreement between the medical staff and the administrative authority, the competent judge will be requested to give his ruling, with the director of the institution being required to refer the case to him without any formality.

In its annual report 2013, the CGLPL emphasised the need to evaluate the healthcare staff required for the proper functioning of the various structures, to strengthen the human and logistical resources of the extra-hospital structures and to strengthen the resources of the admission units, especially by recruiting nurses and psychologists.

He also recommended granting the patient the legal status corresponding to his status, and especially informing the State Prosecutor when a person admitted in free healthcare is clearly unable to give informed consent or is placed in a seclusion room for more than twelve hours.

The CGLPL also recommended improving the measures providing patients under forced hospitalisation with access to their rights. For this, he recommended a standard document presenting the different forms of forced hospitalisation and the means of remedy offered to patients, a formalisation of the collection of the patient's observations, provided under Art. L. 3211-3 of the Public Health Code, and a strengthening of the roles of the consulting bodies in evaluating the restraints forced on the patients (commissions for relations with users and quality of healthcare - CRUQPEC) as well as the departmental commissions for psychiatric care. In the same respect, he recommended training specialised lawyers for aiding patients hospitalised without consent and reviewing their remunerations, which are lower as compared to those of other litigations.

Finally, he recommended instituting protocols and a traceability of the use of seclusion and restraint.

The Law dated 5 July 2011 concerning the rights and protection of persons subject to psychiatric treatment and the practical details of their care and treatment and the Law dated 27 September 2013 amending certain provisions of the Law no. 2011-803 dated 5 July 2011, were formulated to meet the recommendations of the CGLPL pertaining to notifying prisoners of the measures of hospitalisation without consent, to informing patients of their rights and to controlling the decisions of placing people under hospitalisation without consent. Chapter 1 of this report shows that these provisions are slowly entering into practice.

On the other hand, it is regrettable that none of the three laws that were instituted after the Opinion of the CGLPL dated 15 February 2011 pertaining to certain terms of hospitalisation by court order were used to improve the court oversight in situations in which the administrative authority decides on restrictive measures of patients' rights that are contrary to the medical recommendations.

> The law modernising our health system, adopted on its last reading by the National Assembly on 17 December 2015, constitutes essential judicial progress as regards the use of seclusion and restraints. It states that "seclusion and restraints are practices of last resort. They may only be used to prevent immediate or imminent damage to the patient or another person, on the decision of a psychiatrist, and for a limited period. Their use must be subject to strict surveillance, entrusted by the institution to healthcare professionals designated for this purpose."

As the CGLPL has been requesting for several years, the law now obliges every healthcare institution authorised to provide psychiatric care and designated by the director general of the

regional health agency to provide psychiatric healthcare without consent, to maintain a register that, for each measure of seclusion or restraint, will mention the name of the psychiatrist who decided on this measure, its date and time, its duration and the name of the healthcare professionals who supervised it. This register must be presented, on request, to the departmental committee for psychiatric treatment, to the *Contrôleur général of places of deprivation of liberty* or to his representatives, and to the members of the Parliament.

The law also obliges the drafting of an annual report assessing the practices of admitting patients into seclusion rooms and restraining them, which should also include the policy defined to limit the use of these practices and the assessment of its implementation.

> These provisions were necessary not only to allow *a posteriori* oversight of measures of seclusion and restraint, but also to force healthcare professionals to question themselves on their practices and to compare them. The CGLPL will keep an eye on their implementation. However, it is regrettable that these provisions were voted in as part of the law modernising the healthcare system and that this came at the expense of a more global law on mental health.

Finally, to date, there is no tool that allows qualitatively and quantitatively evaluating the practices of seclusion and restraint at the national level. The public authorities must develop such a tool urgently for observing and evaluating these practices. The Contrôleur général regrets that such a provision was not included in the law.

3. The consequences of the Recommendations dated 15 February 2011 pertaining to the psychiatric infirmary of the police headquarters

The psychiatric infirmary of the Paris police headquarters was visited in July 2009, and was the subject of several conversations with the police prefect, and then with the Ministers of the Interior and Health. In the wake of this procedure, the *Contrôleur général of places of deprivation of liberty* decided to publish his observations in the *Journal officiel*.

The CGLPL had observed that the physical condition of treatment were satisfactory and that the right to remedy was assured, but there was confusion among the surveillance staff and the healthcare staff, all of whom wore smocks, as well as an organisation that needlessly prolonged the presence of persons deprived of liberty in this place, which otherwise should have had an exclusive role of orientation. Above all, there was a certain confusion in the orientations in place, between procedures that were previously named "hospitalisation by order of the court" and "hospitalisation on the request of a third party", which were meticulously differentiated by law.

> The CGLPL decided to publish this recommendation since hospitalisation without consent must come with the guarantees required for maintaining the balance between preserving public order and the rights of the person. These guarantees imply that the decisions should be taken by the persons responsible for them on only these considerations.

Yet, the psychiatric infirmary of the police headquarters does not have any independence. The doctor working there, while not under the hierarchical authority of the Paris police headquarters, are paid by the latter, and the physical conditions of their functions and their career management depend on it. The institution therefore has nothing to do with a hospital authorised to receive mental patients, and the provisions specific to the rights of persons admitted to hospitals

are not applicable to it, with no healthcare authority being competent to verify the content and practices of the healthcare in the institution. The oversights of the institution do not offer the guarantees of independence offered by those conducted in the other departments, since the members of the departmental committee for psychiatric treatment of Paris are appointed by the police prefect. Finally, the psychiatric infirmary is not visited by the judges of the competent courts and, in particular, by the State Prosecutor. Certainly, the police prefect ensures that these visits are conducted *de facto*. However, they are not guaranteed.

For these reasons, the CGLPL recommended transferring the resources of the psychiatric infirmary of the police headquarters to a common law hospital.

> The recommendations of the CGLPL have not yet been taken into account by the Government. However, the law modernising our healthcare system, adopted on its last reading by the National Assembly on 17 December 2015, states that "within a period of six months from the enactment of this law, the Government will present the Parliament with a report on the progress made in the organisation of the psychiatric infirmary of the Paris police headquarters for making it compliant with the protection regime of persons exhibiting mental disorders, who are subject to psychiatric care without consent".

4. The consequences of the Opinion dated 20 June 2011 relating to access to computers by detainees

Article 11 of the Declaration of the Rights of Man and of the Citizen states that "the free communication of thoughts and opinions is one of the most precious rights of man: any citizen may thus speak, write and print freely, except in cases that constitute an abuse of this liberty, as determined by the law." This rights is all the more applicable to detainees because, as stated by the Constitutional Council, "the freedom of expression and communication is even more precious as its enforcement is a condition of democracy and one of the guarantees of respecting the other rights and liberties" (Constitutional Council, decision no. 2009-580 dated 10 June 2009). It is therefore the responsibility of the prison administration to guarantee it, subject to only those reservations required for maintaining the security and order of the institutions, for preventing the recurrence of offences and in the interest of the victims (as is indicated in Article 22 of the Prisons Act dated 24 November 2009). In other words, this administration must not force any limits on the freedom of information other than what is strictly necessary for security, the future of the detainees and the rights of the victims.

Among current information and communication tools are online services, to which the aforementioned principle also applies. As also indicated by the Constitutional Council in the same decision, "with respect to the generalised development of online services as well as to the importance of these services to participating in democratic life and expressing ideas and opinions", the right to the free communication of thoughts and opinions "implies the freedom to access these services". This liberty is all the more important for detainees since, deprived of their liberty to come and go and of a large part of the resulting means of action, computers become a highly preferred means of accessing a large portion of the information from the exterior (press, training, job offers, administrative procedures, learning, games, miscellaneous information).

By this opinion, the CGLPL asked the prison administration for a better guarantee of the detainees' freedom of communication without any limits other than those imposed by security,

public order, the future of the detainees and the rights of their victims, and recommended that, to help in reintegration, the rules of accessing computers, concerning the acquisition of hardware, storage capacities, access to the Internet and an electronic messaging service must be made more flexible and harmonised, in compliance with security requirements.

> The testimonies received by the CGLPL showcase the persistent difficulties related to the use of computers in detention. The local practices are very different; the rate of provision for incarcerated persons varies significantly from one institution to the other; the difficulties reported in 2011 in an opinion pertaining to the access to computers for detainees are still present. Locally, the best trained and equipped IT staff are able to grant tolerances of use that the quality of their oversight makes possible without endangering the security of the institution. Therefore, the CGLPL believes that the DAP must set up an effective organisation so that detainees can benefit from digital means necessary for maintaining their family bonds and preparing for their reintegration into society.

The CGLPL regretfully observed that the bill for a digital Republic, submitted before the National Assembly on 9 December 2015, is completely silent on the question of detainees' access to the Internet. In addition to the recommendations made by the CGLPL and reiterated to the Government during the Contrôleur général's interview with the Secretary of State in charge of digital resources, this point was the subject of a proposal made by the National Digital Council during an online consultation on the bill.

The Government explains its refusal to consider these suggestions as follows: "allowing detainees to access digital resources is a major factor in reintegration and the prevention of repeat offences. However, this access remains limited in most penal institutions. While the access to online services is a right, it must nevertheless be supervised and controlled by the prison administration, since these restrictions result from constraints inherent to detention, the maintaining of security and order of the institutions, the prevention of repeat offences and the protection of the interest of the victims. At this stage, it does not seem appropriate to modify the law. On the other hand, the Government has registered digital access in penal institutions as one of the major themes of the digital strategy launched on 18 June 2015. This plan proposes deploying technical solutions in penal institutions to allow a limited and secure access to the Internet and to an electronic messaging service. Moreover, the detainees could, if applicable, benefit from training in digital tools, in order to increase their chances of reintegration."

> As useful as this plan seems, it doesn't guarantee that the targeted objective will be met. The tight budget situation of the State even raises concerns that, when integrated in its institutional and budgetary context, the "digital strategy theme" will lose a significant part of its priority nature and its visibility. In the 2016 budget, this theme is not part of the strategic presentation of the annual performance project, nor is it in the performance indicators and objectives of the budget plan 107 - "Prison administration". Such an omission only weakens its credibility. The restrictive nature of a legal provision would have a more durable and incentive character, and would have been a better guarantee of the effectiveness of the rights of detainees.

For its part, the CGLPL will keep an eye on detainees' access to computers and will definitely evaluate the conditions of implementation of the "digital strategy theme" defined by the Government.

5. The consequences of the visits

After the visit to the remand prison of Lyon-Corbas in December 2014 and before the visit report was sent to the authorities, the Contrôleur général wished to inform the Minister of Justice and the Minister of Social Affairs, Health and Women's Rights of the observations made in the Regional Mental Health Department for Prisons (SMPR) of the institution pursuant to Article 9 of the amended Law dated 30 October 2007, due to the severe violations of the fundamental rights of persons deprived of liberty.

In fact, one of the lodging cells of the SMPR, cell 206, had been designed to act as a seclusion room; it was called DPU, in reference to the emergency protection device fitted on the persons placed in it. Regularly, people whose mental disorders disturb the detention were placed in this cell by the warders, often wearing riot gear. People were placed there on medical prescriptions, sometimes on the suggestion of the direction of the institution. The person is forcefully stripped and, if necessary, is given a forced injection, which is repeated as many times as necessary. The person is deprived of access to visiting rooms, the telephone and, more generally, all of activities accessible to the SMPR or in detention for the entire duration of the placement. This practice is labelled as "therapeutic" by the healthcare workers. Consulting the dossier of a person who was subjected to this placement (executed pursuant to Article 8-1 paragraph 6 of the amended Law dated 30 October 2007, by an inspector who was also a doctor) did not allow finding any trace of the prescription.

> The practice of treatment without consent of detainees affected by mental disorders can only be executed in the form of a complete hospitalisation according to the terms of Article L. 3214-1 of the Public Health Code. The absence of healthcare staff at night deprives people who are imprisoned in this manner from any medical surveillance; the administered treatments are likely to have side effects that require an urgent medical intervention.

The use of this type of placement is far from being atypical. It was used thirty-five times during the first eleven months of the year for periods varying from a few hours to five days. The Contrôleur général wished to know the observations of both ministers as concerns the measures taken to stop this violation of rights.

In reply, the ministers indicated that cell 206 was transformed into a "calm down room", the conditions of use of which have been specified in a protocol. The Contrôleur général asked the Director General of the Regional Health Agency of Rhône-Alpes to provide her with a copy. The protocol revealed that admitting a detainee to this room is subject to a medical prescription and a systematic traceability in the medical dossier. It is implemented in the case of persons suffering from an acute crisis that requires them to be secured and treated, but does not include suicidal persons, who are placed in an emergency protection cell, for a maximum duration of twelve hours. Depending on the condition of the patient, he/she can either be returned to detention, admitted to a normal cell of the SMPR or admitted for a complete hospitalisation pursuant to the provisions of Article L. 3214-1 of the Public Health Code. The patient is accompanied by healthcare staff members only; stripping the patient and dressing him/her in pyjamas must be subject to a medical prescription. Finally, the Contrôleur général was told that cell 206 is no longer used for long durations or at night, and that the number of hospitalisations had returned to a normal level.

6. The consequences of referrals

6.1 Progress made within the framework of the handling of the cases referred

6.1.1 *A few examples of local progress*

Access to the telephone on weekends in the solitary confinement wing

After being informed that detainees placed in solitary confinement in an institution were not allowed to access the telephone booth on weekends, the Contrôleur général wished to find out the reasons for this restriction on the right to maintain connections with the exterior.

In reply, the director stated that after verifying with his department, he was informed that the telephone booth installed in the solitary confinement wing was not connected to the SAGI network during the weekend; a connection request was made the the use of the telephone booth in the solitary confinement wing is now operational on weekends.

The right to correspondence of patients hospitalised in seclusion rooms

A case was referred to the CGLPL by a person under treatment without consent, placed in solitary confinement due to the risks to hurt himself/herself or others, who was unable to correspond with the people or authorities of his/her choice.

This situation appeared to violate the right to correspondence and especially the provisions of Article L. 3211-3 of the Public Health Code, which states that a person affected by mental disorders, hospitalised without consent, must be able to benefit "under any circumstances (...) from the right to communicate (...) to send and receive mail".

Therefore, the CGLPL recommended, as regards sending letters, that hospital staff should make themselves available to patients under restraints, so that they can dictate the letters that they wish to write, or that recourse should be provided to any other means that allows reconciling the security requirements of the healthcare staff and the other patients, with the right to correspondence of hospitalised patients.

Following the recommendation issued by the Contrôleur général, the management of the hospital enacted a new circular addressed to the healthcare teams, which mentioned the need to ensure that there is no restriction or deferment of the right to issue to receive mail for any hospitalised patient. Thus, it was specified that if patients were placed in solitary confinement under physical restraints, they could dictate the letters that they wished to write, so that their right to issue mail is protected in all circumstances.

The obligation to postmark internal correspondence in detention

Several detainees questioned the obligation imposed on them to postmark internal correspondence. The Contrôleur général wished to know the reasons for which this rule was implemented.

In reply, the head of the institution specified that the obligation to postmark internal correspondence concerned only mail sent to another detention wing, to ensure that they would not be passed fraudulently during the mixed activities. This practice constitutes a breach of equality between detainees, since exchanging letters within the same wing does not require pasting a stamp on the said letters.

The CGLPL recommended implementing an internal procedure - such as the provision of a dedicated letterbox, the contents of which will be collected by the mail officer - which allows

distributing internal correspondence from one wing to another or within the same wing without the detainees being forced to postmark all of their mail, as well as carrying out an oversight of the correspondence by the prison administration, in accordance with the regulations in force.

A circular and a notice addressed to the prison population were drafted to indicate that the detainees are no longer required to postmark internal correspondence when it is addressed to a detainee within the same institution.

The terms of execution of full-body searches

In the absence of a room dedicated for searches in the infirmary of a remand prison, the Contrôleur général was informed that the room used for this purpose is actually the waiting room for the hearings and medical examinations, which has a window. Pursuant to the amended Law dated 30 October 2007, the Contrôleur général recommended that this window be made opaque so that the searches conducted in this room are executed in conditions that preserve the privacy of the detainees and that the room should be cleaned regularly so that the hygiene conditions are satisfactory.

The director of the institution, in response to the recommendations given by the Contrôleur général, decided via a circular that this room should no longer be used to carry out full-body searches, but only as a waiting room before the medical examinations that are conducted in the health block of the institution. Two statutory rooms for searches were renovated on the ground floor of both buildings; in addition, they were equipped with the furniture mentioned in the circular from the prison administration department, dated 15 November 2013.

The attention of the CGLPL was drawn to the use of unsuitable rooms, in a prison, for executing full-body searches of detainees when the cells were being searched; these rooms were a maintenance room and a room for storing dustbins. It was specified that the dustbins were removed when the room was used to conduct a full-body search. After having collected the contradictory observations of the director of the prison, the Contrôleur général deemed, with respect to the dignity of the detainees, that it was not acceptable for them to be locked up and searched in a room used to store dustbins, irrespective of whether or not the dustbin was removed beforehand. On this basis, she therefore recommended that a room should be dedicated to holding detainees while their cells are searched. During the second visit to this institution, the inspectors observed that the recommendation had been taken into account. In fact, it was noted during the visit that the rooms were being renovated[9] before being permanently allocated to conducting searches. The buildings have a search room on each floor, in addition to a room located on the ground floor, all of which are correctly furnished.

The limiting of the number of permissions to leave

The Contrôleur général was informed of the situation of a detainee who could benefit from two types of permissions to leave: permissions for family-related outings to meet with his family and a permission to leave for participating in a sports activity organised by the prison administration. Nevertheless, a permission to leave for maintaining family bonds was refused on the grounds that he had "exhausted his rights to leave permits" and another was granted to him "as an exception", since he was "unaware that his participation in a sports activity organised by the prison administration would deprive him of family outings".

In order to better understand the circumstances in which the detainees can benefit from permissions to leave, the Contrôleur général wished to obtain specifications on what appears to be a custom: on the one hand, the limiting of the number of permissions to leave for family reasons;

[9] *Still, in a few of these rooms, there was no flooring and/or a chair or a coat hook on which the detainee can place his effects, with paper covering the openings. The works were still in progress.*

on the other hand, the imputation of this quota of permissions solicited on different legal grounds, thus obliging the detainee to choose between maintaining his family bonds and participating in a sports activity.

After being referred to the Contrôleur général, this practice was modified by separating the permissions to leave for family reasons from other types of leave permits. The Contrôleur général duly noted this, stating that whatever the circumstances, the principle of the individualisation of the punishment and the right to maintaining family bonds must allow a certain flexibility in the implementation of this practice of granting permissions to leave, especially if the situation of a detainee who had already benefited from several days of permissions to leave justifies it.

6.1.2 *Article 52 of the Prisons Act of 24 November 2009 and the respect of the dignity of women*

The attention of the Contrôleur général was drawn, multiple times, to the conditions in which women were removed from prisons for medical reasons, and to the lack of compliance with the provisions given in Article 53 of the Prisons Act dated 24 November 2009, according to which "any delivery or gynaecological examination must be performed without restraints and without the presence of the prison staff, in order to guarantee the right to respect of the dignity of detained women". The Contrôleur général therefore decided to bring three individual situations to the attention of the director of the prison administration, in order to know her observations and understand the measures that she intends to take to ensure that the legal provisions are applied by the heads of the institutions, thus ensuring that the dignity of detained women will be respected.

In response, the director of the prison administration stated that security considerations prevailed in managing the medical examinations of these three female detainees. Thus, she specified that the presence of a female warder in the examination or treatment room was justified by the setup of the rooms, which did not sufficiently guarantee the safety of the persons. She stated that these situations are assessed case by case, according to the setup of the facilities and the level of dangerousness of the detainees. Nevertheless, she informed the Contrôleur général that directives have been drafted in order to re-specify the most suitable measures concerning the medical examination of pregnant detainees or detainees undergoing gynaecological examination, in strict compliance with the provisions of Article 52 of the Prisons Act dated 24 November 2009. The Contrôleur général wished to know the state of progress of these directives and, if they were already enacted, to obtain a copy.

The DAP drafted a notice dated 8 December 2015 for the interregional departments of prison services, pertaining to the means of restraint and surveillance measures used during medical examinations of pregnant women or women undergoing a gynaecological examination. It included the rules applicable to the removal of detainees from prisons due to being pregnant or having to undergo a gynaecological examination, namely the provisions of Article 52 of the Prisons Act of 24 November 2009. Finally, the DAP requested a strict application of these principles and specifications, violations of which should result in appropriate disciplinary measures.

6.2 The difficulties identified within the framework of the cases referred

6.2.1 *The renewal of the residence permits of detainees: the exclusion of people placed in temporary detention or subject to short sentences*

Pursuant to the terms of the inter-ministerial circular dated 25 March 2013 pertaining to the procedures for the first issue and renewal of residence permits to persons of foreign nationalities deprived of liberty, people in temporary detention or subject to short sentences ("the term of which

pronounced by the sentencing authority is equal to or less than three months"), are excluded from the procedure allowing foreigners to renew their residence permit via post, and are asked to present themselves to the prefecture on their release. Thus, these people cannot benefit from access to welfare rights (disabled adult allowance, personalised housing allowance, etc.) that they could have claimed, since they are no longer in a legal administrative situation.

The CGLPL therefore called on the prison administration as well as the general directorate for aliens in France in order to collect their observations, pursuant to Article 6-1 of the amended Law dated 30 October 2007 instituting the *Contrôleur général of places of deprivation of liberty*. Considering that certain people can be placed in temporary detention for several years, the Contrôleur général wished to know the reasons for excluding remand prisoners from the provisions implemented by the circular.

> As regards the sentenced people, given that applications for renewing residence permits submitted less than two months before the expiry of the current permit are examined according to the procedure related to initial applications, it appears essential that the people, whether they are incarcerated for long or short sentences, should be allowed to comply with the periods granted to them to sort out their administrative situation. The Contrôleur général therefore wished to know the possible solutions to ensure that people subject to short imprisonment sentences are able to benefit from an equal treatment as regards access to welfare rights.

On the day this report was drafted, the Contrôleur général had not yet received a reply.

6.2.2 *Night rounds or disturbing the sleep of detainees*

The Contrôleur général was regularly informed on the frequency and terms of execution of the night rounds to which people placed under specific surveillance were subject.

As regards determining the frequency of the rounds, the European Committee for the Prevention of Torture (CPT) has already pronounced, deeming that waking up detainees at night, which was reported to occur "every hour by [the] warders who switched on the lights in the cells", is a measure that "risks having harmful consequences on the health of the detainees concerned".

> As regards the people subject to a specific surveillance due to their suicidal tendencies, the Contrôleur général has already indicated, in his activity report 2010, that "the people subject to special surveillance at night (risk of suicide), i.e. rounds that include frequent checks through the peepholes, are forced, when the light is switched on, to show that they are still alive (e.g. lift a hand); this measure is so contrary to what is needed (the person remaining tranquil), that several warders spontaneously refrain from carrying out this duty, which naturally wakes up the sleeper frequently". It was therefore recommended for the practices to be harmonised "in order to protect sleep, even at the cost of a less effective surveillance".

A notice of the DAP dated 31 July 2009 pertaining to the definition of the methods of specific surveillance of detainees recommends four rounds every night, with a gap of three hours between rounds. Nevertheless, a notice dated 29 April 2014 pertaining to the prevention and management of incidents states that the night service must include at least four rounds, with peephole checks, for people placed under specific surveillance, without any specification on the gaps between rounds. After this notice, certain directors set up rounds every two hours, violating the aforementioned notice dated 31 July 2009.

As regards the terms of execution of the rounds, the testimonies received describe that the staff conducting these rounds force the detainees to wake up and make a gesture to show that they are alive: to do this, certain staff members use methods such as switching on the ceiling light of the cell and/or knocking on the door of the cell.

However, during the visits of the penal institutions, the inspectors observed the implementation of alternative solutions: the installation of night-lights in cells allowing a visual visit, or the staff wearing sneakers during their night rounds to lessen the sound of their steps. The Contrôleur général deemed that these were good practices, insofar as they comply with the security considerations and special attention is paid to respecting the sleep of the detainees. On the contrary, she believes that switching on a bright light and knocking on the doors of the cells must be forbidden, except in atypical situations, pursuant to the recommendations issued by the CPT "of reviewing the terms of night surveillance of specially indicated detainees, in all penal institutions", specifying that "the lights in the cells must not be switched on at night except in cases of proven necessity".

> The Contrôleur général deems that waking detainees up several times at night, for long periods sometimes, is likely to violate their rights to physical integrity and dignity, and will constitute inhumane and degrading treatment, all the more so as other measures (checking of the bars, allocation of cells close to the guard posts, etc.) are already implemented simultaneously, to ensure the security of the institution and prevent jailbreaks. Also, in light of the balance that must be maintained between the dignity of the persons (in this case, allowing them to sleep undisturbed) and their security, the Contrôleur général wished to know the observations of the director of the prison administration on these different points, and obtain specifications regarding the combined application of the notices dated 31 July 2009 and 29 April 2014, and to know her opinion on the manner in which the rounds should be executed.

On the day this report was drafted, the Contrôleur général had not yet received a reply.

6.2.3 *Persons lacking sufficient resources in detention*

Having been informed multiple times on the subject of the treatment of persons lacking sufficient financial resources in penal institutions, the Contrôleur général contacted the director of the prison administration in order to describe to her a few of the difficulties that were submitted to her, to ask for specifications regarding the circular dated 17 May 2013 pertaining to the efforts against poverty in detention and to describe several recommendations on this subject.

> The different penal institutions do not uniformly apply the provisions of the circular related to granting benefits in kind: providing the essentials of correspondence to people who lack sufficient financial resources. The observed best practices must be made formal via an official text and must be extended to all prisons: free and automatic provision of a refrigerator and hot plate, regular and free access to the services of a barber or obtaining identity photographs for free.

As regards maintaining family bonds, people lacking sufficient financial resources must be able to benefit from aid, in kind, that allows them to use a telephone for free, even if a portion of the cash aid of 20 euros can cover these costs.

As regards access to televisions, in certain institutions, the cost of renting television sets is automatically debited, every month, for everyone, and the sum is then re-credited to the account of people who are recognised by the CPU to lack sufficient resources. The automatic nature of the

free provision of a television set for all persons recognised to lack financial resources must be clarified. In addition, certain penal institutions place the entire burden of the rent on only the creditworthy occupants. This practice must be ended, pursuant to the spirit of the circular dated 17 May 2013 and the notice from the prisons administration department dated 3 February 2011.

Certain detainees were recognised to lack sufficient financial resources by the CPU, but were also excluded from the cash aid of 20 euros as they refused to work (exclusion provided by the circular dated 17 May 2013); they were also excluded from the aid in kind provided under this same text. The Contrôleur général stated that the aid in kind must be given unconditionally to all people recognised by the CPU as lacking sufficient financial resources.

The circular dated 17 May 2013 makes provisions for taking up the burden of certain expenses related to educational and training projects: registration in distance learning courses, purchase of school supplies, etc. And yet, in certain institutions, receiving study grants makes people lacking sufficient financial resources ineligible for the cash aid of 20 euros that they would have received otherwise, since the sum of these two benefits is more than the 50-euro limit provided for in Article D. 347-1 of the criminal procedure code. The Contrôleur général recommended that the amount of the study grants should not be taken into account when examining their financial situation.

> Certain persons lacking financial resources may legitimately wish to purchase one or more objects of certain values, especially as part of their studies. And yet, they cannot save the cash aid of 20 euros that is granted to them every month. The Contrôleur général therefore questioned the possibility of allowing people lacking sufficient financial resources to have a certain nest egg, through which they can accumulate their savings, month after month, from the cash aid of 20 euros or their study grant, in order to make atypical purchases, on the authorisation of the head of the institution.

The circular dated 17 May 2013 mentions "the payment [...] of a fixed sum of not more than 20 euros per person and per month" for individuals considered to lack sufficient financial resources by the CPU, whereas the notice dated 3 February 2011 mentions several times, on the contrary, the indivisible nature of the cash aid of 20 euros. It has been noted that in most of the penal institutions visited by the Contrôleur général, the cash aid granted to people lacking financial resources amounted to 20 euros, but in certain institutions, this aid was less (e.g. 18 euros). Certain institutions evaluate the financial situation of people not with respect to the state of their personal account, but according to the resources that they supposedly have outside the prison. A reminder of the terms of Article D. 347-1 of the criminal procedure code must be given to ensure that the only thing taken into account when evaluating the financial situation of a person, are the resources that he/she has in his/her personal account.

In addition to the amount, the time frame of the actions against poverty is also vital. In fact, the main difficulty encountered by people is that in practice, the CPU related to the efforts against poverty generally occurs in the first half of each month, and therefore takes into account the status of the personal account at the end of the previous month and the month before that, and not the ongoing month (too early) and the month before. The Contrôleur général recommends that the durations examined while granting the cash aid of 20 euros should meticulously comply with the provisions of Article D. 347-1 of the criminal procedure code, with the CPU being conducted at the end of the ongoing month, i.e. at the end of the month for which the cash aid is paid.

> Especially due to the aforementioned practices, it appears particularly important for the detainees to be informed of their rights pertaining to aid in

> kind or financial aid, so that they can request for the equipment and services that they are entitled to.

The circular dated 17 May 2013 states that people "[refusing] to undertake a paid activity, offered by the CPU, following [their] request and without any grounds other than personal convenience" can be excluded from cash aid. Yet, it appears that the arguments put forward were not strictly compliant with the sole aforementioned exclusion criterion, since several persons were excluded for the sole reason that they did not look for work or resigned from their professional activity, and not because they refused a job offered by the CPU.

As regards hospitalised people, the CGLPL was informed that the configuration of the GIDE software automatically excludes people who are incarcerated but not held in detention from the list of people who can claim the cash aid of 20 euros. It appears that several penal institutions, after being informed by the hospitals' social services, had offset this difficulty by paying special attention, every month, to the financial situation of hospitalised persons. Nevertheless, in order to make the implementation of this measure more fluid and to limit the risks of error, it is necessary to verify that such a malfunction is not present in the new GENESIS software as well.

> In a reply dated 21 August 2015, the director of the prison administration described her observations on all of the mentioned points. As regards the scope of the cash aid, the new agreement provided for free refrigerators for people recognised to lack sufficient financial resources; however the free provision of hot plates is not provided for. Identity photographs are free only for the national identity card.

As regards television, the prison administration department specified that the operations of debiting and then crediting the rental price of television sets are neutral for detainees. Moreover, in a cell accommodating multiple detainees, certain of whom are recognised to be destitute, the creditworthy detainees pay only their share, and the institution pays the share of the persons considered to lack sufficient resources.

Pursuant to the terms of the circular, neither the behaviour nor the choices made by the detainee in terms of activities can be grounds for excluding aids in kind; however, cash aid can be stopped in atypical cases (in case of refusals or resignations from jobs). The prison administration department specifies, on this subject, that the concept of "*refusal of employment*" must take into account not only the person who refuses to undertake an activity, but also those who refuse to continue it, with the sole reason justifying the exclusion therefore being personal convenience. It added that the examination of the reasons leading to such an exclusion must be detailed and must take into account the ability of the person concerned to exercise the activity concerned.

As regards the evaluation of the financial situation of a person, the DAP indicated that the circular dated 17 May 2013 clearly states that "detainees with inadequate resources are identified by the accounts department of the institution on the basis of the sole criterion of the resources in the personal account". It confirmed that hospitalised detainees are included in the configuration of the GIDE and GENESIS software.

The DAP indicated that it cannot revise the financial criterion of 50 euros and the 20-euro aid, taking into account the upcoming three-year budget. For financial reasons, the 20-euro aid cannot be re-evaluated during festive seasons, all the more so as specific provisions, such as end-of-the-year parcels have been implemented.

> As regards the possibility for people recognised as destitute to have a nest egg, the DAP indicated it would be necessary to modify the criteria set in Article D. 347-1 of the criminal procedure code, which has not been planned

> with respect to the objective of the cash aid, which is to allow detainees without resources to pay money for current expenses, and not for savings.

Finally, an information sheet on the measure of cash aid shall be proposed to the SPIP for improving the information provided to detainees. A study will be conducted by the departments to modify the circular dated 17 May 2013 in consistency with the provisions of Article D. 347-1 of the criminal procedure code.

6.2.4 *Deductions in favour of the Treasury*

> The referrals of several detainees subject to deductions in favour of the Treasury from their personal account due to the deterioration of property belonging to the prison administration highlighted three major difficulties: determining the accountability of the deteriorations, determining the reparation amount and the methods of seizure. Pursuant to the amended Law dated 30 October 2007, the Contrôleur général wished to know the observations of the prison administration department on all of the points mentioned below and to recommend that a stricter legal framework should be planned, especially via a circular or a modification of the statutory provisions. On the day this report was drafted, the prison administration had not yet sent any written reply.

Article D. 332 of the criminal procedure code states that "the prison administration has the option of automatically deducting amounts from the detainees in compensation for material damage caused, without prejudice to the disciplinary and criminal procedures, if any". The reparations for physical damage, as provided for by this Article fall under the third-party liability regime that allows the following information to be established by the head of the institution: the act or action (voluntary or otherwise) of the person, the damage and above all, the causality link between the two.

Several situations submitted to the CGLPL have shown that the characterisation of the damage is not always sufficiently accurate. Moreover, the causality link between the action of the detainee and the damage must be established in a detailed manner by the head of the institution. The proof of the causality link also presumes that the prison administration can establish that the observed damage could have only resulted from the action of the detainee concerned, which gives rise to the question of whether inventories agreed by both parties are systematically executed every time a person enters and leaves a cell.

While, as is, Article D. 332 of the criminal procedure code does not provide for such a mutual exchange - and while even the administrative courts of first instance have agreed that, with very few exceptions, Article 24 of the Law dated 12 April 2000 would not apply in similar cases - the CGLPL deemed that organising a prior mutual exchange between the administration department and the person concerned on the question of accountability would constitute a good practice, which could usefully be sanctioned on the legislative or statutory level in due course. In fact, the consequences of a deduction can be significant with respect to the financial situation of detainees and the effectiveness of the means of remedy, which are in fact quite illusionary due to the expected duration of such a procedure.

> The persons subject to a deduction in favour of the Treasury do not appear to be systematically able to check the quote established to assess the cost of the reparations that they are supposed to fund. When such a quote exists and is shown to them, it is often not very detailed. Most of these quotes do not mention any details on the calculation leading to the sums to be deducted, and the methods of determining the said sums are also questionable. Thus,

> the Contrôleur général questions the methods implemented in order to search for the most economical solutions to replace or repair the property provided to detainees when these operations are attributable to them.

In addition, the sums claimed from the persons correspond, in case the damaged object is to be replaced, to the price of new property, without taking into account their useful value when they were damaged. While this effectively concerns the principle applied by the court and administrative judges for providing reparations for the physical damage, this situation once again leads to questioning the compensation regime for detainees in case of the loss or deterioration of property falling under the responsibility of the prison administration, which results in the application of a dilapidation rate pursuant to a notice dated 6 February 2008. In this respect, the CGLPL renewed the recommendation formulated in its Opinion dated 10 June 2010 pertaining to the protection of the property of detainees, stating that the compensation for lost or damaged property should be determined using the value of the new property. These difficulties in determining the amount of the deduction also give rise to three questions on the possibility of controlling the prices imposed, the possibility for the detainee concerned to dispute the amount and the verification of the effective repairing of the equipment for which the deduction was made.

The method used to deduct the money in question appears, in certain aspects, to be problematic. While certain heads of institutions do not continue the deductions once the person settles a part of the amount due and/or is transferred, the taking into account of the poverty and/or special situation of persons in certain other institutions appears, on the other hand, to still require some refining.

It appears that there is no text specifically detailing the calculation of the deductions made in favour of the Treasury. It seems logical that this procedure, being not very well formalised, should not be more restrictive for detainees than similar legal procedures, such as seizures of garnishment or seizures of remunerations. Accordingly, seizures of garnishment must be executed such that the persons concerned retain, on the portion available in their personal account, the monthly maintenance amount of 200 euros or unseizable allocations that they may possibly be beneficiaries of, if this limit is exceeded. It would therefore appear to be useful to precisely frame the possibility of rescheduling and the amount of the debits made, as well as to remind the services concerned that the amounts received by the persons as allocations or pensions are unseizable in nature and cannot be subject to a deduction in favour of the Treasury under any circumstances.

6.2.5 *The impossibility of buying electronic cigarettes in the canteens of certain penal institutions*

The question of the use of electronic cigarettes in detention by detainees has already been detailed in the activity report 2014. As a reminder, the Contrôleur général referred the matter to the director of the prisons administration on 16 December 2013 in order to be informed of her point of view with regard to this issue, the instructions given to heads of institution and, if necessary, to be provided with objective elements establishing grounds for the conclusion that they present risks for the security of institutions. Via the notice dated 11 August 2014, the prisons administration department authorised the use of electronic cigarettes in penal institutions, for both staff and detainees, under the same conditions as the use of tobacco.

Yet, the Contrôleur général was informed that electronic cigarettes could not be bought from the canteen of the prison of Meaux-Chauconin. She therefore referred the case to the prison director in order to know his point of view on the reasons for this ban. In his reply, the head of the institution stated that despite the notice dated 11 August 2014 pertaining to the use of electronic cigarettes in penal institutions and services, he did not wish to authorise the sale of this product in the canteen due to "their proven risk of explosion [...]".

The Contrôleur général wished to know the observations of the director of the interregional department of prison services on the information given in the response of the head of the institution, and in particular on the soundness of electronic cigarettes in his institution. A reminder of the provisions of the notice from the prisons administration department dated 11 August 2014, which authorises the purchase of electronic cigarettes in detention, was sent to the head of the institution.

Another detainee had informed the CGLPL of the impossibility of purchasing electronic cigarettes from the canteen of the prison in which he was incarcerated. The administration department of the institution was therefore informed of this and in reply, stated that the presented models had USB ports and could constitute security problems. It therefore wished to study alternative possibilities (such as single-use models), while specifying that a discussion was in progress with the private service provider to offer them on sale in the canteen as soon as possible. By a letter dated 8 August 2015, the Contrôleur général was informed that single-use electronic cigarettes were now on sale in the canteen, and that the selected model was validated and the first canteen vouchers had been distributed in the prison.

Chapter 4

Assessment of the work of the Contrôleur général of places of deprivation of liberty in 2015

1. Relations with public authorities and other legal entities

1.1 The institutions of the State

As is the case every year, the Contrôleur général of places of deprivation of liberty met the President of the Republic and the Chairpersons of the National Assembly and the Senate to submit her annual report.

> The Contrôleur général was heard by two committees of inquiry of the Senate, one on the organisation and means of fighting against Jihadist networks in France and Europe, and the other on the assessment and oversight of the creation, organisation, activity and management of independent government agencies.

In addition, she was heard by the Judiciary Committee of the Senate three times, once on the bill pertaining to intelligence, once on the credits of the prisons administration programme for the money bill for 2016 and once on the credits of the programme for the protection of rights and liberties for the same finance bill.

The Contrôleur général of places of deprivation of liberty also maintained regular contact with the independent government agencies that were involved in spheres of competence complementary to her own. She met the Defender of Rights and his deputy in charge of the code of ethics of security; she spoke with the President of the French independent scientific public authority contributing to regulation of the quality of the health system; she spoke before the full meeting of the National Consultative Commission on Human Rights.

As regards the Government and related bodies, the Contrôleur général, in addition to the regular formal and informal relations that she maintains with the Keeper of the Seals, met with the Minister of Foreign Affairs, to whom she presented the actions of the CGLPL in the international domain and the strategy that she intends to develop. In fact, the prevention of torture and inhumane and degrading treatment as well as the respect of the fundamental rights of persons deprived of liberty is, today, a major issue on the international stage. This is why, as there are no normal functional relationships with the diplomatic services, it would be useful to set up information actions for the various posts.

She also met with the Secretary of State for digital affairs, as part of preparing the bill for a Digital Republic. On this occasion, she especially highlighted that several persons deprived of liberty, especially patients hospitalised without consent or foreign nationals placed in detention, are deprived of access to digital technology even though no provision imposes such a restraint. She also highlighted that, for detainees, accessing digital technology, which naturally requires supervision, is an essential factor in reintegration. In this respect, since the situation observed in

prisons is far below the desired standards, the Contrôleur général highlighted the opportunity of inserting incentives in the law.

> Also, the Contrôleur général participated in the policy committee for the internal oversight of the national police, during which the question of placing people in custody was treated on the request of the CGLPL. On this occasion, she submitted a report of the observations made by the CGLPL over the course of the seven years of its existence. It contains the major themes summarised in the first chapter of this report.

She was also heard by the High Council for Public Health as part of the evaluation of the psychiatry and mental health plan 2011-2015. In particular, she spoke of her willingness to make treatment without consent a priority in her mandate, and insisted on the insufficient nature of the treatment of mental disorders in prison environments due to the very low capacity of the SMPR and the UHSA; she also gave a reminder on the constant recommendations of the CGLPL concerning the use of seclusion and restraints. She highlighted the essential nature of judicial oversight in healthcare without consent.

1.2 Non-Public Legal Entities

While submitting her annual report for 2014, the Contrôleur général of places of deprivation of liberty met with all of the organisations representing the staff employed in institutions under its oversight, as well as the associations that assist persons deprived of liberty.

These interviews allowed exchanging views on:

- the role of the families of persons placed under treatment without consent;
- telephone access for detainees;
- controlling Islamist radicalisation in prisons;
- the use of house arrest in deportation procedures;
- the role of associations in detention centres for illegal immigrants.

Meetings were also organised with the associations, individually or in small groups, that according to their domains (rights of detainees or hospitalised persons, rights of foreign nationals, etc.). Regular contacts were also maintained as part of referrals, with the institution emphasising the interest of their testimonies and reports.

> Finally, in order to spread the word on the institution, its tasks and its observations, the Contrôleur général endeavoured to reply positively to invitations to intervene in training courses, symposiums, public meetings or conferences, wherever its participation seemed justified and limited by the constraints of the schedule of visits to penal institutions.

Thus, the Contrôleur général participated in various public meetings or conferences. A few major ones were:

- the psychiatry and justice symposium organised by the public mental health institution of the conurbation of Lille, on the theme "respect of fundamental rights and deprivation of liberty";
- a round table conference on the future of the healthcare system organised by the French National Order of Doctors;

- a round table conference on healthcare without consent during the general meeting of the Hospital Psychiatrists' Trade Union;
- the "Medical responsibility and patients' rights" symposium organised by the Charles Perrens hospital practitioners' association for training and research;
- the national psychiatry and mental health committee of the Federation of hospitals and personal aid establishments [*Fédération des établissements hospitaliers et d'aide à la personne*];
- the symposium of the French national association of external assessors in the disciplinary committee of penal institutions;
- the Prison Justice day of the French Red Cross;
- a debate-conference on the theme "the question of prisons in France" organised by the Rights and Democracy association;
- a conference on prison conditions, organised by the Grand Orient de France;
- a meeting on the legal issues of cases related to terrorism and on de-radicalisation, organised by the Secretaries of Conference of the Bar of Paris;
- the debate dedicated to justice for children and adolescents, organised on the 70th anniversary of the Order dated 2 February 1945 pertaining to juvenile delinquency.[10]

1.3 International Relations

> Drawing one of its sources from the optional protocol to the United Nations convention against torture (OPCAT), the Contrôleur général plays a major role in Europe and across the globe. In 2015, the Contrôleur général wished to strengthen and develop this position, by creating a post dedicated to international relations. Moreover, the different aspects of its action were developed.

At the multilateral level, the Contrôleur général consolidated her links with the international organisations that act to prevent torture, emphasising her commitment to promoting the optional protocol to the United Nations convention against torture (OPCAT). In particular, she visited Geneva, where she participated in a full session of the United Nations Subcommittee on the Prevention of Torture (SPT). This exchange allowed exploring new means of collaborating with the experts. In the same perspective, she also met with representatives of the High Commissioner for Human Rights, the Special Rapporteur against torture, and the International Red Cross Committee.

Moreover, the Contrôleur général participated in a conference on the best practices and challenges related to the implementation of the OPCAT in creating national prevention mechanisms, in Rabat, organised by the Association for the Prevention of Torture (APT) and the Moroccan national human rights commission.

In March 2015, the Contrôleur général participated in **promoting the International Convention on the Rights of the Child**, by participating in the United Nations Committee's examination of the situation of the rights of the child in places of deprivation of liberty in France. Accordingly, the 5th periodic report of France will be examined during the 70th session of the

[10] *The list of public interventions of the Contrôleur général is available on the agenda of the institution's website (www.cglpl.fr).*

Committee in 2016. The Contrôleur général, along with other independent authorities and associations, was able to exercise its observations to ensure that the implementation of the convention progressed.

The Contrôleur général offered its support for various events organised by the Association for the Prevention of Torture (APT). Thus, it participated in the Jean-Jacques Gautier Symposium for national prevention mechanisms, dedicated to the vulnerability of persons deprived of liberty, during which the situations of LGBT people in places of imprisonment was examined in particular.

Finally, members of the APT team were hosted during several visits to places of deprivation of liberty.

At the European level, the year 2015 was marked by the twenty-fifth anniversary of the **Council of Europe's Committee for the Prevention of Torture (CPT)**, which conducted its twelfth periodic visit to France from 15 to 27 November. It visited law enforcement institutions, penal institutions and psychiatric institutions. As usual, the Contrôleur général worked in close collaboration with the CPT. The Contrôleur général welcomed the delegation at the start of the visit and was part of the meetings during which the latter made its preliminary observations to the Minister of Justice, the Minister of Social Affairs, Health and Women's Rights, and the Minister of the Interior.

> In the current context of massive movements of refugees and migrants towards Western Europe, the Contrôleur général participated in a conference of the network of the national prevention mechanisms (MNP) of South-East Europe in Tirana, on the question of the treatment of migrants and asylum seekers in places of imprisonment in South-East Europe. During an visit of forced returns, it coordinated its activity with that of the Albanian Ombudsman, at the head of the MNP, such that the latter was able to act as a relay for overseeing the arrival conditions of Albanian nationals once handed over to the authorities of their countries.

Being concerned about feeding the debates concerning effective working methods for preventing torture and poor treatment, the Contrôleur général will, in 2016, participate in a European study focused on the links between national prevention mechanisms and the players in the legal world. In 2014, the institution had already participated in a study aimed at reinforcing the monitoring of the recommendations given by the national prevention mechanisms, published in 2015 after the final conference of Vienna, in which the Contrôleur général had participated. This study, directed by the Ludwig Boltzmann Institute for human rights and the human rights centre of the University of Bristol, was funded by the Council of Europe, the European Commission and the Norwegian Minister of Foreign Affairs.

At the bilateral level, the Contrôleur général strengthened bonds and communication with its counterparts or national institutions involved in the prevention of torture.

Firstly, it pledged its support to the national monitoring team of Tunisia, which comprises thirteen associations defending human rights. This team, comprising a steering committee, concluded a formal agreement to inspect the places of deprivation of liberty in Tunisia, with the support of Dignity, the Danish institute against torture. The latter had called on the Contrôleur général in 2014 to provide theoretical training to the national monitoring team. A new session was conducted in May 2015, focusing on the methodology of monitoring places of imprisonment.

In addition, the Contrôleur général was invited by the National Commission on the Prevention of Torture (Conaprev), the Honduran MNP, to communicate about visits of places of deprivation of liberty in Honduras. This invitation, coordinated with the support of the APT,

followed an initial phase in which the members of the Conaprev had participated in the visit of places of imprisonment in France, along with several teams of the Contrôleur général.

Finally, as is the case every year, the Contrôleur général received several foreign delegations. Nevertheless, in 2015, it once again participated in the **training activities** of its European counterparts: as part of a project of the Council of Europe, it hosted the Ombudsman of Montenegro, in which the national prevention mechanism was only recently instituted. The Ombudsman and his team, in charge of the MNP, thus visited for two days in order to communicate on the methodology of the oversight and the strategy of the institution. In the same manner, a project of the European Commission included a visit of the Ombudsman of Kosovo and his team, who spent one day of study with the Contrôleur général.

2. Cases Referred

Article 6-1 of the amended Law dated 30 October 2007, instituting the Contrôleur général of places of deprivation of liberty, 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 year 2015 was marked by the arrival of two new inspectors in charge of referrals, in March and April respectively. Through these recruitments, the Contrôleur général had two objectives: to reduce the response time to referrals addressed to the Contrôleur général of places of deprivation of liberty and to execute more verifications on site. While the average response time is still equivalent to that of 2014, efforts have been made by the team to achieve this goal. In addition, seven verifications were conducted on site during 2015.

The inspectors in charge of the referrals, delegated by the Contrôleur général for conducting on-site verifications, benefit from the same prerogatives as at the time of visits: 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. As part of these on-site verifications, medical privilege may be lifted under the conditions provided for in Article 8-1 of the amended Law dated 30 October 2007. This provision was not used during 2015 in this respect.

When these visits have been completed and after having received the observations of the competent authorities with respect to the denounced situation, the Contrôleur général may make recommendations pertaining to the facts or situations to the person responsible for the place of deprivation of liberty concerned. These observations and recommendations may be made public.

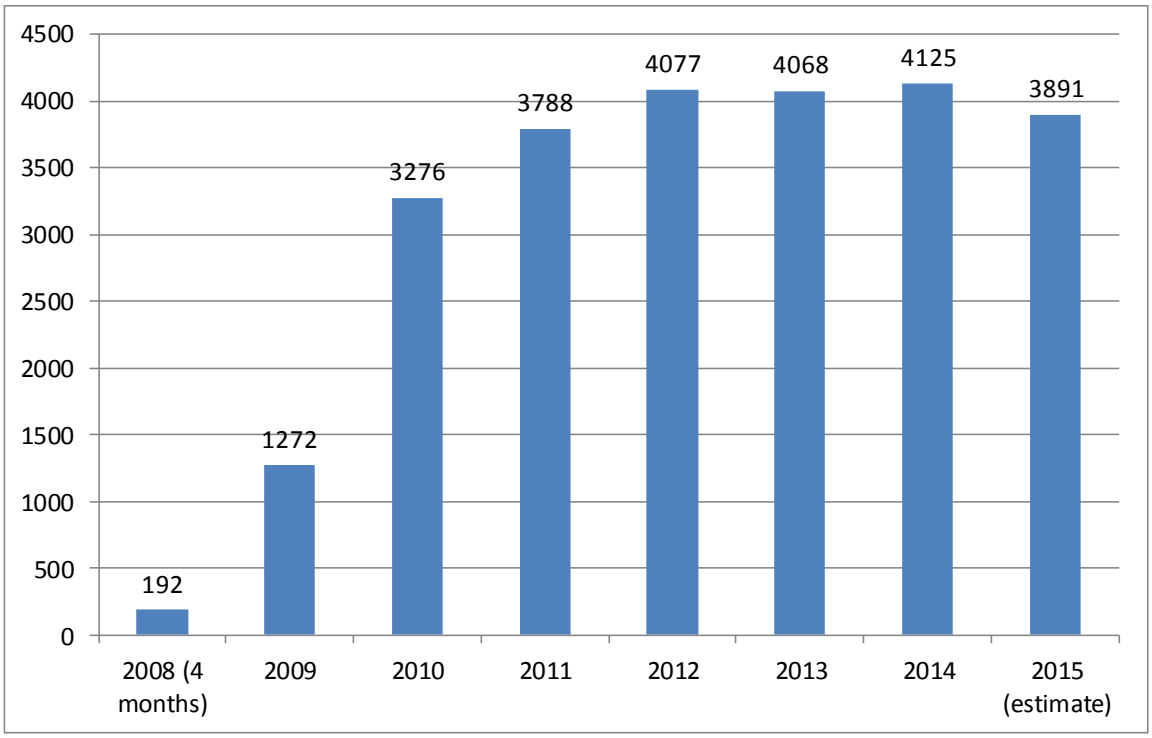
2.1 Analysis of the cases referred to the CGLPL in 2015

2.1.1 *Letters received*

Overall volume of the number of letters sent to the CGLPL per year

After an increase of approximately 2% in the number of letters sent to the CGLPL between 2013 and 2014, the year 2015 recorded a decrease of approximately 5% in referrals received. However, it must be noted that the total number of referral letters received has remained close to 4000; it can therefore be estimated that it has been relatively stable over the past five years.

Out of the letters of referral as a whole received between 1 January and 30 November 2015, an average of two letters (2.07) concerned the same person's situation.



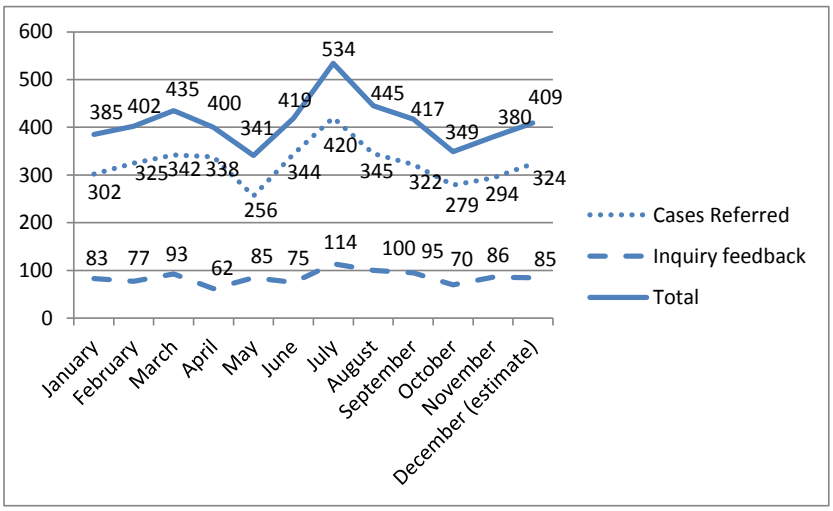
2008 (4 months) 2015 (estimate)

Percentage increases

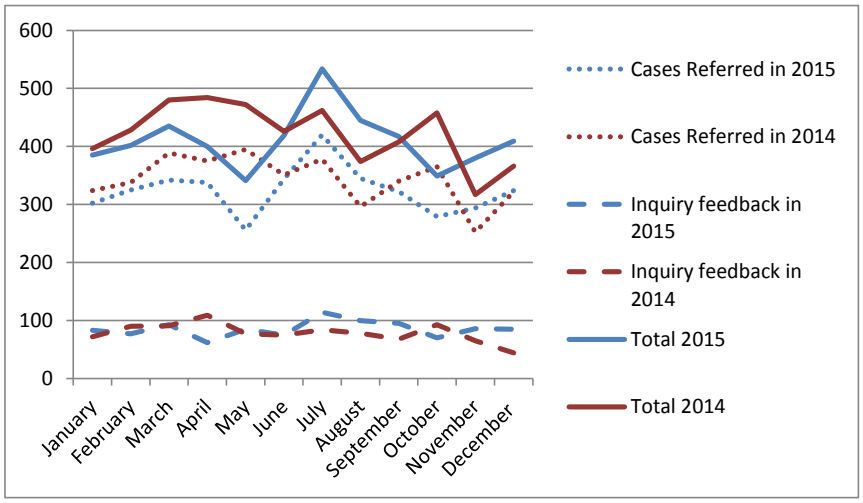
- 2009 / 2008: 231% (or x 3.3)[11]
- 2010 / 2009: 158% (or x 2.6)
- 2011 / 2010: 16% (or x 1.2)
- 2012 / 2011: 7.6% (or x 1.08)
- 2013 / 2012: -0.22% (or x 0.998)
- 2014 / 2013: 1.99% (or x 1.02)
- 2015 / 2014: -5.57% (or x 0.95)

[11] *The estimate of 384 letters over a full year has been retained for 2008.*

Monthly trends of numbers of letters received [12]



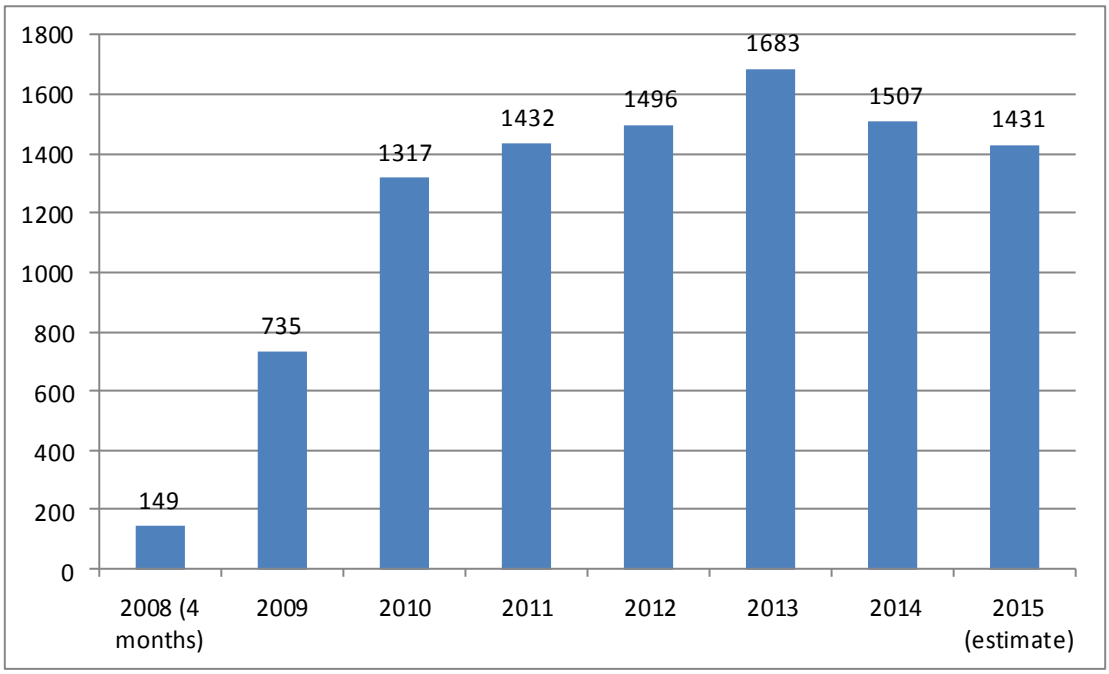
Comparison of the number of letters received 2014/2015



[12] *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 framework of verifications.*

2.1.2 *Persons and Places Concerned*

Number of Persons Deprived of Liberty (or groups of persons) concerned by cases referred to the CGLPL for the first time



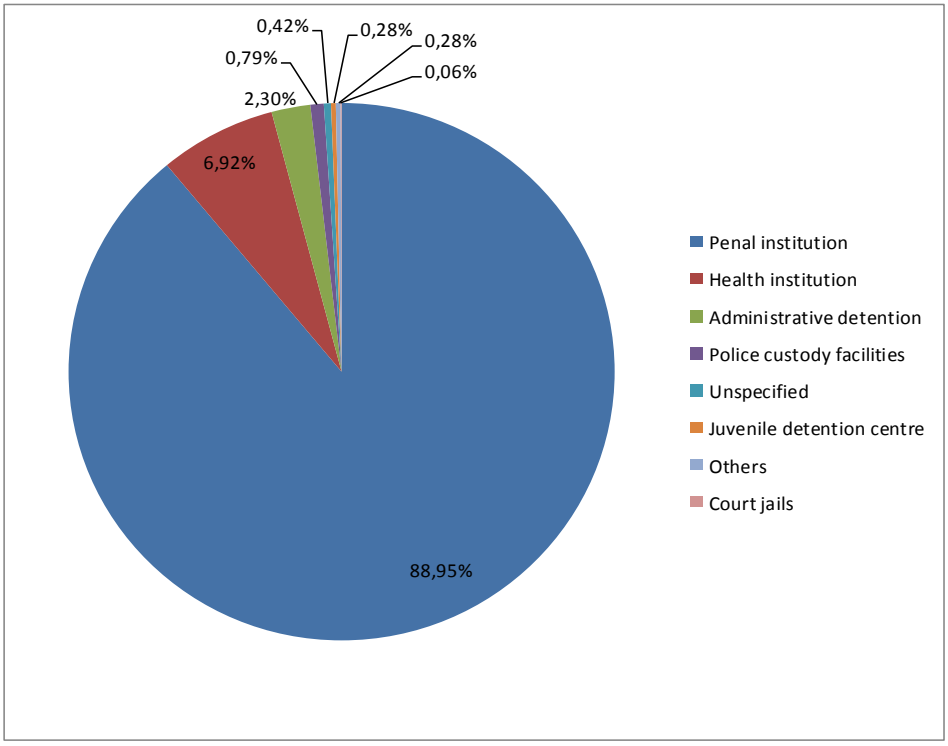
Distribution of cases by category of person referring them and nature of the institution concerned (January-November 2015)

	Person concerned	Family / relatives	Lawyer	Association	Others[13]	AAI	Participants	Doctors / medical staff	Staff	TOTAL	Percentage
PENAL INSTITUTIONS	**2420**	**304**	**146**	**101**	**105**	**42**	**30**	**20**	**5**	**3173**	**88.95%** of LPL
CP - prison	1187	140	47	40	37	19	13	13		1496	47.15% of EP
MA - Remand prison	599	81	68	26	34	13	11		5	837	26.38%
CD - detention centre	460	66	15	18	18	7		3		587	18.50%
MC - long-stay prison	130	8	5	10	6	2	4			165	5.20%
Hospitals (UHSA, UHSI, EPSNF)[14]	22	7	10	1	2	1	1	4		48	1.51%
Unspecified EP	6	1		2	3					12	0.38%
CNE - national assessment centre	11									11	0.35%
ALL		1	1	4	2					8	0.25%
EPM - Prison for minors	4				3		1			8	0.25%
CSL - Open Prison	1									1	0.03%

[13] *The "others" category includes: 43 "others", 39 fellow persons deprived of liberty, 17 individuals, 9 trade unions, 7 professional organisations, 6 unknown persons, 4 heads of institutions, 3 members of parliament, 2 judges and 1 CPIP.*
[14] *Out of which, 27 referrals pertained to a UHSA, 3 to a UHSI and 18 to the EPSNF.*

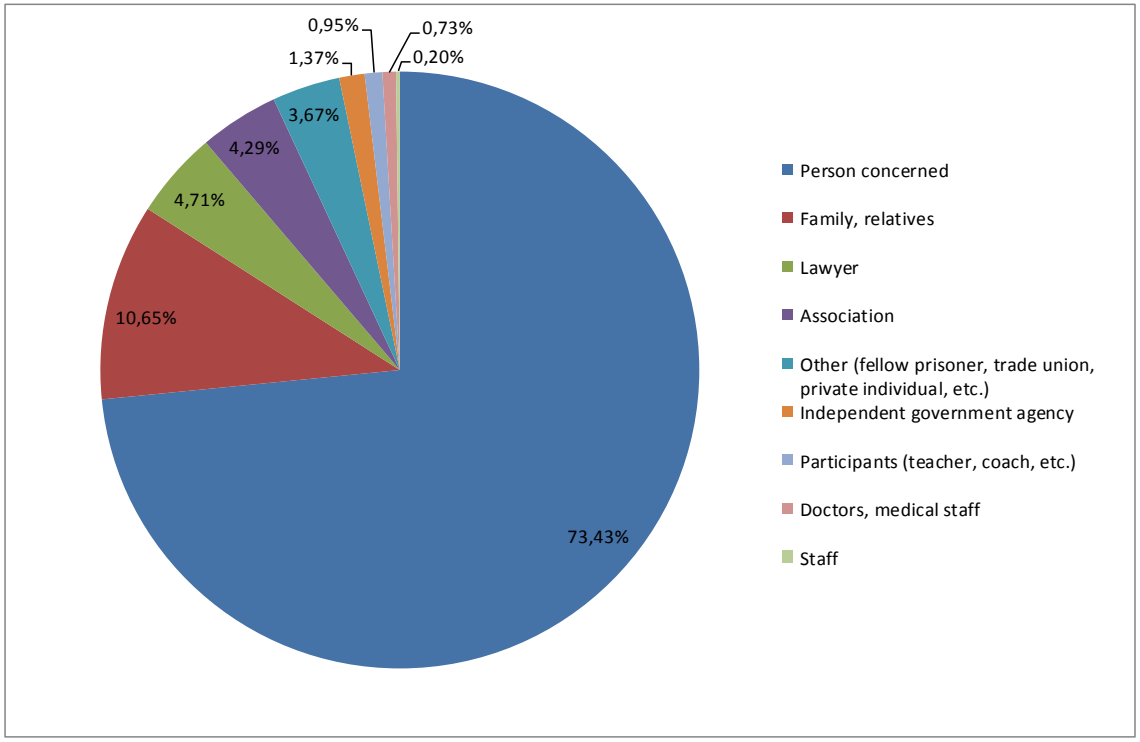
	Person concerned	Family / relatives	Lawyer	Association	Others[15]	AAI	Participants	Doctors / medical staff	Staff	TOTAL	Percentage
HEALTH INSTITUTIONS	**158**	**60**	**5**	**3**	**13**		**2**	**5**	**1**	**247**	**6.92%** of LPL
EPS - public psychiatric institution	78	31	1	2	6		2	3	1	124	50.20% of ES
UMD - Unit for difficult psychiatric patients	24	17			1			1		44	17.81%
EPS - public health institution psychiatric department	30	7	1		4			1		43	17.42%
EPS - Unspecified	21	3	1		1					26	10.53%
Private institution with psychiatric treatment	2	1		1						4	1.62%
EPS - other	3	1								4	1.62%
EPS - secure rooms			1							1	0.40%
EPS - all			1							1	0.40%
ADMINISTRATIVE DETENTION	**16**	**2**	**8**	**46**	**6**	**4**				**82**	**2.30%** of LPL
CRA - Detention centre for illegal immigrants	15	2	5	42		2				72	87.80% of RA
ZA - waiting area			3	2		2				7	8.54%
Deportations	1			2						3	3.66%
CUSTODY FACILITIES	**11**	**2**	**7**	**3**	**1**	**3**		**1**		**28**	**0.79%** of LPL
CIAT - police stations and headquarters	8	1	4	2	1	3		1		20	71.44% of GAV
BT - territorial gendarmerie	1	1								2	7.14%
Customs	2									2	7.14%
PAF - Border police			1	1						2	7.14%
Specialised units			1							1	3.57%
GAV - other			1							1	3.57%
UNSPECIFIED	**10**	**2**			**3**					**15**	**0.42% of LPL**
JUVENILE DETENTION CENTRES	**1**	**5**			**1**		**2**		**1**	**10**	**0.28% of LPL**
OTHERS[16]	**3**	**5**			**2**					**10**	**0.28% of LPL**
COURT JAILS			**2**							**2**	**0.06% of LPL**
TOTAL	**2619**	**380**	**168**	**153**	**131**	**49**	**34**	**26**	**7**	**3567**	**100%**
PERCENTAGE	**73.43%**	**10.65%**	**4.71%**	**4.29%**	**3.67%**	**1.37%**	**0.95%**	**0.73%**	**0.20%**	**100%**	

[15] The "others" category includes: 43 "others", 39 fellow persons deprived of liberty, 17 individuals, 9 trade unions, 7 professional organisations, 6 unknown persons, 4 heads of institutions, 3 members of parliament, 2 judges and 1 CPIP.
[16] Including eight letters related to the EHPAD and retirement homes



Category of place concerned	Statistics drawn up on the basis of the 1st letter referring the case		Statistics drawn up on the basis of the letters received as a whole				
	2009	2010	2011	2012	2013	2014	2015
Penal institution	87%	91.42%	94.15%	93.11%	90.59%	90.28%	88.95%
Healthcare institution	6%	5.32%	3.48%	4.24%	5.88%	6.40%	6.92%
Administrative detention	-	0.99%	0.71%	1.10%	1.18%	1.21%	2.30%
Police custody facilities	-	1.21%	0.29%	0.74%	0.61%	0.80%	0.79%
Unspecified	-	0.30%	0.42%	0.47%	0.42%	0.39%	0.42%
Juvenile detention centre	-	0.23%	0.05%	0.15%	0.12%	0.19%	0.28%
Others	7%	0.38%	0.79%	0.12%	1.16%	0.70%	0.28%
Police cells	-	0.15%	0.11%	0.07%	0.04%	0.03%	0.06%
Total	100%	100%	100%	100%	100%	100%	100%

The year 2015 experienced a significant increase in the number of referrals pertaining to persons deprived of liberty in administrative detention (CRA, ZA and deportation), as in 2015, these places represented 2.30% of referrals as compared to 1.21% in 2014. This increase can mainly be explained by the rise in the number of letters received from lawyers and associations (see below), most of which are the source of the referrals and pertain to administrative detention cases (CRA, ZA and deportation).



Category of persons referring cases to the inspectorate	Statistics drawn up on the basis of the 1st letter referring the case		Statistics drawn up on the basis of the letters received as a whole				
	2009	2010	2011	2012	2013	2014	2015
Person concerned	80.93%	80.33%	77.61%	77.90%	75.57%	71.10%	73.43%
Family, relatives		7.14%	9.37%	10.94%	12.81%	13.04%	10.65%
Lawyer	7.08%	3.49%	2.85%	3.68%	2.58%	3.49%	4.71%
Association	5.04%	3.87%	3.02%	2.97%	2.93%	4.39%	4.29%
Independent government agency	1.91%	1.21%	0.79%	0.81%	0.96%	1.79%	1.37%
Participants (teacher, coach, etc.)	Unknown	0.61%	0.58%	0.74%	0.64%	0.70%	0.95%
Doctors, medical staff	0.95%	0.84%	1.24%	0.76%	1.20%	1.25%	0.73%
Member of Parliament	1.50%	0.76%	0.32%	0.29%	0.10%	0.22%	0.08%
Other (fellow prisoner, trade union, private individual, etc.)	2.59%	1.75%	4.22%	1.91%	3.21%	4.02%	3.79%
Total	100%	100%	100%	100%	100%	100%	100%

The awareness raising campaign for lawyers conducted by the Contrôleur général and her employees has resulted in a significant increase in the number of cases referred by lawyers: from 3.49% in 2014 to 4.71% in 2015.

The strengthening of bonds with the associations is also a priority for the Contrôleur général; regular meetings will be scheduled in order to make them aware of the role of information and relay that they can ensure between persons deprived of liberty and the Contrôleur général.

2.1.3 *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). In view of the small number of letters received concerning police custody facilities, detention of illegal immigrants and young offenders' institutions, the primary grounds for the referral of cases presented below only concern penal and health institutions.

Healthcare institutions receiving patients hospitalised without their consent: Primary grounds according to the category of person referring the case

Order of grounds 2014	Psychiatric hospital grounds	Person concerned	Family / relatives	Doctors / medical staff	Lawyer	Association	Trade union	Others	Total		% 2014	% 2013	% all grounds combined (primary and secondary) 2014
1	PROCEDURE	78	14	1	3	2		4	102	40.49%	44.26%	37.13 %	↘24.59%
	Dispute of hospitalisation	66	9			2		4	81				
	JLD procedure	3			3				6				
	Non-compliance with procedure	5	1						6				
	Other information.	2	1	1					4				
	Medical treatment committee	2	1						3				
	Dispute of UMD transfer order		2						2				
2	ACCESS TO HEALTHCARE	11	9	1			1	1	23	9.13%	12.77%	7.92%	↗17.69%
	Access to psychiatric healthcare	7	5						12				
	Healthcare programme	3		1			1	1	6				
	Access to medical records		2						2				
	Relations with general practitioner	1	1						2				
	Access to somatic healthcare		1						1				
3	RELATIONS WITH THE OUTSIDE WORLD	12	6	1					19	7.54%	5.11%	9.41%	↗10.02%
	Telephone	6							6				
	Visits	1	3						4				
	Correspondence	4							4				
	Notification of family		3						3				
	Communication with the authorities			1					1				
	Trusted person	1							1				
4	SECLUSION	5	9			1		2	17	6.75%	3.39%	4.46%	↘6.01%
	Duration	1	6			1			8				
	Seclusion room conditions	2	1						3				
	Grounds provided	2							2				

	Protocol		1					1	2				
	Other information.		1					1	2				
5	PREPARATION FOR DISCHARGE	13	1						14	5.56%	7.66%	4.95%	↘4.92%
	Discharge from hospitalisation	10	1						11				
	Preliminary discharge	3							3				
6	MATERIAL CONDITIONS	8	1		1		1		11	4.37%	3.39%	4.46%	↗4.74%
	Accommodation	5					1		6				
	Hygiene / Upkeep	1			1				2				
	Clothing		1						1				
	Food	1							1				
	Other information.	1							1				
7	STAFF WORKING CONDITIONS		9						9	3.57%	5.11%	-	↘2.55%
	Doctors' working conditions		7						7				
	Nursing staff's working conditions		2						2				
8	PATIENT/STAFF RELATIONS	5	2		1				8	3.17%	5.11%	5.94%	↗4.55%
	Confrontational Relations	4	1						5				
	Respect	1	1						2				
	Use of force				1				1				
8	ASSIGNMENT	4	1	2			1		8	3.17%	4.26%	6.44%	↗3.46%
	Readmission after UMD	2		1					3				
	Assignment to inappropriate unit	1		1			1		3				
	Assignment outside sector		1						1				
	Other information.	1							1				
8	LEGAL INFORMATION AND ADVICE	2	6						8	3.17%	-	-	↗5.83%
	Exercising means of remedy	1	3						4				
	Miscellaneous information	1	2						3				
	Internal rules		1						1				
-	OTHER GROUNDS[17]	5	1					2	8	3.17%	8.94%	19.29 %	↗3.27%
9	UNSPECIFIED	7							7	2.78%	-	-	↘1.28%
10	RESTRAINTS	4						2	6	2.38%	-	-	↗3.27%
	Conditions	2						1	3				
	Other information.	2							2				
	Grounds provided							1	1				
11	INTERNAL ORDER	3						2	5	1.98%	-	-	↗4.55%
	Confiscated items	2							2				
	Management of incidents	1							1				
	Patient security							1	1				
	Other information.							1	1				
11	OVERSIGHT (REQUEST FOR INQUIRY - CGLPL)	4	1						5	1.98%	-	-	↘1.08%

[17] *Letters concerning the other grounds are not enough in number to be significant. They pertain to the financial situation of the patient, the exercising of the right to vote, provision of religious services, physical violence between patients and the treatment of requests.*

12	ACTIVITIES (WALKING)	1		1					2	0.79%	-	-	↗2.19%
	Total	162	60	6	5	3	3	13	252	100%	100%	100%	100%

In 2015, the three primary grounds for referral of cases concerning healthcare institutions were therefore: procedures/access to healthcare/relations with the outside world.

In previous years, they were as follows:

- procedures/preparation for discharge/seclusion (2010);
- procedures/preparation for discharge/assignment (2011);
- procedures/assignment/access to legal information and advice (2012);
- procedures/relations with the outside world/access to healthcare (2013);
- procedures/access to healthcare/preparation for discharge (2014).

In 2015, with all grounds combined, the primary grounds were as follows: procedures/access to healthcare/relations with the outside world. In 2014, they were: procedures/access to healthcare/preparation for discharge and relations with the outside world.

Penal institutions: Primary grounds according to the category of person referring the case

Order of grounds 2015	Penal institution grounds	Person concerned	Family / relatives	Lawyer	Association	Others	AAI	Fellow inmate	Intervening staff of the	Doctors / medical staff	Individual	Total	% 2015	% 2014	% 2013	% all grounds combined (primary and secondary) 2015
1	TRANSFER	267	49	27	7	3	2	1	1			357	11.26%	12.64%	13.79%	↘8.24%
	Requested transfer	183	35	25	7	2		1	1			254				
	Conditions of the transfer	45	4			1	2					52				
	Administrative transfer	29	8									37				
	International transfer	9										9				
	Others	1	2	2								5				
2	RELATIONS WITH THE OUTSIDE WORLD	219	64	9	11	2	2	1	4		3	315	9.93%	9.33%	8.13%	↘9.17%
	Correspondence	92	9	1	8		1		2			113				
	Access to visiting rights	46	27	1	2							76				
	Visiting room conditions	34	19	2	1	1			2		1	60				
	Telephone	19	1	2		1					1	24				
	UVF family visiting rooms	12	4	2				1				19				
	Maintenance of parent/child bonds	13	1									14				
	Others	3	1	1			1				1	7				
	Notification to family		2									2				
3	ACCESS TO TREATMENT	193	45	20	9	7	5	3	6	5	1	294	9.27%	9.42%	9.53%	↗10.01%
	Access to somatic healthcare	81	16	10	5	5	1	3	2		1	124				

	Access to specialised healthcare	38	5	2	2		1		2			50				
	Access to hospitalisation	21	8	1		1	2		1	3		37				
	Access to psychiatric healthcare	16	11	1	1	1			1	1		32				
	Distribution of medicines	9	3		1							13				
	Paramedical devices	5		2						1		8				
	Medical services/prisons administration/police relations	6		1			1					8				
	Others	6	1	1								8				
	Consent to treatment	2	1	1								4				
	Access to medical records	3		1								4				
	Preventive healthcare	3										3				
	Management of internal movements	3										3				
4	PRISONER/STAFF RELATIONS	237	18	8	8	8	7	6	1			293	9.24%	10.43%	9.68%	↘7.25%
	Confrontational relations	160	11	3		3	2	3				182				
	Violence	51	7	5	7	3	5	3	1			82				
	Disrespect	22				2						24				
	Others	4			1							5				
5	MATERIAL CONDITIONS	223	17	9	13	9	7	2	3		1	284	8.96%	8.17%	8.82%	↗13.75%
	Accommodation	48	6	1	4	5	4		1			69				
	Hygiene/upkeep	51	4	2	8		2	1				68				
	Food	39	1	4		1		1	1			47				
	Canteens	37	2	2	1	2	1		1			46				
	Changing/search room	25	3									28				
	Television	12	1									13				
	Others	11				1					1	13				
6	PREPARATION FOR RELEASE	160	27	11	8	5	1	6	3	3	1	225	7.09%	7.85%	7.30%	↘6.30%
	Reductions of sentence	114	24	8	5	3	1	6	1	3	1	166				
	SPIP / Preparation for discharge	31	2			1						34				
	Administrative formalities	7	1	1	2				2			13				
	Deportation procedures	2		2	1							5				
	Relations with outside bodies	3				1						4				
	Sentence enforcement programmes	2										2				
	Others	1										1				
7	ACTIVITIES	173	7	3	10	3	1	2	4	1	2	206	6.50%	7.29%	6.61%	↗7.88%
	Work	85	3	1	3	2				1		95				
	Computing	34	4	2	3							43				
	Education/training	21			2	1		1			2	27				
	Walks	17			2			1				20				
	Socio-cultural activities	4							4			8				

	Others	5					1					6				
	Sports	3										3				
	Library	2										2				
	Management of internal movements	2										2				
8	INTERNAL ORDER	144	13	18	8	1	6	6	4		1	201	6.34%	6.13%	6.52%	↗8.24%
	Discipline	84	10	3	2	1		1	1			102				
	Body searches	33		11	1		4	3	3		1	56				
	Security devices	11		2	1							14				
	Cell searches	6	3				1					10				
	Use of force/violence			2	3			1				6				
	Management of movements	3						1				4				
	Use of means of restraint	2			1							3				
	Confiscation of property	2										2				
	Pat downs	1					1					2				
	CCTV surveillance	1										1				
	Fire safety	1										1				
9	RELATIONSHIP BETWEEN PRISONERS	131	21	11	1	7	3	2		2	1	179	5.64%	5.35%	5.78%	↘4.14%
	Threats/racketeering/theft	82	13	3		4	1	1		1	1	106				
	Physical violence	35	8	8	1	1	1	1		1		56				
	Measures taken after an offence	10				1	1					12				
	Others	3				1						4				
	Gifts between prisoners	1										1				
10	PROCEDURES	133	15	3	2	5	2			1		161	5.08%	6.60%	6.76%	↘3.71%
	Dispute of procedure	70	8	3		3	2					86				
	Execution of sentences	31	3		1	1				1		37				
	Procedural questions	18	2		1							21				
	Disclosure of grounds for imprisonment	14	1			1						16				
	Others		1									1				
11	LEGAL INFORMATION AND ADVICE	95	3	4	2							104	3.28%	1.74%	1.79%	↗4.61%
	Information	26										26				
	Means of remedy	29		1								30				
	Access to personal data – GIDE/CEL, etc.	13	1		1							15				
	Welfare rights (CPAM State health insurance office, etc.)	13	2									15				
	Access to lawyers	11		2	1							14				
	Interpreter services	2		1								3				
	Others	1										1				
12	OVERSIGHT (CGLPL – request for inquiry)	97	1	1			2		1			102	3.22%	2.38%	1.25%	↘1.53%
13	INTERNAL ALLOCATION	85	2	6	3	1	1					98	3.09%	2.59%	3.13%	↘2.43%
	Allocation of cells	51	1	3	1		1					57				

	Differentiated regime	23	1		1	1						26				
	New arrivals wing	6		1								7				
	Loss of property	3		1								4				
	Others	2		1	1							4				
14	FINANCIAL SITUATION	86	2	2	2	1	1			1		95	3.00%	2.35%	2.32%	↗3.29%
	Personal account	36	2	1		1	1					41				
	Taking poverty into account	24										24				
	Welfare benefits and allocations	8								1		9				
	Guarantee fund	7			2							9				
	Others	5										5				
	Deductions in favour of the Treasury	3		1								4				
	Money orders	2										2				
	Savings	1										1				
15	SECLUSION	42	11	4	4	2	1			1		65	2.05%	1.60%	1.52%	↘1.89%
	For the safety of the person	22	6	1	1	1	1					32				
	For the security of the institution	18	4	3	3	1				1		30				
	Seclusion on order of the court	1	1									2				
	Others	1										1				
16	SELF-HARMING BEHAVIOUR	28	5	5	4	2		3	1			48	1.51%	1.63%	1.67%	↗1.87%
	Suicide / suicide attempt	11	3	5	1	2		2				24				
	Hunger/thirst strike	14	2		1							17				
	Death / circumstances of death				2			1	1			4				
	Self-mutilation	2										2				
	Others	1										1				
17	HANDLING REQUESTS	41	2	2		1						46	1.45%	0.93%	0.80%	↗3.77%
	Absence of response	34	2	2		1						39				
	Hearings	5										5				
	Response waiting time	1										1				
	Others	1										1				
18	REMOVAL FROM PRISON	20	2	2	4	2				1		31	0.98%	1.05%	0.83%	↘0.95%
	Removal from prison on medical grounds	14	1	1	4	2				1		23				
	Removal from prison by order of the court	6	1	1								8				
19	OTHERS	22			3	2						27	0.85%	1.38%	2.75%	↘0.25%
20	RELIGIOUS SERVICES	13				1			2			16	0.50%	0.41%	0.57%	↘0.45%
	Conditions	6							2			8				
	Request/waiting time	3										3				
	Provision of religious services	1				1						2				
	Dietary requirements	1										1				

	Management of internal movements	1										1				
	Others	1										1				
21	STAFF WORKING CONDITIONS	2			1	4				4		11	0.35%	0.64%	0.45%	↘0.14%
	Others	1			1	2				3		7				
	Working conditions of the warders	1				2				1		4				
22	UNSPECIFIED	6		1	1	1	1					10	0.32%			↘0.09%
23	VOTING RIGHTS (terms)	2									1	3	0.09%	0.09%	-	↘0.04%
	Total	2419	304	146	101	67	42	32	30	19	11	3171	100%	100%		100%

In 2015, the three primary grounds for the referral of cases concerning prisons were therefore: transfer, relations with the outside world and access to healthcare.

In previous years, they were as follows:

- transfer, access to healthcare, material conditions (2010);
- transfer, access to healthcare, activities (2011);
- transfer, access to healthcare, activities (2012);
- transfer, prisoner/staff relations, access to healthcare (2013);
- transfer, prisoner/staff relations, access to healthcare (2014).

In 2015, with all grounds combined[18], the primary grounds were as follows: material conditions, access to healthcare and relations with the outside world. In 2014, they were: material conditions, relations with the outside world and access to healthcare.

2.2 The consequences

2.2.1 *Overall data*

Type of letters sent

	Type of action taken	Total 2015 (Jan.-Nov.)	Percentage 2015	Percentage 2014	Percentage 2013
Verifications (Article 6-1 of Law dated 30 October 2007)	Referral of case to the authority by letter[19]	905	30.67%	31.88%	29.40%
	Number of on-site verification reports sent	5[20]	0.17%	0.16%	nd
Sub-total		910	30.84%	32.04%	29.40%
Responses given to letters not having given rise to the immediate opening of an inquiry	Request for details	877	29.72%	29.32%	28.38%
	Information	838	28.40%	24.68%	29.93%
	Other (taking visits into account, passed on for reasons of competence[21], etc.)	190	6.44%	9.32%	8.10%
	Lack of competence	136	4.61%	4.64%	4.19%
Sub-total		2041	69.16%	67.96%	70.60%
Total		2951	100%	100%	100%

[18] *I.e. the primary and secondary grounds included.*
[19] *Including one Article 9 and one Article 40.*
[20] *These five reports were sent eight times to different authorities.*
[21] *Out of which, 48 to the Defender of Rights and 4 to other authorities.*

As part of the verifications undertaken, the CGLPL sent the following letters between 1 January and 30 November 2015:

- 913 letters to the authorities concerned (as compared to 1018 in 2014);
- 792 letters to persons having referred cases, informing them of the verifications conducted (867 in 2014);
- 844 letters to authorities to which the cases were referred, informing them of actions taken in order to follow-up on the verifications (681 in 2014);
- 634 letters to persons having referred cases, informing them of actions taken in order to follow-up on the verifications (512 in 2014);
- 450 reminder letters (500 in 2014);
- 267 letters to persons having referred cases, informing them of reminders issued (346 in 2013).

The CGLPL thus sent 5,941 letters between January and November 2015 (as compared to 6,077 in 2014), i.e. an average of 540 letters per month (as compared to 506 in 2014). These figures reveal the constant effort taken throughout 2015 to reduce the response waiting times for referrals received by the Contrôleur général.

In addition, the number of reminder letters sent to the authorities to which the cases were referred is stable, since during the first eleven months of 2014, this number was 444; it was 450 during the first eleven months of 2015.

Finally, the distribution of types of letters sent is stable, even though there was a slight decrease by approximately 1% in the verifications made to the authorities concerned. There was also an increase of approximately 4% in information letters sent to the persons who referred cases to the Contrôleur général: 24.68% in 2014 and 28.40% in 2015.

Time required for responses (to letters received between 1 January and 30 November 2015)

As at 30 November 2015, the CGLPL had replied to 665 letters of referral addressed to the CGLPL during 2014 (i.e. 18.54% of its replies) and to 2,922 letters that arrived in 2015 (i.e. 81.46% of its replies).

In 2014, the CGLPL had replied to 691 letters of referral addressed to the CGLPL during 2013 (i.e. 18.17% of its replies) and to 3,112 letters that arrived in 2014 (i.e. 81.83% of its replies).

Length of response time	Number in 2015	% 2015	Number in 2014	% 2014
0-30 days	1135	27.23%	1223	30.55%
30-60 days	691	16.57%	676	16.89%
More than 60 days	1761	42.24%	1905	47.59%
Response pending	448	10.75%	-	
Cases not taken up	134	3.21%	199	4.97%
Total	4169	100%	4003	100%

43.8% of letters in 2015 were replied to in less than 60 days. In 2014, this rate was 47.44%. The average response time in 2015 was 68 days (i.e. 2.2 months). In 2014, this response time was 69 days (i.e. 2.3 months).

Reducing the time taken to reply to the persons who referred cases to the CGLPL remains a priority for the institution. The arrival of two new inspectors in charge of referrals during 2015 should help in accomplishing this goal for 2016.

2.2.2 *Verifications with the authorities*

In view of the institutions concerned and the issues raised in the cases referred[22], requests for observations and documents are, in most cases, sent to prison directors and doctors of health units and regional mental health departments for prisons (SMPR).

Category of authorities called upon as part of the verifications

Type of authority referred to	Number of referrals	Percentage 2015	Percentage 2014	Percentage 2013	Percentage 2012
Head of institution	587	64.86%	67.72%	63.23%	64.79%
Prison director	520	(57.46%)			
Director of a hospital facility	40				
Director of a CRA	17				
Gendarmerie	3				
Police station	1				
Director of a LRA/ZA	1				
Other director	5				
Medical staff	161	17.79%	14.46%	17.96%	12.56%
Doctor in charge of health unit, SMPR	148	(16.35%)			
Hospital doctor	8				
CRA Doctor	5				
Decentralised management	66	7.29%	5.05%	6.71%	8.21%
DISP	37	(4.09%)			
Prefecture	13				
ARS	9				
Other information.	7				
SPIP	28	3.10%	5.84%	5.51%	5.30%
Satellite office	15				
DSPIP	13				
Judge	25	2.76%	1.58%	1.92%	2.91%
Central administration	23	2.54%	3.66%	3.95%	6.23%
DAP	16				
Other central management	7				
Minister[23]	7	0.77%	1.19%	-	-
Minister of Justice	4				
Minister of the Interior	2				
Other Minister	1				
Others	8	0.89%	0.50%	0.72%	-
Total	905	100%	100%	100%	100%

[22] *See above, analysis of the cases referred to the CGLPL*
[23] *Recorded in "central administration" in 2013.*

Inquiry case-files

In the course of the first eleven months of the year, 522 new inquiry case-files were opened, (out of which 196 were closed as at 30 November 2015). Among the inquiry case-files that were opened earlier:

- 178 were still in progress as at 30 November 2015;
- 400 were closed in the course of the first eleven months of the year.

The following statistics pertain only to the inquiry case-files that were newly opened (unless specified otherwise).

Type of persons referring cases leading to the opening of case-files

Category of persons	Total 2015	% 2015	% 2014[24]
Person concerned	342	65.52%	67.58%
Family / relatives	61	11.69%	11.48%
Lawyer	44	8.43%	5.46%
Association	33	6.32%	5.28%
Others	17	3.26%	4.01%
Own-initiative referrals (CGLPL)	7	1.34%	2.00%
Intervening staff of the institution	7	1.34%	0.37%
Fellow person deprived of liberty	6	1.15%	2.73%
Doctors / medical staff	5	0.95%	1.09%
Total	522	100%	100%

Reading this table would show a significant rise (close to 3%) in the number of inquiry case-files opened after the referral of a lawyer, and a slight increase (approximately 1%) in the number of inquiry case-files opened after reports sent by associations to the CGLPL.

Type of institutions concerned

Place of deprivation of liberty	**Total**	**% 2015**	**% 2014**
Penal institution	468	89.66%	92.35%
CP - prison	209		
MA - remand prison	135		
CD - detention centre	79		
MC - long-stay prison	21		
Hospitals (UHSA, EPSNF)[25]	5		
All	10		
CSL - Open Prison	2		
EPM - Prison for minors	4		
CNE - National Assessment Centre	3		
Place of deprivation of liberty	**Total**	**% 2015**	**% 2014**

[24] *Data from the activity report 2014, related to a similar period (January - November).*
[25] *Respectively 3 and 2.*

Administrative detention	21	4.02%	3.10%
CRA - Detention centre for illegal immigrants	19		
LRA - Detention facility for illegal immigrants	1		
ZA - Waiting area	1		
Healthcare institution	20	3.83%	3.46%
EPS - public psychiatric institution	7		
EPS - secure rooms	1		
EPS - all	3		
UMD - Unit for difficult psychiatric patients	3		
EPS - public health institution psychiatric department	6		
Police custody facilities	4	0.77%	0.73%
CIAT - police stations and headquarters	1		
BT - territorial gendarmerie	1		
Specialised units – PSIG, BPDJ, etc.	2		
Juvenile detention centre	3	0.57%	-
Deportations	3	0.57%	0.18%
Court cells	2	0.38%	0.18%
Others (military detention facilities)	1	0.20%	-
Total	522	100%	100%

Average length of inquiries

596 inquiry case-files were closed between January and November 2015. The average length of time taken by inquiries was 10 months (as compared to 9 months in 2014). Almost 50% of them took less than 8 months.

Duration	Number of case-files	Percentage	Cumulative percentage 2015	Cumulative percentage 2014
Less than 2 months	30	5.03%	5.03%	2.56%
From 2 to 4 months	61	10.23%	15.26%	13.24%
From 4 to 6 months	101	16.95%	32.21%	32.68%
From 6 to 8 months	89	14.93%	47.14%	50.20%
From 8 to 10 months	79	13.26%	60.40%	64.52%
From 10 to 12 months	59	9.90%	70.30%	73.07%
From 12 to 18 months	105	17.62%	87.92%	91.66%
From 18 to 24 months	42	7.05%	94.97%	97%
More than 24 months	30	5.03%	100%	100%
Total	**596**	**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 catering for persons hospitalised without their consent

Psychiatric hospital grounds	Total	Order of primary grounds, letters of referral[26]
Procedure (non-compliance with the procedure, JLD procedure)	3	1
Seclusion (grounds provided, duration)	3	4
Access to healthcare (healthcare programme, other)	2	2
Internal order (management of incidents. CCTV surveillance)	2	11
Relations with the outside world (visits, notification of family)	2	3
Assignment (assignment to inappropriate unit, readmission after UMD)	2	8
Relations between patients (physical violence)	1	-
Religious services (provision)	1	-
Restraints (duration)	1	10
Legal information and advice (exercising means of remedy)	1	8
Total	**18**	

Primary grounds concerning penal institutions

Penal institution grounds	Total	Order of grounds for inquiry case-file	Order of primary grounds, letters of referral27
Access to healthcare (somatic, specialist, psychiatric, etc.)	74	1	3
Transfer (requested, administrative, conditions of the transfer, etc.)	67	2	1
Relations between detainees (threats/racketeering/theft, physical violence, etc.)	55	3	9
Activities (work, computing, education/training, walks, etc.)	41	4	7
Internal order (discipline, body searches, use of force/violence, etc.)	39	5	8
Relations with the outside world (access to visiting rights, correspondence, etc.)	38	6	2
Material conditions (hygiene/upkeep, food, accommodation, etc.)	27	7	5
Preparation for discharge (reductions of sentence, SPIP, etc.)	20	8	6
Seclusion (for the security of the institution, for the safety of the person, etc.)	20	8	15
Detainee/staff relations (violence, confrontational relations, etc.)	16	9	4
Procedures (dispute of procedure, execution of sentences, etc.)	13	10	10
Financial situation (taking of poverty into account, deduction/Treasury, etc.)	11	11	14
Legal information and advice (access to personal data, means of remedy, etc.)	10	12	11
Internal allocation (differentiated regime, allocation of cells, etc.)	10	12	13

[26] For information purposes, the order of appearance of these grounds among the primary grounds of all of the letters of referral received pertaining to admissions to psychiatric treatment without consent, over the first eleven months of the year.

[27] For information purposes, the order of appearance of these grounds among the primary grounds of all of the letters of referral received pertaining to penal institutions, over the first eleven months of the year.

Self-harming behaviour (suicide/suicide attempt, hunger/thirst strike, etc.)	10	12	16
Religious services (conditions, provision, etc.)	7	13	20
Removal from prison (on medical grounds)	7	13	18
Oversight (CGLPL)	2	14	12
Voting rights (terms)	1	15	23
Handling requests (hearings)	1	15	17
Others	1	15	19
Total	470		

Fundamental rights concerned in inquiry case-files by type of place of deprivation of liberty

Fundamental rights	Penal institution	Administrative detention and deportation	Healthcare institution	TGI cells, custody facilities and others	Juvenile detention centre	Total	%
Physical integrity	90	4	1		2	97	18.58%
Access to healthcare and prevention	84	2	2			88	16.86%
Maintenance of family bonds, relations with the outside world	66	1	3			70	13.41%
Dignity	40	7	1	2	1	51	9.77%
Access to work, activity, etc.	32					32	6.13%
Legal information and advice	18	3	3			24	4.60%
Protection from mental injury	22	2				24	4.60%
Insertion / preparation for release	22	1				23	4.41%
Property rights	20					20	3.83%
Equal treatment	17			1		18	3.45%
Freedom of movement	11		5	1		17	3.26%
Confidentiality	12		1	1		14	2.68%
Unjustified detention	9	1	1			11	2.11%
Right to defence	6	1		3		10	1.91%
Freedom of conscience	9		1			10	1.91%
Welfare rights	4	1				5	0.96%
Right to individual expression	4					4	0.77%
Voting rights	1					1	0.19%
Right to information	1					1	0.19%
Staff working conditions	1					1	0.19%
Privacy	1					1	0.19%
Total	470	23	18	8	3	522	100%

2.2.3 *On-site verifications*

Pursuant to the second paragraph of Article 6-1 of the amended Law dated 30 October 2007 instituting the Contrôleur général of places of deprivation of liberty, "*Where the facts or the situation brought to his attention fall within his jurisdiction, the Contrôleur général of places of deprivation of liberty may carry out visits, where necessary, on-site*". The on-site verifications are conducted by the inspectors in charge of the referred cases.

Taking into account the time required for training the two new inspectors in charge of referred cases (who arrived in March and April respectively) and the objective of reducing the time taken for handling the referrals, it was not possible to significantly increase the number of on-site verifications even though the CGLPL conducted two more of them as compared to the previous year.

Thus, from January to the end of November 2015, the CGLPL conducted **seven on-site verifications**, all of which were conducted without prior notice. The Contrôleur général participated in one of them.

> For the first time, three on-site verifications pertained to persons placed in administrative detention; in fact, one of them lasted until the persons concerned boarded their plane for deportation; the second one consisted of observing the methods of treatment of persons placed in custody or in administrative detention for verifying their right of residence until they were placed in administrative detention and until they arrived at the administrative detention centre. The latter on-site verification resulted in publishing the emergency Recommendations dated 13 November 2015 pertaining to the collective transfers of foreign nationals taken in for questioning in Calais.

The Contrôleur général delegated two to three inspectors to conduct the on-site verifications under the following circumstances:

- In keeping with the line of thought of the CGLPL on this theme and the on-site verifications that were already complete, **three inspectors visited a detention centre in order to observe the methods of assistance provided to older detainees and/or dependents in daily life**. In fact, during the visit to the institution in 2009, it was noted that detainees who were handicapped, older or had difficulties in terms of independence were assigned to cells located on the ground floor of the two detention buildings; they benefited, pursuant to an agreement established for this purpose, from the intervention of professional assistants in accomplishing the tasks of daily life. However, the CGLPL was informed that this presence of external assistants and professionals was no longer assured and that the general department assistant, who was in charge of this task, behaved inappropriately with these vulnerable people. After the on-site verification and before drafting the report, two letters were addressed to the Chairman of the General Council and the Director of the Hospital of Riom, respectively, asking for additional information on the reason for why the agreement pertaining to taking care of the dependence of the persons detained in the detention centre, concluded in 2013, was not implemented, and asking for the alternative solutions developed to ensure an effective assistance for the detainees. The final report is being drafted.

- The Contrôleur général was informed of the existence of a document titled "Confiscated letters", mentioning that all inward and outward letters, including those from lawyers and the authorities, for two Basque female detainees, should be "*blocked*": "*block all incoming and outgoing letters (including letters from lawyers and the authorities), and give them to the head of the QF*", with the grounds for the confiscation being "*EMS 3, Basque DPS*" and "*Basque monitoring*". With extra care being taken **to respect the confidentiality of the correspondence between her services and the detainees**,

the Contrôleur général delegated two inspectors to visit this detention centre. It was noted, during the on-site verifications, that the report was actually a personal document of the mail officer (a sort of "*reminder*"), sent to the prison administration and the supervision every fifteen days for updates. Nevertheless, the inspectors were assigned to verify the methods of control of the correspondence addressed to these two detainees, since a special procedure was implemented under prison intelligence; thus, all of the letters received, except those from protected authorities, were photocopied. Still, it must be noted that there was no confiscation as defined in Article R. 57-8-19 of the criminal procedure code[28]. A careful examination of the authorities' register showed that the incoming and outgoing letters of the CGLPL were properly noted, as were those from lawyers. The inspectors observed an excellent maintenance of the registers, which permitted an effective traceability of the letters. Moreover, an excellent practice had been implemented, i.e. having the detainees sign the arrival and departure registers for letters to/from authorities.

An association informed the CGLPL of the situation of an Albanian family, a mother and her two children aged three years and eight months, and two and a half months, respectively. Being particularly attentive to the **situation of families placed in administrative detention centres** (CRA), the CGLPL wished to carry out on-site verifications of the facility in which the family was being held. The inspectors therefore visited the CRA of Mesnil-Amelot to oversee the arrival of the family (from the CRA of Toulouse-Cornebarrieu) and the methods of its treatment. The CGLPL observed that the conditions of treatment of the children were satisfactory, especially as regards the material conditions of accommodation and the provision of childcare products. During all of the transfers, it was observed that the use of means of restraint was suitable and detailed. The CGLPL wished to recommend, in general, that adults accompanied with children should not be handcuffed or shackled, for the best interests of the child. During the entire presence of the escort, the inspectors noted the attentive and respectful behaviour of these officers towards the mother as well as her two children. Still, the CGLPL recommended that during movements and transfers in vehicles, for safety reasons, the children should be seated in car seats. Finally, the treatment within the local deportation block (ULE) was appropriate as regards the presence of children, the family was not placed in the cells and the mother was not searched on her arrival in the ULE. In reply to the observations made by the Contrôleur général, the Director General of the French national police force and the director of the border police of Roissy-Charles-de-Gaulle and Le Bourget both indicated that all measures will henceforth be taken so that children below ten years, transported in a police vehicle, are secured with an authorised child-securing system that ensures their safety.

- Having for several years monitored the **individual situation of a female detainee and having been informed of the methods of her treatment in the disciplinary wing of the prison of Metz**, the Contrôleur général delegated two inspectors to carry out verifications on-site and of the documents, following which recommendations were sent to the administrative department of the institution and to the Minister of Justice. In them, the CGLPL recommended blocking the peephole located above the toilets, since its location did not respect the dignity of the persons placed in the disciplinary wing. The window, blocked with a pierced metal sheet, does not allow anyone to look outside: the CGLPL recommended that this obstruction should be removed and replaced with security devices that allow looking outside. Arrangements must be made to ensure that the disciplinary cell benefits from sufficient artificial lighting. The courtyard of the women's disciplinary wing is a room and not a courtyard, and has a ceiling with a height equal to that of a cell; this ceiling has no overhead opening. The CGLPL issued recommendations in favour of

[28] *Article R. 57-8-19 of the criminal procedure code states that "The decision to withhold a written correspondence, either received or sent, is informed to the detainee by the head of the institution within a maximum of three days. When the decision concerns a sentenced person, the head of the institution informs the sentence board of this. When it concerns a remand prisoner, he/she informs the judge in charge of the procedure case-file of this. The withheld correspondence is filed in the individual dossier of the detainee. It is given back on his/her release."*

undertaking works to ensure that Article 12 of the standard internal regulations of penal institutions is respected to allow women placed in the disciplinary wing to go for walks in an actual courtyard; this Article states "*every detainee must be allowed to go for a walk in open air every day for at least one hour*". In reply, the Minister of Justice as well as the prison administrative department announced that works will be undertaken in order to expand the opening of the grating that allows people to activate the call button and switch from the cells, with the aim of providing easier access to these controls. They also stated that the metal sheet blocking the window will be removed and replaced with grating, which will allow a better natural lighting in the room. On this subject, she added that the neon light located in the dressing room will be moved closer to the inside of the cell. As regards the question of the peephole located above the toilet of the disciplinary cell, they believe that it does not allow observing a person using the toilets. And yet, the verifications conducted by the inspectors prove otherwise; the Contrôleur général therefore upheld her recommendation concerning the blocking of this equipment. As regards the room used as a courtyard, the director stated that improvements were made to the original configuration, especially by installing windows to protect the room from the cold. The director specified that in order to allow greater access to open air, two types of measures are being implemented: firstly, a certain number of windows in the courtyard were removed to improve air circulation; secondly, a study is being conducted to allow an "open-air" opening in the ceiling, which has significant technical constraints. The Contrôleur général has taken note of these observations and wishes to be kept informed of the conclusions of the study on the feasibility of the planned works, and to know any actions taken in consequence.

- the CGLPL was informed of the situation of a Chinese couple who, **having been subject to obligation to leave French territory and a house arrest after their application for a residence permit was rejected, and having refused to board an aircraft deporting them to Beijing, were placed in the CRA of Mesnil-Amelot** along with their twenty-two month-old son. Paying special attention to the presence of children in places of deprivation of liberty, the Contrôleur général delegated two inspectors to visit the CRA of Mesnil-Amelot and to observe the conditions in which this family was being held there. They examined the conditions of treatment of the young child (food, hygiene, activities, etc.) and collected the observations of the couple, the police officers and the intervening staff. The inspectors were then informed of the release of this couple, as they were once again being placed under house arrest.

- Having been informed of the implementation of an **experiment of a workshop on a single male-female concession, the objective of which was to allow equal treatment between men and women**, the Contrôleur général delegated two inspectors to visit the site and observe its functioning. On the day of the on-site verification, seventy-four detainees were selected for the single workshop: seventy men and four women (out of the twenty-two present in the institution). The selection procedure in the single workshop is the normal procedure used for any selection for a job in the production workshops, and no specific criterion is required. In practice, the workshop, with an area of 600 m², was located on the ground floor of building A of the men's wing. It is made up of two production areas: one for electric assembly and the other reserved for a sewing workshop. This second area hosts the selected female detainees as well as the men selected for the sewing workshop, with the two groups being separated; the women occupy a table close to the entrance of the second area, on the right. They are not allowed to move in the first area, they cannot communicate with the male workers and cannot move to another post. The inspectors noted that special attention is paid to the protection of women and their surveillance, and that the setting up of this workshop had been marked by reticence and opposition from the surveillance staff. In its conclusions, the CGLPL stated that the single male-female workshop fulfilled its objectives: permanent and sufficient offer of work, return to normal life. It highlighted the investment of the administration and the supervisory staff in its implementation. Finally, it recommended that this experiment should be continued and developed, and that the men and women should slowly be allowed to mix in this single male-female workshop.

- The CGLPL was informed of the **implementation of the collective transfers of persons taken in for questioning in Calais to CRA of the national territory**, from 21 October 2015. During the visit of the CRA of Coquelles in July 2015, the inspectors had already observed that, since early June, ninety-one people had been transferred to other CRA in the territory of France, less than 48 hours after they arrived at the CRA of Coquelles or even a few hours after they were taken in for questioning (without being placed in the CRA of Coquelles), even though the occupancy rate of the CRA of Coquelles did not justify this. Being attentive to the fundamental rights of the thus transferred persons and especially to their right to legal advice (the period to contest the obligation to leave French territory is 48 hours, and the period to request for asylum is five days), the CGLPL sent the Minister of the Interior a letter dated 6 August 2015. This letter was not replied to and a few weeks later, a significant increase was noted in the number of people transferred daily from the police station or CRA of Coquelles towards other CRA of the territory: from two or three groups of five people transferred daily with a Beechcraft aircraft before 21 October, this number increased to two groups of twenty-five, i.e. fifty people were being transferred everyday to the CRA of Rouen, Metz, Marseille, Toulouse-Cornebarrieu, Nîmes, Paris-Vincennes or Mesnil-Amelot, using coaches or DASH 8 aircraft of the French civil security. Reports were sent on "transferred" persons. Deeming that the violations of fundamental rights observed during the visit of the CRA of Coquelles in July 2015 could be worsened due to the massive nature of the measure implemented on 21 October 2015, the CGLPL delegated four inspectors and one trainee, pursuant to Article 6-1 of the amended Law dated 30 October 2007, to monitor the people subject to this transfer measure, from the time when they were taken in for questioning until their arrival at the destination CRA, in this case the CRA of Nîmes, on 26 and 27 October 2015. Two other inspectors visited the CRA of Vincennes on 3 November 2015 to monitor the arrival of a new group of people from Calais. Finally, the Contrôleur général as well as two inspectors once again visited the police station of Coquelles on the night of 9-10 November 2015. The severity of the violations of fundamental rights that were observed led the Contrôleur général to send emergency recommendations to the Minister of the Interior dated 13 November[29].

2.2.4 *Results of the verifications at the closing of the case-file*

The Contrôleur général wished to know the results of the verifications conducted with the authorities as part of an inquiry case-file. From early 2015, a few indicators were set up to allow characterising the possible existence of a violation of a fundamental right, to know the result of the inquiry on the person deprived of liberty and to identify the actions taken in consequence by the Contrôleur général with respect to the authorities to whom the case was referred to.

The following data showed that violations occurred (even partially) in 52.68% of the inquiry case-files.

In 52.68% of the case-files, the problem had been resolved: either for the person, or for the future, or partially.

Finally, as regards the actions taken, the Contrôleur général sent recommendations to the authorities concerned in 12.75% of cases. Corrective measures resulting from the inquiry addressed by the CGLPL to the authorities concerned were taken in close to 10% of the cases. No special follow-up was given by the Contrôleur général in 54.19% of the inquiry case-files, either because no violation of a fundamental right was proven, or because the person deprived of liberty was transferred or released, or due to a lack of information justifying the issue of recommendations or a call for vigilance.

[29] *Refer to chapter 2 of this report. Publications of the year - emergency recommendations dated 13 November 2015 pertaining to the collective transportation of foreign nationals who were taken in for questioning in Calais.*

Out of the 596 case-files closed during the first eleven months of 2015, the following results were obtained:

Results of the inquiry		Number of case-files	%
Violation of a fundamental right	Violation proven	167	28.02%
	Violation proven partially	147	24.66%
	Violation not proven	273	45.81%
	Not applicable	9	1.51%
Total		596	100%
Result for the person deprived of liberty	Problem solved	165	27.68%
	Problem solved for the future	64	10.74%
	Problem partially solved	85	14.26%
	Unknown result	73	12.25%
	Problem not solved	142	23.83%
	Not applicable	67	11.24%
Total		596	100%
Actions taken up by the CG with the authorities concerned	No particular follow-up	323	54.19%
	Corrective measure taken by the authority or implementation of a best practice	59	9.91%
	Call for vigilance	138	23.15%
	Recommendations:	76	12.75%
	heeded	*13*	
	not heeded	*2*	
	unknown results	*61*	
Total		596	100%

3. Visits conducted in 2015

3.1 Quantitative data

Visits per year and per category of institution

Categories of institutions	Total no. of institutions[30]	2008	2009	2010	2011	2012	2013	2014	2015	Total	including institutions visited once[31]	% visits over no. of institutions
Custody facilities	**4,007**	**14**	**60**	**47**	**43**	**73**	**59**	**55**	**58**	**409**	**390**	
- including police[32]	675	11	38	33	28	42	41	27	32	252	237	**9.73%**
- gendarmerie[33]	3,332	2	14	13	13	29	14	24	22	131	131	
– others[34]	ND	1	8	1	2	2	4	4	4	26	22	
Customs detention[35]	**179**	**4**	**2**	**4**	**5**	**3**	**7**	**11**	**5**	**41**	**39**	
– including courts	11	0	1	0	1	0	0	1	0	3	2	**16.67%**
– common law	168	4	1	4	4	3	7	10	5	38	37	
Court jails/cells[36]	**197**	**2**	**7**	**11**	**10**	**19**	**15**	**4**	**9**	**77**	**73**	**37.06%**
Others[37]	**-**	**0**	**0**	**0**	**0**	**1**	**0**	**0**	**0**	**1**	**1**	**-**
Penal institutions	**190**	**16**	**40**	**37**	**32**	**25**	**29**	**31**	**27**	**237**	**192**	
- including remand prisons	96	11	21	13	16	15	16	14	12	118	95	
- prisons	45	1	7	9	7	7	4	8	9	52	44	
- detention centres	25	2	5	8	6	1	3	4	3	32	27	**102.67%**
- long-stay prisons	6	0	3	3	0	0	1	1	0	8	6	
- institutions for minors	6	1	3	1	2	0	0	2	2	11	6	
- open prisons	11	1	1	2	1	2	5	1	1	14	13	
- EPSNF	1			1			0	1	0	2	1	

[30] *The number of institutions changed between 2014 and 2015. The figures shown below were updated for the CEF (on 6 July 2015) and the penal institutions (on 21 September 2015).*

[31] *The number of follow-up visits is respectively one in 2009, five in 2010, six in 2011, ten in 2012, seven in 2013, thirty-six in 2014 and* ***sixty-one in 2015****.* ***Due to certain structures closing down during these seven years, the number of places visited at least once can be greater than the number of institutions to be visited.***

[32] *Data provided by the IGPN and the DCPAF, comprising custody facilities of the DCSP (492), the DCPAF (56) and the police headquarters (131), updated in December 2015.*

[33] *Data provided by the DGGN, December 2015.*

[34] *These are facilities of the central directorates of the national police (PJ, PAF, etc.).*

[35] *Data provided by the customs, updated in February 2015. Four customs detention facilities are common to them and have not been recorded among the customs detention facilities of common law.*

[36] *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.*

[37] *Military detention facilities, etc.*

Administrative detention	**102**	**11**	**24**	**15**	**11**	**9**	**1**	**9**	**14**	**94**	**64**	
– Including CRA	27	5	12	9	7	5	0	6	7	51	31	**62.75%**
– LRA[38]	24	4	6	4	2	3	0	2	4	25	19	
– ZA[39]	51	2	6	2	2	1	1	1	3	18	14	
Deportation measure	-	-	-	-	-	-	-	**3**	**4**	**7**	**7**	-
Healthcare institutions[40]	**429**	**5**	**22**	**18**	**39**	**22**	**17**	**15**	**34**	**172**	**161**	
– including CHS	270	5	7	7	6	7	5	6	6	49	48	
– CH (psychiatric sector)		0	5	4	8	3	2	2	15	39	37	
– CH (secure rooms)	87	0	2	4	17	6	4	3	6	42	42	**37.53%**
– UHSI	8	0	3	3	1	0	0	1	4	12	7	
– UMD	10	0	2	0	1	5	2	0	3	13	10	
– UMJ	47	0	2	0	6	0	1	0	0	9	9	
– IPPP	1	0	1	0	0	0	0	0	0	1	1	
– UHSA	6	0	0	0	0	1	3	3	0	7	7	
Juvenile detention centres	**49**	**0**	**8**	**8**	**11**	**7**	**12**	**9**	**9**	**64**	**49**	**100%**
GRAND TOTAL	**4,644**	**52**	**163**	**140**	**151**	**159**	**140**	**137**	**160**	**1,102**	**976**	**60.76%**[41]

The distribution of the visits is marked by a significant effort from the management of the psychiatric institutions, for which the number of visits has doubled with respect to previous years, and especially from the psychiatry sector integrated in general hospitals. All of the units for difficult patients were already visited before 2014; the visits of 2015 were therefore follow-up visits. This effort by the management of the mental health institutions is a direct result of the priority given by the Contrôleur général to monitoring psychiatric institutions from 2014.

The visits to penal institutions have continued regularly. They were second visits with a single exception (the remand prison wing of Nantes), or even third visits, as was the case of the remand prison of Reims. All of the institutions, except the most recent ones (Vendin-le-Vieil et Orléans-Saran) have been visited. The same applies to administrative detention centres and juvenile detention centres, which have all been visited at least once and were now visited for the second or even third time.

No UHSA was visited in 2015, since these institutions, created in 2012, were all visited during the previous two years.

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[38] *The data shown here includes the facilities of the DCPAF (9 permanent and one temporary), the DCSP (12) and the police headquarters (2), updated in December 2015.*

[39] *The number of 51 waiting areas is a rough estimate and must not be deceptive: almost all of the detained foreign nationals are held in the waiting areas of the airports of Roissy-Charles-de-Gaulle and Orly.*

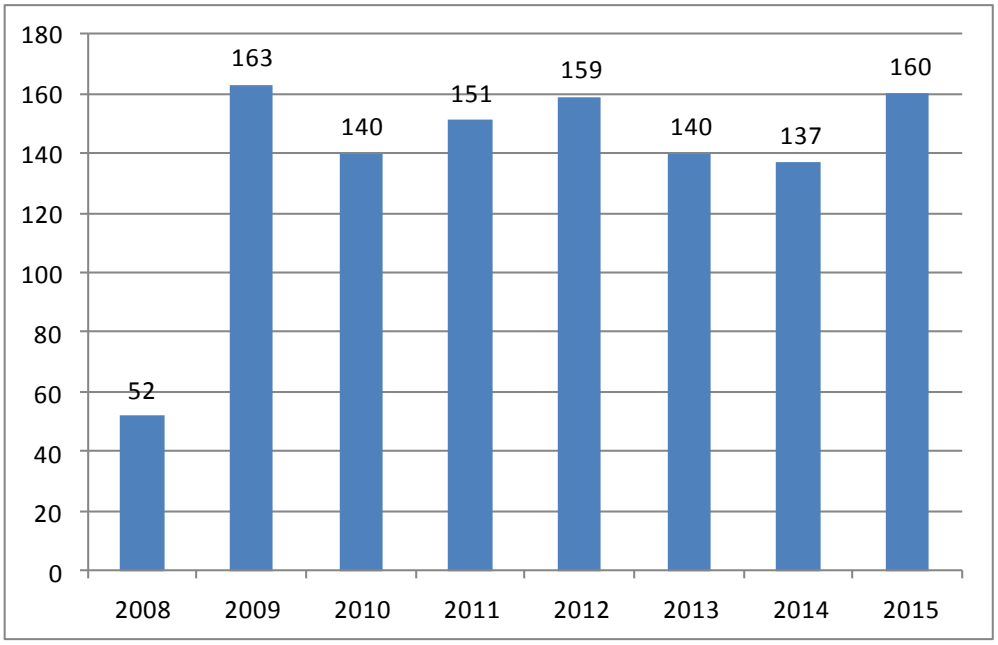
[40] *Data provided by the DGOS for psychiatric institutions having the ability to receive patients hospitalised without consent at any time of the day or night, for hospitals having secure rooms and for UMJ (December 2014).*

[41] *The ratio is not calculated with the total of institutions visited at least once between 2008 and 2015, indicated in the previous column, but on the visits from which visits to custody facilities, customs detention facilities, court jails and cells and military detention centres, as well as the monitoring of deportation procedures were subtracted; i.e.* ***466*** *visits for a total of* ***767*** *places of deprivation of liberty.*

The CGLPL continues to monitor forced returns, missions that are particularly complex in organisation (refer to chapter 1 of this report).

3.1.1 *Number of visits*

	2008	2009	2010	2011	2012	2013	2014	2015
Number of visits	52	163	140	151	159	140	137	160



The number of visits conducted in 2015 is significantly higher than the target of 150 visits per year, which compensates for the temporary decrease recorded in 2014. This situation was a result of the team's stability during the year.

From September, a new schedule has been implemented; it is now built on the basis of 14 visits per month over 11 months, i.e. 154 visits per year. It aims at meeting the goal of 150 visits while complying with the portion related to each category of institution and allowing the inspectors to have a better foreknowledge of the missions.

3.1.2 *Average length of visits (in days)*

	2009	2010	2011	2012	2013	2014	2015
Juvenile detention centre	2	3	4	4	3.25	3.56	3.56
Court jails and cells	1	2	2	1.5	2	1.75	1.56
Penal institution	4	4	5	5	5	5.2	5.67
Custody facilities	1	2	2	2	2	2.33	1.93
Administrative detention	2	2	2	3	5[42]	3.11	2.57
Customs detention	1	2	1	1.5	2	1.95	2.2
Healthcare institution	2	3	3	4	4	4.52	4.2
Deportation procedure	-	-	-	-	-	2	1
Average	2	3	3	3	3	3.33	3.04

[42] *Only the waiting area of Roissy was visited in 2013, which lasted for five days.*

The duration of the visits, which was slightly less than 2014, is still consistent as compared to 2010 to 2013.

In 2015, the inspectors spent:

- 153 days in detention facilities;
- 143 days in hospitals;
- 112 days in custody facilities;
- 36 days in administrative detention centres;
- 32 days in a juvenile detention centre;
- 14 days in jails and cells of courts;
- 11 days in customs detention centres;
- 4 days on deportation procedures.

I.e. a total of 505 days in places of deprivation of liberty.

3.2 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, etc.	Total
Unannounced	525	57	90	112	95	879
Scheduled	3	7	83	124	6	223

In total, 80% of the institutions were visited unannounced and 20% in a scheduled manner. These percentages are to be adjusted according to the type of institution concerned. Visits conducted in an unexpected manner thus comprise the following percentages:

- 99.43% with regard to police custody facilities, court cells and customs;
- 94.06% with regard to detention centres for illegal immigrants, waiting areas and deportation procedures;
- 89.06% with regard to juvenile detention centres;
- 52.02% with regard to healthcare institutions;
- 47.46% with regard to penal institutions;

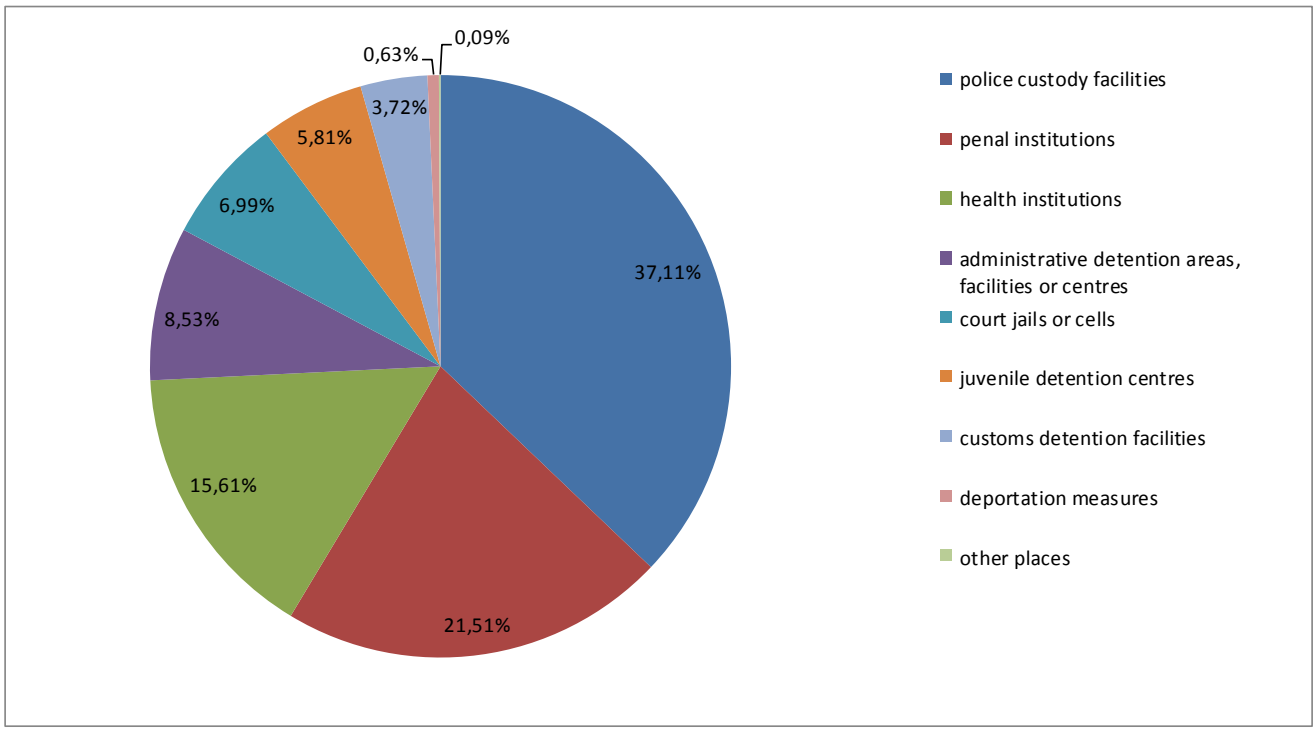
This distribution between announced and unannounced visits does not vary much from year to year. In principle, it obeys a simple rule:

- visits to complex institutions in which persons deprived of liberty can stay for several years are announced 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 with the primary managers of the institution;
- on the other hand, visits to small institutions in which persons deprived of liberty stay for only brief periods are, in principle, unannounced.

3.3 Categories of institutions visited

A total of 1,102 visits have been conducted since 2008. They are distributed as follows:

- 37.11% concerned police custody facilities;
- 21.51% concerned penal institutions;
- 15.61% concerned health institutions;
- 8.53% concerned detention centres and facilities for illegal immigrants and waiting zones;
- 6.99% concerned court jails and cells;
- 5.81% concerned juvenile detention centres;
- 3.72% concerned customs detention facilities;
- 0.63% concerned deportation measures;
- 0.09% concerned other places.



This distribution does not change much from one year to the next because anteriority plays an important role here.

3.4 Follow-up visits in 2015

Follow-up visits were conducted in the following institutions, which had already been visited previously (the year of the first visit is indicated in brackets):

- prison of Poitiers-Vivonne (2012);
- prison of Béziers (2011);
- prison of Château-Thierry (2009);
- prison of Nancy-Maxéville (2010);

- prison of Baie-Mahault (2010);
- prison of Bourg-en-Bresse (2010);
- women's prison of Rennes (2010);
- prison of Villeneuve-lès-Maguelone (2008);
- detention centre of Roanne (2009);
- detention centre of Châteaudun (2010);
- detention centre of Argentan (2009);
- remand prison of Mulhouse (2009);
- remand prison of Evreux (2009);
- remand prison of Laval (2011);
- remand prison of Strasbourg (2009);
- remand prison of Reims (2008, 2012);
- remand prison of Epinal (2011);
- women's block of the remand prison of Fleury-Mérogis (2010);
- remand prison of Basse-Terre (2010);
- remand prison of Bois d'Arcy (2010);
- remand prison of Valenciennes (2009);
- remand prison of Nice (2008);
- remand prison of Arras (2009);
- open prison of Lyon (2010);
- prison for minors of Marseille (2011);
- prison for minors of Lavaur (2009);
- juvenile detention centre of Dreux (2010);
- juvenile detention centre of Laon (2013);
- juvenile detention centre of Pionsat (2013);
- juvenile detention centre of Verdun (2010);
- juvenile detention centre of Mulhouse (2011);
- juvenile detention centre of Narbonne (2012);
- administrative detention centre of Geispolsheim (2009);
- administrative detention centre of Toulouse-Cornebarrieu (2012);
- administrative detention centre of Nîmes (2008, 2011);
- administrative detention centre of Palaiseau (2009, 2012);
- administrative detention centre of Abymes (Guadeloupe) (2010);
- administrative detention centre of Coquelles (2009);
- administrative detention centre of Bordeaux (2009, 2011);
- administrative detention facility of Choisy-le-Roi (2008, 2012);

- administrative detention facility of Cergy (2009);
- administrative detention facility of Saint-Louis (2010);
- administrative detention facility of Modane (2011);
- waiting area of Orly (2010);
- waiting area of Strasbourg Entzheim (2009);
- police station custody facilities of Melun (2010);
- police station custody facilities of Strasbourg (2009);
- police station custody facilities of Chambéry (2008);
- border police custody facilities of Modane (2011);
- police station custody facilities of Créteil (2010, 2014);
- customs detention facilities of the national directorate of customs intelligence and investigations (DNRED)[43] (2010, 2014);
- court of first instance of Meaux (2009);
- hospital of Ariège-Couserans (2011);
- hospital of Saint-Malo (2009);
- interregional secure hospital unit (UHSI) of Bordeaux (2010);
- interregional secure hospital unit (UHSI) of Lyon (2009);
- interregional secure hospital unit (UHSI) of Lille (2010);
- interregional secure hospital unit (UHSI) of Marseille (2009);
- unit for difficult psychiatric patients (UMD) of Sarreguemines (2009);
- unit for difficult psychiatric patients (UMD) of Plouguernével (2009);
- unit for difficult psychiatric patients (UMD) of Cadillac (2011).

[43] *Note that between the first and second visits, the DNRED moved from the 11th arrondissement of Paris to Ivry-sur-Seine.*

4. Resources allocated to the Contrôleur général in 2015

This seventh year of operation of the institution was executed under the full authority of Adeline HAZAN, who was appointed on 17 July 2014.

4.1 The staff

The money bill for 2015 raised the upper limit of authorised employment to 31 ETPT (full-time workers), thus authorising three new jobs in order to support the expanding of the institution's competence in overseeing deportation measures from the territory of the foreign nationals as well as to reinforce the number of inspectors in charge of referrals.

The Contrôleur général of places of deprivation of liberty was authorised to create two additional jobs in management, at constant job-ceiling and payroll credits.

4.1.1 *Permanent positions and external staff*

On 16 January 2015, a Contrôleur général of the armed forces, provided by the Ministry of Defence, was appointed as the secretary general for the job left vacant in 2014.

Three inspectors resigned from their posts in 2015. Two judges were called to exercise higher responsibilities in early 2015. They were replaced, in July, with one director of the judicial youth protection service and, in October, with one judge. One inspector, a former general in the gendarmerie, exercised his right to retirement in late 2015. He will continue to provide the institution with his experience as an external staff member.

Having been part of the institution ever since its creation, the financial director, the head attaché and director of judicial affairs, and the chief court registrar have resigned from their posts. The financial director was replaced in May with a head attaché, and the director of judicial affairs with a judge, who arrived in November 2015.

Moreover, five job openings were created.

A journalist, a former editor in chief of the *Nouvel Observateur,* joined the CGLPL in March 2015. She exercises the tasks of oversight, but is mainly in charge of creating the scientific committee and of processing transversal case-files.

Two inspectors in charge of referrals were recruited to carry out the on-site verifications as provided for by the Law dated 26 May 2014.

A former member of the International Red Cross committee joined in July as an inspector in charge of international affairs. It is preferred for the international competence to be coordinated in the CGLPL by one dedicated person, especially in the context of exercising new competences as regards the deportation measures of foreign nationals.

Finally, an archivist, on secondment from the inter-departmental corps of attachés of the State government, was appointed in September. She is also in charge of monitoring the recommendations.

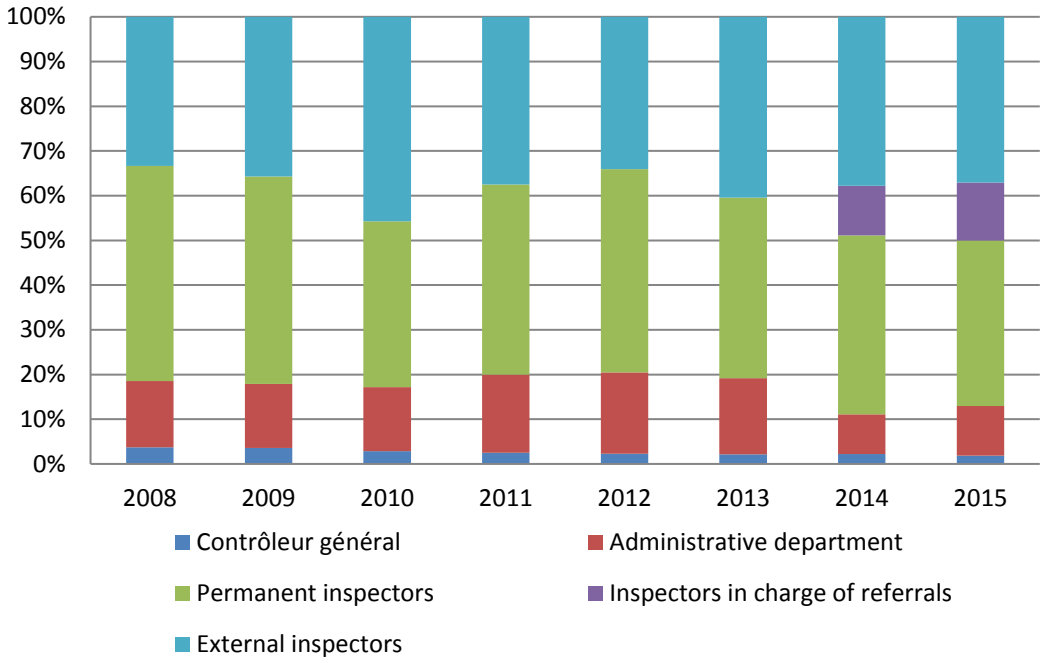
In 2015, ten external staff members were appointed.

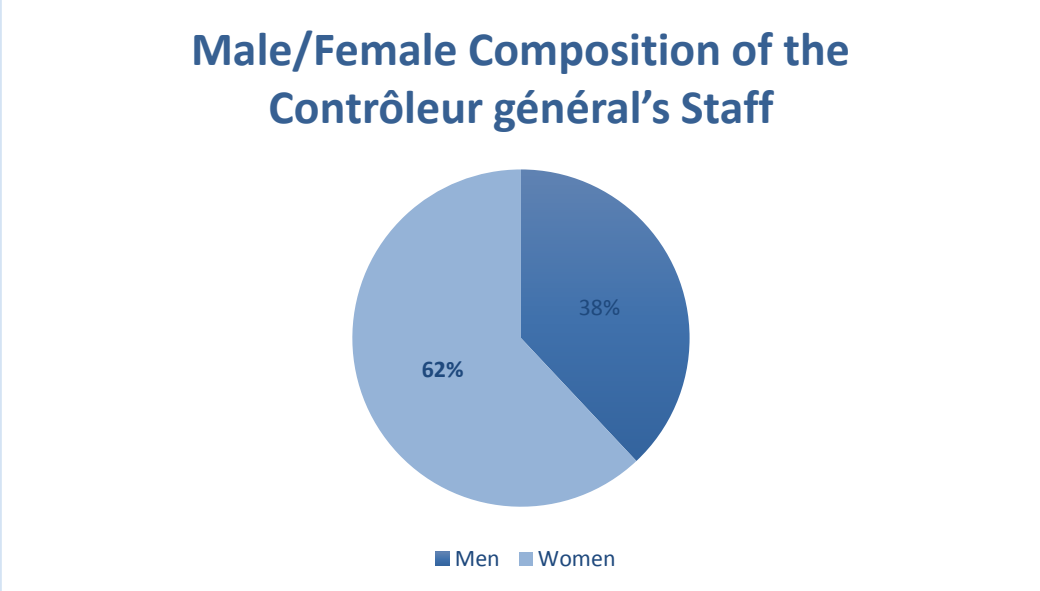
The choice was made to expand the oversight teams with external staff members, especially qualified in sectors closely related to the core of the institution's tasks. The main people called to collaborate on oversight tasks were: one lawyer specialising in criminal law, a former social affairs inspector, the former recently retired head of the public health centre of the Versailles hospital,

one person in charge of research at the CNRS in comparative law, one legal expert in the Competition authority, a former director of the judicial youth protection service, one university professor for psychiatry and clinical criminology, who is also a hospital doctor and a special-education teacher. Finally, former permanent or external inspectors wished to continue or repeat their collaboration with the institution, by participating in the task of the quality control of the reports.

Five external inspectors were hired for personal reasons.

Changes in the staff in each function as on 31 December of each year





Trainees and casual employees

The Contrôleur général of places of deprivation of liberty received fifteen trainees during the year, who came from civil service schools, professional training institutions or French universities.

	Professional training institutions	Civil service schools (ENM, ENAP, IRA)	Universities
Number of trainees received	6	6	3

Two casual contract employees (one hired in July and the other from late October to late December) contributed in supporting the activity of the CGLPL in processing the reports and referred cases.

4.2 Financial resources

The financial resources of the CGLPL increased in 2015 as compared to 2014, especially in the staff appropriations, taking into account the authorised job creations.

The same applied to operating funds. In fact, the institution's growth required it to lease new premises, mostly dedicated to meeting rooms and common rooms, on the ground floor of the building at 16-18 quai de La Loire. In addition, additional resources, amounting to 60,000 euros, were obtained in the money bill 2015 for funding the missions.

4.2.1 *The payroll*

In 2015, payroll credits of up to €3.750 M were opened with the CGLPL. The staff appropriations are made up of the remuneration of permanent staff, the contributions to the special "pensions" appropriation account (CAS) and the funds to pay the salaries of external staff.

As regards the latter point, it must be noted that the Ruling dated 27 January 2015 increased the monthly flat-rate compensation applicable to the employees and extended the scope of actions entitling a person to compensation, thus making their remuneration more attractive. Due to this, more external staff credits were consumed as compared to 2014 (210,912 euros were consumed in 2015, i.e. +60% as compared to the amount in the previous year).

Up to 90% of the available staff appropriations were consumed. This slight under-consumption of appropriations is mostly tied in to the phenomenon of frictional vacancy linked to the replacements and the staggering of job creations in the year.

The available credits not tied in to any jobs (350,000 euros) were provided to programme 308 at the end of the project. These credits mainly contributed to funding the creation of the National Commission for the Oversight of Intelligence Techniques.

It must be stated that in 2016, in a context of full employment, the CGLPL will not have the same room for manoeuvre as it had in 2015, which allowed it to create two additional jobs in the management.

4.2.2 *Credits not falling under title 2*

The operating credits are mainly meant to cover the rent of the premises located in the 19th arrondissement of Paris, travel expenses (154 annual missions), the reimbursement of a hospital doctor from the Sainte-Anne hospital and the day-to-day functioning of the institution.

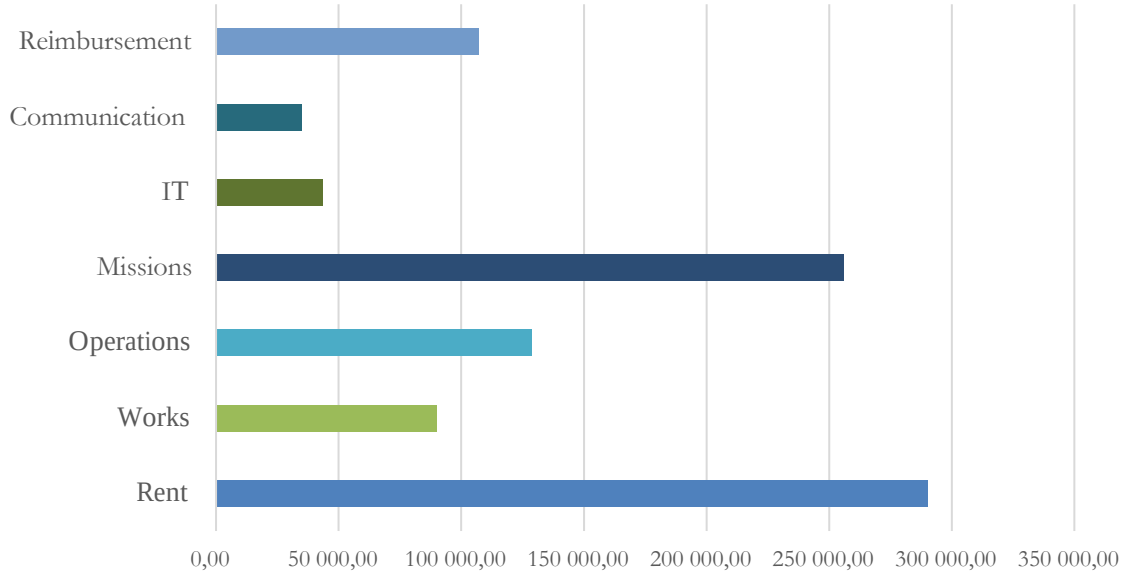
The 2015 allowance opened in operating credits was €2.567 M in commitment authorisations and €1.044 M in payment appropriations.

Up to 86% (€2.222 M) of the commitment authorisations and 90% (€0.950) of the payment appropriations were consumed.

The high consumption of commitment authorisations is tied to the commitment of the new 6-year lease on an expanded premises, taking into account the increase in employees in the CGLPL. The new lease was granted with a three-month rent exemption, which allowed funding construction work for developing the new premises (90,000 euros).

In addition, the consumption of employee travel expenses was quite high in 2015 (255,900 euros, i.e. +31% as compared to 2014). This increase resulted from the rise in the number of inspectors, the more frequent travels of the inspectors in charge of referrals in order to carry out on-site verifications and the development of missions overseeing the deportation measures of foreign nationals, which are quite costly as they involve travel on international flights. The new measure of 60,000 euros obtained from the money bill 2015 for funding missions was therefore fully dedicated to this item of expenditure.

Distribution of items of operating expenditure as on 1 December 2015



Chapter 5

"To the Contrôleur général..."

Letters received

Testimony of a detainee

"(...) Even though I obtained permission to leave for an interview with the director of the association Ilot à Paris (which had a positive outcome) on ... 2015, all of my other requests for permission were rejected, for reasons related to my health condition, or to the risk of not being able to reintegrate, or due to not paying the damages, which is not true as I pay them every month depending on my resources.

Finally, after close to fourteen years in prison for armed theft without using even the slightest physical violence, and without even having received any disciplinary sanction for eleven years, I am allowed only twenty days per year of RPS and have not benefited from the reduction of sentences as provided under the Taubira Law on the abolition of repeat offences.

While I have been assured by a prison officer that the waiting period for a transfer is 12 to 18 months, and my release date has been set for late 2017, it appears that I will be experiencing a *sortie sèche* (release without follow-up to help in re-integration); when I was allowed to leave for a single day, I experienced just how much I was out of touch with the outside world.

Therefore, if I live through the next two years, I will be thrown into a world that I no longer recognise, with no preparation or means to survive. This worries me a lot. (...)

Yours sincerely,

(…)

PS: I am not claiming that my sentence is unjust, but that the end of my release is being handled unjustly."

Testimony of the family of a person hospitalised without consent

"To the Contrôleur général of places of deprivation of liberty,

My daughter was brought in for treatment, on 14 December 2014, under voluntary hospitalisation. On 25 December 2014, the doctor on duty constantly called us to ask a member of the family to sign off on a hospitalisation on the request of a third party. She was in various departments, but always in seclusion, with a treatment that constantly kept her dazed in order to discredit her and so that she could not express herself to anyone, especially the judge and later on in the interviews. When she showed any emotions related to frustration, the Doctor used them as symptoms of a pathology. This has been going on for eight months! Her condition is getting worse! She is practically deprived of any contact with her family and even her mail is blocked for weeks. (...)

Paradoxically, she is forced to suffer continuous sanctions of "alleged seclusion in her interest": 1. The nurses monitored her cigarettes. They said that there were not any left. When she questioned their lies, she was forced into seclusion. The next day, when her sister came to collect

her belongings, there were two unopened packets of cigarettes. 2. They removed her from the isolation room, gave her a room, and then took it back and gave it to another patient. They do this continuously. 3. She was assaulted by patients, and when she complained to the nurses, she was placed in an isolation room. 4. She asked the Doctor if she could see her elderly and sick father, since she missed him. The Doctor refused and my daughter expressed her sadness and disagreement, which resulted in a hospitalisation on the request of a representative of the State, the prefect. The Doctor demanded that my daughter be placed in the UMD.

When we tried to contact the Doctor regarding my daughter, we were blocked by several human filters, i.e. the nurses of the department who gave us information bit-by-bit. The Doctor did not reply and has never done so before. She snubs us and openly lies to us. During the family interviews, the Doctor used all possible excuses to dodge our questions and cut short replies. When we expressed legitimate emotions, the Doctor threatened to call security to escort us out.

The hospitalisation conditions that my daughter has suffered through are serious violations of human dignity as well as psychological, emotional and mental abuse." (...)

Testimony concerning the cells of the court of first instance

"To the Contrôleur général,

I am writing to you to inform you of the situation of the cells of the court of first instance of (...). Their general condition causes serious problems of hygiene and dilapidation, which expose the people held in them to inhuman or degrading treatment as defined by the European Convention on Human Rights.

I personally had the displeasure of observing the narrowness of the cells (a few metres square, at the most), the dirtiness of the ground (dead flies, debris and peeling paint) and the lack of ventilation of the facilities. People awaiting trial are confined in this astonishingly dirty and degraded space, and are sometimes forced to eat while placing their meal in direct contact with the dust.

These places of confinement are not provided with toilets.

This situation vexes me greatly and thus forces me to refer this to you, in the hope that this situation can be remedied. I believe that it would be a good idea for you to schedule a visit of your department, so that you may observe the problems mentioned above.

I am at your disposal for any further information, Contrôleur général. Yours sincerely".

Testimony of a person placed in custody

"To the Contrôleur général,

(...) Through this letter, I wish to inform you, on the one hand, of the physical conditions in which I was placed in custody and, on the other hand, of the behaviour of two police officers. First, on the subject of the physical conditions, we are supposed to be in a developed country, are we not? I do not think that the condition of the custody cells match this classification or even the image of France.

In fact, the cell in which I was held, located on the third floor of the police station, was:

- Lacking any form of cover or other mattresses,
- Lacking mechanical ventilation (shut off or not functional), with the natural ventilation being provided by only two grills located in the lower part,

- Very dirty: food stuck on the walls, lots of grime on the ground, rubbish, including leftovers of Sunday morning breakfast (orange juice cartons and biscuit packets), not cleared even by Monday afternoon at 4 p.m.
- Stinking
- Very hot (almost 35°C) during the recent heat waves, made worse at night by closing the door of the room containing the two custody cells.

In addition to the deplorable state of the cell in which I was held for 20 hours, I also wish to report the humiliating and degrading treatment of the two police officers currently in charge of the fingerprinting and DNA recording.

In fact, while I always remained polite and correct with all of the officers who I met and I believed that speaking politely is an essential rule in all dialogues, when I made a comment about this matter to one of the aforementioned officers, his attitude changed and led to the following acts:

- Shouting out my name in the corridors mockingly, causing hilarity among his colleagues (behaviour that is admissible for children, not police officers).
- Refusal to give me a glass of water for several hours despite the unbearable heat, on the grounds that "it's summer, naturally it's going to be hot. Suck it up".
- Unjustified refusal to allow me to go to the toilet.
- Humiliating and degrading expression towards me, harming by mental integrity.

The purpose of taking a person into custody, as defined in Article 62-2 of the criminal procedure code, is not to humiliate and degrade a person, but to allow follow-ups of investigations (in my case, the investigation was limited to a hearing at night).

The purpose of this letter is not to paint myself as a victim, but simply to inform you of a situation that I feel is abnormal, and to inform you of the behaviour of the two aforementioned officers, which I feel is abnormal for a police officer."

Testimony of the family of a minor placed in a juvenile detention centre

"Dear Madam,

I visited the juvenile detention centre to meet my child, who is currently there. A little before my visit, I looked up this institution on the Internet.

I reached your website and read your visit report on this juvenile detention centre, which was conducted in January.

When I arrived to visit my son, I found that the outside view was quite pleasant, with well-maintained buildings and green spaces. The staff as well as the director welcomed us cordially, and clearly answered various questions that we asked about the functioning and implementation of the monitoring of my children. After this discussion, we visited the facilities.

On entering on the ground floor, I was appalled by the general condition of the facilities. In fact, the interior of the premises, as regards the furniture as well as the environment - the lounge, the TV room, the dining room - are all in a state that I would describe as "harmful" to the well-being of young adolescents. The rooms are dark and outdated, the doors are damaged through use, the paint on the walls is peeling and flaking, which makes everything seem unhealthy.

The furniture is in a bad condition and uncomfortable, and there is no "lounge" or "reading corner". I did not see any documentation on prevention or other things, no video library on

different themes, the TV room was only for watching television... There were a few books scattered on the veranda, but not highlighted enough to tempt the youth into reading.

Madam, I fully agree with your report on the lack of repairs in this institution, as well as the refurbishment, which needs to be done urgently! This does not encourage many children to "settle down" in this living quarter. I fully agree with you Madam, when you describe the lack of renovation throughout the ground floor in your report.

It seems to me that the observations that you made at the end of your report are still to be taken into consideration, since as far as I am concerned, I did not notice any renovation being executed.

I think that there is an evident lack of hygiene and security for the eleven imprisoned young adolescents. For example, I did not see any smoke detectors or even an emergency exit on the floor.

I am concerned about the well-being of my son, since he has only just integrated in this CEF and must remain there for six months...

On your site, you also published a letter from the Keeper of the Seals, stating that she is following up on the observations in your report that you sent to her, and among other things, she states that the renovation works on the ground floor as well as the electricity should start in 2015. As I already stated, I did not observe any renovated facilities and no one present on the day of the visit spoke on this subject. Would it be possible for you to act personally to ensure that these works are executed? Or, failing that, collect information on them?

Madam, as a parent of one of these youth deprived of liberty, I cannot emphasise enough on how much security and well-being must be a priority for not only these young boys and girls, but also for the staff working there. I hope that you can provide a rapid solution to this subject. Thanking you in anticipation.

Yours sincerely."

Chapter 6

Places of deprivation of liberty in France: statistics

By Nicolas FISCHER[44]

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 Contrôleur général 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 or graphs are accompanied by informative notes on methods and short comments.

Bringing together in one single document data relating to the deprivation of liberty in the penal area (custody and incarceration), in the health area (psychiatric care without consent) and in the area of deportation of foreign nationals (the execution of measures and detention in illegal immigration centres) should not mask the fact that there are important 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 the connection between the two is not at all the same according to the areas which arise and from the duration of deprivation of liberty which differs widely for remand, detention, illegal immigrant detention or care under constraint. It is not possible with the state of the available sources to make a parallel of these sizes for the various places of deprivation of liberty in a single table.

[44] The author warmly thanks Bruno Aubusson de Cavarlay (CNRS-Cesdip), author of the statistics shown in the previous reports, for his advice and precious help. This chapter is an update of the statistical series that he 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

Source: Etat 4001, Ministry of the Interior and ONDRP, series B. Aubusson.

Field: Serious crimes and offences reported to the State Prosecutor's Office by the police and gendarmerie (apart from traffic offences), Metropolitan France.

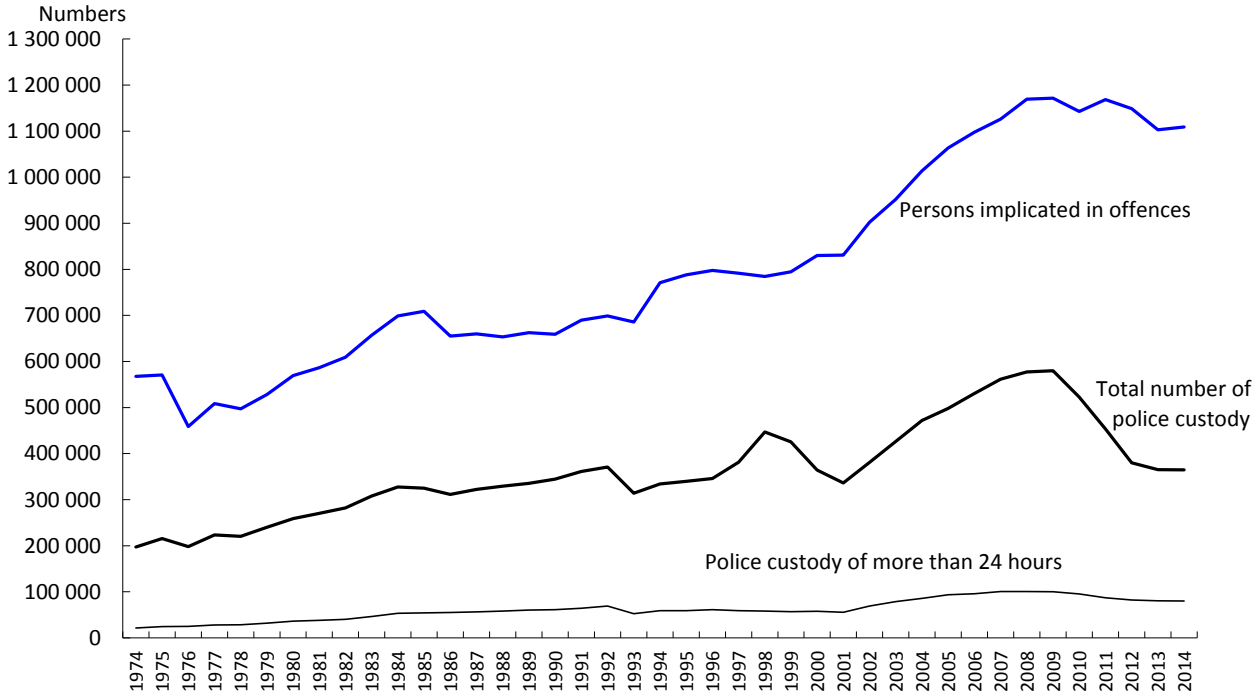
Five-yearly averages from 1975 to 1999, followed by annual results.

PERIOD	PERSONS IMPLICATED IN OFFENCES	CUSTODY MEASURES	which lasted 24 hours or less	which lasted more than 24 hours	PERSONS IMPRISONED
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	1,146,315	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

1.2 Trends in numbers of persons implicated in offences, police custody measures and persons imprisoned

Source: Etat 4001, Ministry of the Interior and ONDRP post-2009, series B. Aubusson.

Field: Serious 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. Metropolitan France



Note: When counting persons involved in criminal activity or an offence in police investigative procedures ("persons implicated"), one single person may be involved in any one year for different cases and counted several times. For police custody, the charges decided upon are counted (there being the possibility of a number of successive charges for one single person in a case). The source excludes implication for contraventions, driving offences and contraventions uncovered by the specialist services (customs, work visit, 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 all of the referred accused are not then imprisoned by court order. The court or jurisdiction may decide to free the accused. Counting those imprisoned in police statistics presents a few problems; in some places of police jurisdiction all referred accused are counted or have been counted as imprisoned since the investigating police department doesn't 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 the 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: Etat 4001, Ministry of the Interior and ONDRP post-2019, series B. Aubusson.

Field: Serious crimes and offences reported to the State Prosecutor's Office by the police and gendarmerie (apart from traffic offences), Metropolitan France.

Type of offence	1994			2008			2014		
	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%*	1,998	2,214	*110.8%*
Procuring (prostitution)	901	976	*108.3%*	759	768	*101.2%*	796	701	*88.1%*
Violent thefts	18,618	14,044	*75.4%*	20,058	18,290	*91.2%*	18,584	14,915	*80.3%*
Drug trafficking	13,314	11,543	*86.7%*	23,160	15,570	*67.2%*	16,241	11,800	*72.7%*
Burglaries	55,272	34,611	*62.6%*	36,692	27,485	*74.9%*	42,841	28,082	*65.5%*
Auto larceny	35,033	22,879	*65.3%*	20,714	16,188	*78.2%*	16,914	10,993	*65.0%*
Sexual assaults	10,943	8,132	*74.3%*	14,969	12,242	*81.8%*	19,097	11,573	*60.6%*
Insulting and violence against government officials	21,535	16,670	*49.5%*	42,348	29,574	*69.8%*	34,732	21,748	*62.6%*
Vehicle theft	40,076	24,721	*61.7%*	20,764	15,654	*75.4%*	13,497	7,686	*56.9%*
Fire, explosives	2,906	1,699	*58.5%*	7,881	6,249	*79.3%*	5,429	2,933	*54.0%*
Other behaviours	5,186	2,637	*50.8%*	12,095	8,660	*71.6%*	8,969	4,506	*50.2%*
Other thefts	89,278	40,032	*44.8%*	113,808	61,689	*54.2%*	118,951	47,960	*40.3%*
False documents	9,368	4,249	*45.4%*	8,260	4,777	*57.8%*	11,739	4,649	*39.6%*
Foreigners	48,514	37,389	*77.1%*	119,761	82,084	*68.5%*	22,829	8,187	*35.9%*
Assault and battery	50,209	14,766	*29.4%*	150,264	73,141	*48.7%*	151,152	55,193	*36.5%*
Weapons	12,117	5,928	*48.9%*	23,455	10,103	*43.1%*	23,968	6,594	*27.5%*
Shoplifting	55,654	11,082	*19.9%*	58,674	20,661	*35.2%*	59,004	17,063	*28.9%*
Drug use	55,505	32,824	*59.1%*	149,753	68,711	*45.9%*	188,990	46,416	*24.6%*
Destruction, damage	45,591	12,453	*27.3%*	74,115	29,319	*39.6%*	47,698	11,430	*24.0%*
Other trespass to persons	28,094	5,920	*21.1%*	65,066	20,511	*31.5%*	78,330	16,755	*21.4%*
Fraud, breach of trust	54,866	17,115	*31.2%*	63,123	21,916	*34.7%*	60,504	10,966	*18.1%*
Frauds, economic crime	40,353	6,636	*16.4%*	33,334	9,700	*29.1%*	39,751	6,405	*16.1%*
Other general policies	15,524	3,028	*19.5%*	6,190	926	*15.0%*	7,351	1,166	*15.9%*
Family, child	27,893	1,707	*6.1%*	43,121	4,176	*9.7%*	62,157	3,817	*6.1%*
Unpaid cheques	4,803	431	*9.0%*	3,135	457	*14.6%*	2,815	70	*2.5%*
Total	775,701	334,785	*43.2%*	1,172,393	577,816	*49.3%*	1,111,882	364,911	*32.8%*
Total without unpaid cheques	770,898	334,354	*43.4%*	1,169,258	577,359	*49.4%*	1,109,067	364,841	*32.9%*

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 and changes in recording practices. The heading "unpaid cheques" includes cheques without funds, before they were decriminalised in 1992. The large number of persons arrested was shown under this heading (over 200,000 in the middle of the 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.

Comments: The table by category of offence confirms, for 2014, the general effect of the Law dated 14 April 2011 which had been preceded by the decision by the Constitutional Council (30 July 2010) on a question of unconstitutionality of the articles of the criminal procedure code relating to custody. After a maximum recorded in 2009, use of this measure decreased from 2010 for all types of offences but differences still remain between them. For offences showing the highest rate of appeal in custody (the first six lines in the table) the reduction in this rate is proportionately smaller. It is also worth remarking and in compliance with legislative developments that the decrease in custody, in absolute numbers and by proportion primarily concerns offences relating to foreign nationals staying in the country and the use of drugs which respectively contribute 34% and 10,5% in the total drop between 2008 and 2014. In the case of foreign nationals' residence, the drop has been extended under the effect of its replacement by one used for illegal immigrant verification (please 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, Prisons Administration Department, PMJ5. Series B. Aubusson

Field: Prison institutions in the metropolis (1970-2000) and then for France and its overseas territories.

Période	Remand prisoners : immediate hearing	Remand prisoners: preparation of case for trial	Convicted prisoners	of which imprisoned convicted prisoners placed in detention	Imprisonment for debt(*)	Overall
Metropolitan 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
France and its overseas territories						
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

(*) Imprisonment of solvent persons for non-payment of certain fines (contrainte judiciaire) as from 2005

Note: The numbers counted are by imprisonment judgement. This legal placement under the responsibility of a penitentiary institution does not always involve accommodation. According to an estimate by the Prison Authorities Department (PMJ5) relating to France and its overseas territories, placements in detention (imprisonment without reduction of sentence ab initio or within seven days) represent 78% of imprisonments in 2013. This percentage was still 94% in 2006. Before the introduction, at the start of the 2000's, of electronic surveillance for detainees (Act of 19 December 1997), it was almost 100%.

This estimate of placements in detention enables, from 2006 in this table, a series to be offered for those arrested and sentenced, placed in detention, that is, according to the methodology used, not having a reduction of sentence ab initio or within the seven days following imprisonment (external placement or placement under electronic surveillance).

Comments: This new series enables us to see that the new level of placements in detention of those sentenced has not fundamentally changed since the development of sentence reduction. Even though we only have the overall statistics for all remand prisoners for 2014, the long-term drop in placements in temporary detention in the context of committal proceedings seems to have arrived at a ceiling and those making their appearance in court immediately are also stabilising. The drop in "imprisoned" in police statistics has not been confirmed (but the definition is not the same). Finally placements in detention of "remand prisoners" (in the context of committal proceedings or immediate appearance in court before final sentencing) are clearly the majority among those detained.

References: These series, as with all of those from the prison statistics, have been reconstituted by Bruno Aubusson de Cavarlay (Cesdip/CNRS) for the oldest period, from printed sources. They are now regularly distributed by the studies and estimates office of the prison administration (DAP-PMJ5) in a document entitled "Statistical series of persons appearing before the courts" ("Séries statistiques des personnes placées sous main de justice")[45].

In relation to temporary detention, other series are presented in the commission report for 2013 relating to monitoring temporary detention (March 2014)[46].

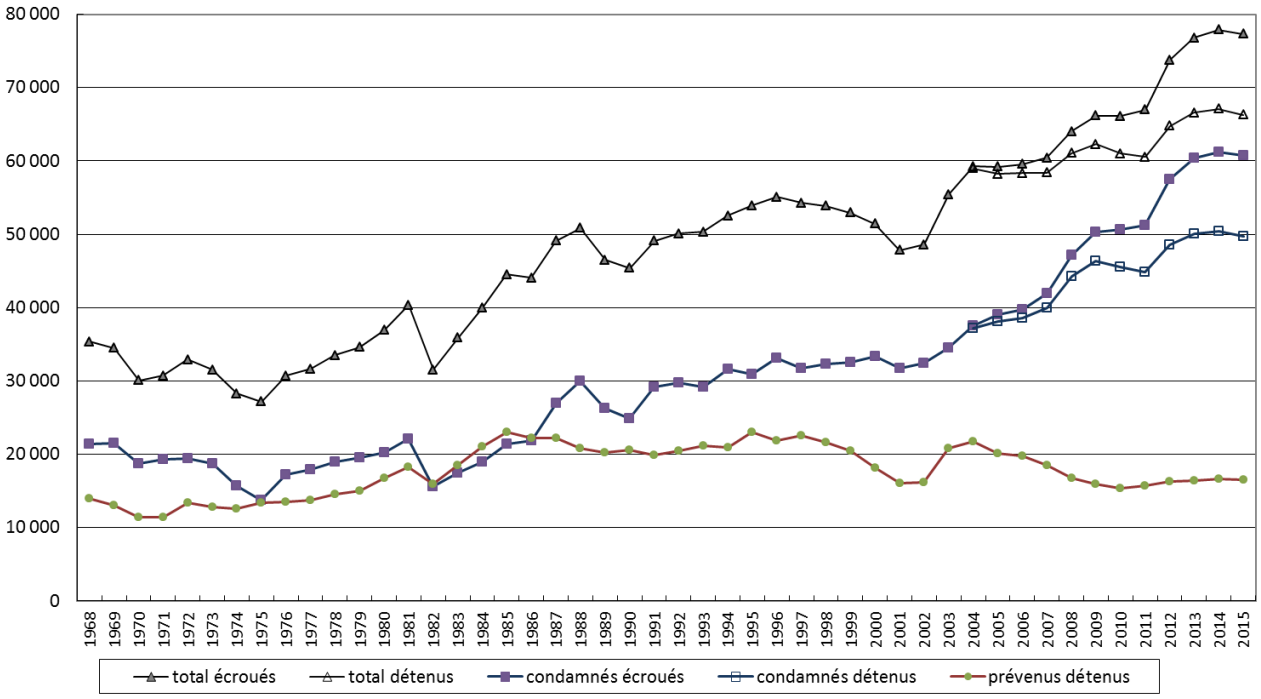
[45] *Statistical series available for 2014 on the Ministry of Justice website at:* *http://www.justice.gouv.fr/prison-et-reinsertion-10036/les-chiffres-clefs-10041/series-statistiques-des-personnes-placees-sous-main-de-justice-26147.html*

[46] *The 2013 report from the commission monitoring temporary detention is available on the CESDIP website at:* *http://www.cesdip.fr/IMG/pdf/Rapport_CSDP_2013.pdf*

1.5 Population serving sentences or on remand and prisoners on 1st January of each year ("stocks")

Source: Monthly Statistics of the Population of Persons Serving Sentences or on Remand and Prisoners in France, French Minstry of Justice, *Annuaire statistique de la Justice* and the Prisons Administration Department, PMJ5.

Field: All penal institutions, France and its overseas territories (progressive inclusion of French overseas territories as from 1990, completed in 2003).



Total persons on remand and persons serving sentences

Total prisoners

Convicted persons serving sentences

Convicted prisoners

Prisoners on remand

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.

Comments: Over the past 40 years, the growth in the number of detainees sentenced has not stopped growing. The growth profile of the number of "remand" detainees (detained before final judgement) is different: stabilised between 1985 and 1997, it drops up until 2010 (with a sharp rise from 2002 to 2004), and then shows a slight rise, less marked than that for those sentenced, and corrected with a slight fall in 2015.

1.6 Distribution of Convicted Persons according to the Duration of the Sentence being served (including reduced sentencing without accommodation)

Source: Quarterly Statistics of the Population dealt with in Penal Institutions, French Ministry of Justice, Prisons Administration Department, PMJ5.

Field: all persons imprisoned; 1970-1980, penal institutions in Metropolitan France, France and its overseas territories from 1980 (progressive inclusion of French overseas territories as from 1990, completed in 2003).

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 years and more	All convicted prisoners	Less than 1 year	1 to less than 3 years	3 to less than 5 years	5 years and more
1970	6,239	5,459	1,660	4,616	17,974	***34.7%***	***30.4%***	***9.2%***	***25.7%***
1980	7,210	5,169	1,713	5,324	19,416	***37.1%***	***26.6%***	***8.8%***	***27.4%***
1980	7,427	5,316	1,791	5,662	20,196	***36.8%***	***26.3%***	***8.9%***	***28.0%***
1990	6,992	5,913	3,084	8,642	24,631	***28.4%***	***24.0%***	***12.5%***	***35.1%***
2000	8,365	6,766	4,139	13,856	33,126	***25.3%***	***20.4%***	***12.5%***	***41.8%***
2010	17,445	14,174	5,628	13,442	50,689	***34.4%***	***28.0%***	***11.1%***	***26.5%***
2011	17,535	14,780	5,709	13,248	51,272	***34.2%***	***28.8%***	***11.1%***	***25.8%***
2012	20,641	17,226	6,202	13,428	57,497	***35.9%***	***30.0%***	***10.8%***	***23.4%***
2013	21,961	18,169	6,647	13,563	60,340	***36.4%***	***30.1%***	***11.0%***	***22.5%***
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	***36.3%***	***28.9%***	***11.7%***	***23%***

Note: This analysis of those sentenced includes those whose sentence has been reduced, without accommodation. On 1 January 2015, out of the 60,742 sentenced to imprisonment, 12,689 were not detained under reduction of sentence and 2,659 were in day parole or placed in external accommodation. Therefore 45,394 of those sentenced were detained without reduction of sentence: the analysis of this group by the quantum of sentence being carried out is not shown by this statistical source.

Comments: This table shows the trend reversing from 2000. During the last three decades of the 20th century, the growth in the number of those imprisoned serving long sentences was constant and marked. The voluntary policy of developing the reduction of short sentences (firstly less than one year and then less than two years) following regrowth in short sentencing demonstrated by the statistics of sentencing, whilst long sentences have stabilised at a high level. The reconciliation between counting movements and those in stock shows that the average duration of imprisonment 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: this increased from 8.6 months in 2006 to 11.5 months in 2013 (DAP-PMJ5.2014).

Additional reference: « L'aménagement des peines : compter autrement ? Perspectives de long terme » ("Reductions of sentence: should they be counted differently? Long term prospects"), *Criminocorpus* 2013 (http://criminocorpus.revues.org/2477).

1.7 Incarceration densities and over-occupation of prison institutions

Statistical data used by prison authorities, total number of detainees at any given time and operational capacity of institutions, enables them to calculate an "incarceration density" defined as the comparison between these two indicators (numbers present per 100 operational places).

The density for all institutions - 114.6 on 1 January 2015 - has no great significance as the indicator varies a great deal according to the type of institution: 92.2 for detention centres and detention centre quarters, 79.6 for long-stay prisons and long-stay prison quarters, 71.4 for institutions for minors, whilst for remand prisons and remand prison wings the average density was 132.7.

Additionally this average by type of institution includes variations within each category:

- of the 88 sentencing institutions, only 8 had a density higher than 100, including 3 detention centre wings in overseas territories and 4 day parole centres (2) and centres for reduced sentences (2) in Ile-de-France. In Metropolitan France this over-occupation concerned 469 detainees, i.e. 2.3% of detainees placed in sentencing institutions.

- of the 135 remand prisons and remand prison wings, 26 had a density lower than or equal to 100 and 108 had a density greater than 100, of which 35 had a density higher than 150. Four remand prisons and remand prison wings exceeded 200, i.e. a population of detainees more than double the number of operational places (two in Metropolitan France and two overseas).

Over-occupation of prison institutions is therefore limited to remand prisons by application of *numerus clausus* to sentencing institutions which are a little below declared operating capacity. For remand prisons, the increase in operational capacity (+ 2,008 places between 1 January 2005 and 1 January 2015) was less than that of the number of detainees (+3,742) and density is therefore higher in 2015 than in 2005.

Over-occupation of an institution has consequences for all detainees in it, even if some cells have normal occupation (arrival wings. isolation wings etc.). It is therefore relevant to note the proportion of detainees based on the percentage of occupation of the remand prison where they are. On 1 January 2015, the large majority were affected by this situation of over-occupation (93%); more than one third (40%) of detainees in remand prisons or remand prison 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 over occupation (1996-2012)"), *Criminocorpus 2014* (http://criminocorpus.revues.org/2734).

1.8 Distribution of detainees in remand prisons by institution density

Source: Numbers, monthly statistics of persons imprisoned (DAP-PMJ5), DAP-EMS1, operational places.

Field: France and its overseas territories, remand prisons and remand prison wings, detainees.

Remand on 01/01	Total		Density > 100		Density > 120		Density > 150		Density > 200		Number of operational places
	Number of detainees	%	Number of detainees	Share of total %	Number of detainees	Share of total %	Number of detainees	Share of total %	Number of detainees	Share of total %	
2005	41,063	100	38,777	94%	27,907	68%	12,227	30%	3,014	7%	31,768
2006	40,910	100	36,785	90%	23,431	57%	10,303	25%	1,498	4%	32,625
2007	40,653	100	36,337	89%	27,156	67%	10,592	26%	1,769	4%	31,792
2008	42,860	100	40,123	94%	33,966	79%	13,273	31%	2,600	6%	31,582
2009	43,680	100	41,860	96%	35,793	82%	14,324	33%	1,782	4%	32,240
2010	41,401	100	37,321	90%	25,606	62%	8,550	21%	1,268	3%	33,265
2011	40,437	100	32,665	81%	27,137	67%	4,872	12%	549	1%	34,028
2012	43,929	100	38,850	88%	34,412	78%	9,550	22%	1,853	4%	34,228
2013	45,128	100	42,356	94%	35,369	78%	11,216	25%	2,241	5%	33,866
2014	45,580	100	41,579	91%	37,330	82%	16,279	36%	1,714	4%	33,878
2015	44,805	100	41,675	93%	33,915	76%	17,850	40%	1,092	2%	33,776

2. Compulsory committal to psychiatric hospitalisation

2.1 Trends in measures of committal to psychiatric hospitalisation without consent from 2006 to 2014

Source: DREES. SAE, ("Annual Statistics on Health Institutions"), table Q9.2.

Field: All institutions, Metropolitan France and French overseas departments.

Days of hospitalisation according to the type of measure:

	Hospitalisation at the request of a third party (HDT) since the Law dated 5/07/2011 this has now become 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 Law dated 5/07/2011 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 L3213-7 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 (detainees)
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

Number of patients according to the type of measure:

	Hospitalisation at the request of a third party (HDT) since the Law dated 5/07/2011 this has now become 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 Law dated 5/07/2011 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 L3213-7 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 (detainees)
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

Note: These tables show a dual limit in constructing statistical series as regards psychiatric hospitalisations.

Firstly, the diversity of the sources: the previous reports used figures from the RIM-P (Collection of medical information for psychiatry), a database set up by the Technical Agency on Hospitalisation Information (ATIH) in 2008. This database provides the advantage of describing, in particular detail, the different actions (including the most informal ones) conducted on the patients; moreover, its comprehensiveness improves year by year. However, it could only be of reasonable use from 2010, and access to it is restricted. Along with this first national database, there are other sources that are not as up-to-date and are difficult to consult – such as the Rapsy surveys (Activity reports in psychiatry) conducted by the DREES, but which have not been repeated since 2009; or, pertaining to only healthcare without consent, the reports of the Regional Commissions of psychiatric hospitals or the Hopsy database, managed by the DDASS since 1994.

The diversity of the sources and calculation methods resulted in retaining, for this year, only the data of the SAE (Annual statistics of healthcare institutions), an administrative survey conducted annually by the DREES on all healthcare institutions, and which has included a specific psychiatry section since 2006. This source has the advantage of showing recent data (available every year on the previous year), and being relatively comprehensive. Nevertheless, it has several drawbacks that must be kept in mind: the recording of the number of days of hospitalisation by the SAE takes into account only full days of hospitalisation, and excludes preliminary discharges that the RIM-P would have allowed distinguishing. Similarly, the SAE does not allow monitoring

patients individually, also unlike the RIM-P, which tracks individuals using their national identifier. The same patient, treated in multiple institutions during the year, will therefore be recorded several times. Finally, the recording of entries and the adopted measures has been subject to several changes in definition and calculation method since 2010, which is why we have only shown the number of days and patients here.

The second limit relates to the redefinition of hospitalisation measures by the Law dated 5 July 2011, the institution of which especially created the category of hospitalisation for imminent danger, which added to hospitalisation on the request of a third party and hospitalisation on court order (which is today known as admission to psychiatric treatment on the request of a State representative). This new category-based classification has therefore made year-to-year comparison difficult (see below).

Comments: The change in categories that occurred from 2011 especially complicates tracking changes in the short-term development of hospitalisation. In 2014, similar to the previous years, the new category for hospitalisation for imminent danger seems to have "bitten into" (statistically speaking) hospitalisation on request of third parties and hospitalisation on a court order (by decision of a State representative), but the former are slightly lower as compared to 2011, whereas hospitalisations on court orders have remained stable. On the other hand, the hospitalisation of persons deemed to be not criminally responsible or of detainees are on the rise. To conclude, the figures of the SAE indicate a fall in the total number of days (4,057,542 in 2010; 3,825,757 in 2013, and 3,775,187 in 2014). The total number of patients seems to be rising, from 82,376 in 2010 to 97,219 in 2013 and 100,858 in 2014, but these figures should be considered with caution, as there is a possibility of the same patient being counted multiple times, as explained earlier.

Translated into the average number of those present for a given day for treatment without consent, data for 2014 (total number of days divided by 365) indicates a little more than 10,000 patients.

References:

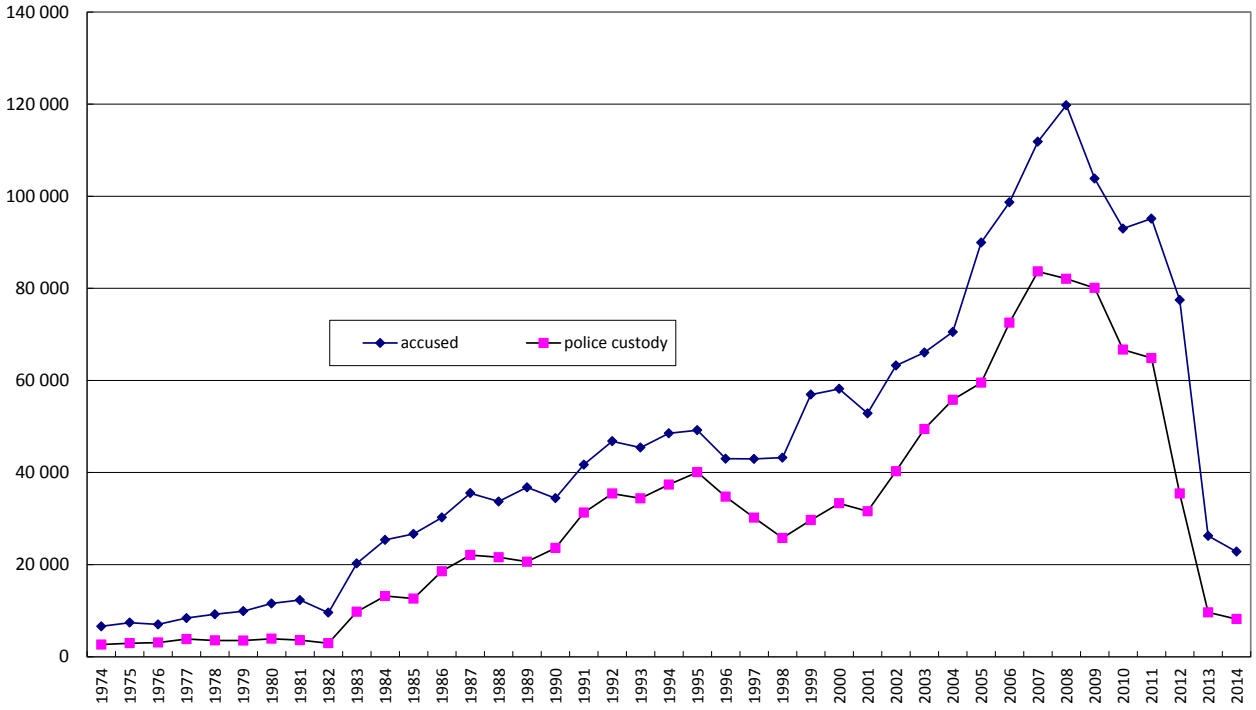
Delphine Moreau, 2015, *Contraindre pour soigner ? Les tensions normatives et institutionnelles de l'intervention psychiatrique après l'asile (Forced into treatment? The prescriptive and institutional tensions of psychiatric intervention after granting asylum).* Paris: Thesis by the EHESS.

Magali Coldefy, Clément Nestrigue and Zeynep Or, 2012, *Etude de faisabilité sur la diversité des pratiques en psychiatrie (Feasibility study on the diversity of practices in psychiatry)*, Paris, Irdes.

3. Administrative detention

3.1 Number of persons implicated in offences by the immigration department and number of custody measures

Source: Etat 4001, Ministry of the Interior.



Note: The implementation of Law no 2012-1560 dated 31 December 2012 relating to the detention for verification of the rights of residence was anticipated in 2012 with a sharp decrease in the number of persons accused and custody measures. In 2013 and 2014, these can no longer simply concern illegal immigration.

Comments: The CGLPL report for 2009 (263-267) described how the treatment of illegal immigrants was derived by stages from the criminal process. At first, the criminal process remained limited to the policing level with a massive use of placing people in custody. This way of handling the problem was the basis, in 2007- 2008 for one placement in police custody out of seven. After the general decrease in police custody and then the application of Law dated 31 December 2012, following the Order by the Court of Cassation dated 5 June 2012, deeming that simple illegal immigration could not justify placing a person in custody, the restriction of liberty took the form of detention for administrative verifications (approximately 30,000 in 2013 according to a communiqué from the Minister of the Interior dated 31 January 2014). In 2014, the police custody measures represented on this graph and indicated in table 1.3 (8,187 out of 22,829 accused) are related to other violations relating to foreign nationals' immigration regulations. This rate of custody is close to that observed for all persons accused.

3.2 Implementation of measures for the deportation of foreign nationals (2002-2013)

Source: Annual Reports of the French Inter-ministerial Committee for the Management of Immigration (CICI), Central department of the French border police (DCPAF).

Scope: Metropolitan France

Year	Measures	ITF	APRF	OQTF	APRF + OQTF	Deportation order	Readmission	Forced deportations (sub-total)	Voluntary returns (aided)	Total deportations
2002	pronounced	6,198	42,485	-	42,485	441		49,124		49,124
	executed	2,071	7,611	-	7,611	385		10,067		10,067
	%enforcement	*33.4%*	*17.9%*	-	*17.9%*	*87.3%*		*20.5%*		
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%*		
2012	pronounced	1,578	365	82,441	82,806	186	6,204	90,774		90,774
	executed	1,043	850	18,434	19,184	155	6,319	26,801	10,021	36,822
	%enforcement	*66.1%*	*205.5%*	*22.4%*	*23.2%*	*83.3%*		*29.5%*		
2013	pronounced	n.d.					6283	97 204		97,204
	executed						6,038	22,753	4,328	27,081
	%enforcement							*23.4%*		

ITF: Banishment from French territory (*interdiction du territoire français*, principal or additional measure pronounced by criminal courts)
APRF: Prefectural order to take back to the frontier (*arrêté préfectoral de reconduite à la frontière*)
OQTF: Order to leave French territory (*ordre de quitter le territoire français*, administrative measure).

Note: The measures implemented during one year may have been pronounced during an earlier year. This explains the enforcement rate of 205.5% for APF in 2012.

This table has been drawn up from CICI reports for 2003 to 2013. 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 allowed, for 2008 and the following years, showing a "result" meeting the objective of 30,000 deportations. The table shown here contains an additional column for ("forced deportations", which is in bold), which excludes voluntary or aided returns.

At a press conference (31 January 2014), the Minister 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 two latest reports drafted under the provisions of Article L.111-10 of the Code for the entry and stay of foreign nationals and right to asylum (10th report for 2012 and published in April 2014, 11th report for 2013 and published in April 2015) have included this distinction. For 2012 it was therefore identified that out of the 19,184 APRF and OQTF implemented, 4,954 cases related to "aided returns". This resulted in 21,847 "forced returns" being counted for 2012 instead of 26,801 as in the above table for the forced deportations column. According to this presentation, "forced returns" decreased significantly between 2009 (17,422) and 2010 (16,197) contrary to that previously shown (above table) and therefore growth for 2011 is lower (19,328). For 2013, the records also included "forced returns" and "aided returns" under forced deportations, which allowed obtaining the figure of 22,753.

Finally, the 11th report showing the figures for 2013 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.

Comments: According to a document from the National Assembly (Impact study in support of the proposed Act no. 2183 dated 23/07/2014 relating to the rights of foreign nationals in France), the implementation rate for APRFs and OQTFs came to 17.5%. The absolute level of APRFs and OQTFs enforced (15,684 in 2013) seems not to have sustainably exceeded 16,000 per annum and the enforcement rate varies according to the greater or lesser number of measures pronounced.

3.3 Administrative detention centres (Metropolitan France). Theoretical capacity, number of committals, average duration of detention, outcome of detention

Source: CICI annual reports, Senate (in italics, please see note).

Scope: Metropolitan France

Year	Theoretical capacity	Number of committals	Accompanying minors placed in CRA	Average occupancy rate	Average duration of detention (in days)	Detainees removed, excluding voluntary returns	% removals/committals
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%*

Note: the annual reports of the CICI from 2003 to 2013 allow presenting the first five columns of the table. The column for accompanying minors was not present before 2011. The last two columns relating to the result of placing and holding in administrative detention centres do not come from the same source. A report of the Senate Finance Committee dated 3 July 2009, following up on the task carried out by the Cour des Comptes, described, for 2006-2008, the number of people in detention who were finally sent back, excluding voluntary returns. The proportion with respect to the number of committals can therefore be calculated (last column). The 7th CICI report dated March 2011 then provided this proportion for 2009 (page 77). The following report gave a rate of 42% for CRAs possessing inter-service deportation centres (pôle interservices éloignement) and 37% for the rest, but no overall rate. The items set out in the last

column of the table for 2010- 2013 are from an informational report from the Senate on CRAs (No 775 dated 23/07/2014). This report also sets out the number of placements in 2013.

The number of placements in 2009 has been corrected here compared with previous editions: 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 Metropolitan France, whilst the previous edition (27,699 placements) became that for French overseas departments.

Comments: The CICI annual reports do not show how the average rate of occupation is defined and assessed. By applying this rate to capacity, an estimate of the average numbers of persons present in CRAs should be obtained. However this estimate is unreliable as the capacity may have been given for a fixed date (it would not then be the average capacity for the year). Another estimate of numbers would be possible from this table as placements correspond to entries and average duration of stays has been supplied. A lower estimate is arrived at. For 2013, calculating the occupancy rate gives an average total number of 754 detainees, and a calculation by average stay in detention gives a total number of 795 detainees. These two methods of calculation show an increase in these detainee numbers from 2003 (496 or 432 dependent upon the method of estimating) to 2007 (1,285/1,014) and then a drop to 2011 (811/585). The same calculation showed a slight rise in 2012 (836/703), but the 2013 data showed, depending on the chosen calculation method, a very slight decrease or increase.

House arrest, being an alternative to detention introduced in 2011, remains relatively less used: 668 measures in 2012 and 1,258 in 2013 (source: AN impact study of the bill dated 23 July 2014).

Annexe 1

Summary table of the principal recommendations of the CGLPL for the year 2015[47]

(see table on following pages)

[47] *These recommendations resulting from this report are in no way exclusive of those set out by the CGLPL in its opinions and recommendations during 2015, the contents of which are accessible on the institution's website www.cglpl.fr.*

Place concerned	Topic	Specific issue	Recommendation	Chapter
Mental healthcare institution	Legal information and advice	Notification of rights	It is necessary to come up with a protocol of the terms of informing a patient and notifying him/her on the measures of treatment without consent. The issuing of this information requires time, consideration and great care. The CGLPL recommends that the Ministry of Health should draw up a model document explaining the various different types of hospitalisation without consent and the means of remedy open to patients, in simple terms.	**1**
		Access to information	Every patient must be informed about the rules of living in the hospital and any information useful to his stay, via a welcome booklet or by displaying the rules in each room.	**1**
		Citizen's Advice Centre	Hotlines for access to legal advice, based on the model used in certain institutions, must be generalised.	**1**
		Oversight	The effectiveness of the patients' access to legal advice and to information must be subject to systematic oversight by the supervisory authorities of hospitals and common law visits.	**1**
		Lawyer	The board showing the Bar association must systematically be displayed in the institutions.	**1**
			Specific training for lawyers in assisting patients hospitalised without consent is rare. However, when it exists, it is observed that the development of the competence of the defence forces the administration to strengthen its own arguments, which most often back the decisions of the judge. The initiative of specific training for lawyers must be encouraged, but it must be organised such that it does not change the hearing of the JLD into a dispute with the institution on one side and the patient on the other.	**1**
			The remuneration of the lawyers must be reviewed, as it is lower as compared to those handling other litigations.	**1**
			The public authorities must, in consultation with each Bar of lawyers, ensure the removal of local obstacles to the presence of lawyers at the hearings of the liberty and custody judge.	**1**
	JLD hearing	Courtroom	The difficulties in permanently assigning a courtroom that complies with the standards set by law are not valid to justify discontinuing mobile hearings.	**1**
		Hospitalised detainees	Detainee patients are often handcuffed during the journey and are sometimes kept handcuffed even during the hearing, while police officers attend the hearing. Simply being a prisoner, without any personalised and formal risk analysis, cannot justify such a practice. Strict directives must therefore be given by the Minister of Justice for the proper use of means of restraint during the hearings of the liberty and custody judge.	**1**

		Assessment of the practices	The Minister of Justice should analyse the experience gained in executing hearings of the liberty and custody judge, taking into account the healthcare professionals, in order to provide them with the best practices and to organise training courses or experience sharing.	**1**
Mental healthcare institution	Reminder of the recommendations that have already been issued	Preliminary discharges	The CGLPL recommends that the authorities in charge of granting preliminary discharges or the measures of ending hospitalisation by court order must take into account that between the start the measure and the day of discharge, there has been a veritable healthcare process that has borne fruit.	**3**
		Status of the patients	Considering that, if we are entitled to demand from practitioners that they give medical assurances, we are also entitled to expect the authorities to establish the risk that they claim justifies the extension of a deprivation of liberty, the CGLPL recommends that in case of a disagreement between the medical staff and the administrative authority, the competent judge will be requested to give his ruling, with the director of the institution being required to refer the case to him without any formality.	**3**
			It is necessary to grant the patient the legal status corresponding to his status, and especially informing the State Prosecutor when a person admitted in free healthcare is clearly unable to give informed consent or is placed in a seclusion room for more than twelve hours.	**3**
		Staff	The CGLPL recommends evaluating the healthcare staff required for the proper functioning of the various structures, to strengthen the human and logistical resources of the extra-hospital structures and to strengthen the resources of the admission units, especially by recruiting nurses and psychologists.	**3**
	Maintaining family bonds	Correspondence	The CGLPL recommends, as regards sending letters, that hospital staff should make themselves available to patients under restraints, so that they can dictate the letters that they wish to write, or that recourse should be provided to any other means that allows reconciling the security requirements of the healthcare staff and the other patients, with the right to correspondence of hospitalised patients.	**3**
Penal institution	Maintaining family bonds	UVF	The Contrôleur général regrets that some penal institutions still do not have family living units, and that when they do exist, they are not used very often due to red tape.	**1**
		Visiting rooms	The CGLPL regrets that confidentiality in the visiting rooms is still not fully ensured due to poor soundproofing or due to the continuous presence of warders.	**1**
		Correspondence	Incarcerated persons must be physically capable of corresponding with their entourage (free distribution of paper, pens and envelopes).	**1**
			Distinct letterboxes must be provided for each type of letter (internal, external, health-related), and these must not be processed by the warders but only by the mail officer, who must be bound by professional confidentiality, and letters addressed to the medical staff must be collected by them.	**1**

		Telephone	It is recommended to install telephones in places that prevent access to the telephone being dependent solely on detainees, which would lead to all sorts of pressure, and to maintain the confidentiality of the conversations.	**3**
Penal institution	Maintaining family bonds	Telephone	Recommendations were also made to remove certain procedural obstacles in the procedure of designating the persons that can be contacted by telephone, of arranging call times, especially for the benefit of persons from overseas territories, and of authorising international communications pursuant to the same conditions as national communications.	**3**
			Access to the telephone must be provided for spouses or partners, both of whom are incarcerated, which is not the case today (e.g. by authorising a call to a telephone booth located in a detention facility); the detainee should be allowed to contact his/her kin, even when the detainee himself/herself or the family member is hospitalised.	**3**
		Computing	A better guarantee of the detainees' freedom of communication without any limits other than those imposed by security, public order, the future of the detainees and the rights of their victims, is necessary The CGLPL recommends that, to help in reinsertion, the rules of accessing computers, concerning the acquisition of hardware, storage capacities, access to the Internet and an electronic messaging service must be made more flexible and harmonised, in compliance with security requirements.	**3**
	Activities	Work	The CGLPL wishes for the law to clearly indicate the role of work in prison in terms of preparing the prisoner for insertion or reinsertion, to define broader rules concerning labour relations, especially concerning the breaking of these relations and remuneration, and to determine the general framework of the rules of security and protection of the worker in prisons. However, the legal regime of work in prison is not the only obstacle: the fact that very few establishments offer work remains a subject of concern.	**1**
		Education	The offer of education remains insufficient with respect to the objectives of reinsertion, which must be the focal point of the prison organisation.	**1**
	Prison overcrowding	Alternatives to incarceration	The only way to reduce prison overcrowding is by certain prison practices, especially by seeking the development of alternatives to incarceration such as electronic tagging, work release or day parole, as well as by re-examining the suspension of sentences on medical grounds or even by the terms of judicial supervision and public service, or by inventing other forms of penal sanctions. It would also be appropriate to reflect on the execution of short or very short sentences, or on very old sentences.	**1**
		Prison regulation	Setting up a prison regulation mechanism appears to be necessary today to guarantee the effectiveness of reducing overcrowding and the damage to the objective of individual cells. It therefore involves delaying incarceration when the accommodation capacity of a remand prison is full, and freeing certain detainees at the end of their sentence, by offering them aid, i.e. a project and oversight suited to their situation.	**1**

Penal institution	Prison staff	Staff	Recruitments and assignments of warders must be matched with the identified requirements of surveillance and the reinsertion of detainees, taking into account the actual strength of the prison population and not the theoretical capacity of the institutions.	**1**
	Access to healthcare	Alternatives to hospitalisation	To reduce the numerous removals from prison for medical reasons, the intervention of medical specialists in prisons must be reinforced and more thought must be put in to ensure that detainees meeting certain legal conditions can benefit from permissions to leave in order to check into a healthcare institution by themselves. Telemedicine should be developed.	**1**
		Removal from prison on medical grounds	The terms of removal from prison for medical reasons are not satisfactory: the evaluation of the security level must be personalised and the means of restraint forced on the persons must be strictly proportional to the risk presented by the said persons.	**1**
		Medical privilege	Maintaining medical privilege is every patient's right and is an absolute duty of the doctor. The CGLPL recommends that the medical consultations should be conducted without the presence of an escort and that the surveillance must be indirect (out of the sight and hearing of the detainee).	**1**
		Secure rooms	The CGLPL gives a reminder on the necessity of providing reception procedures and specific areas in the healthcare institutions in order to prevent the escorted detainees from being exposed to the sight of the public.	**1**
			To maintain the quality of the healthcare, the security of the staff and the dignity of the detainees, the secure rooms must be located in a department where the healthcare team is willing and prepared to receive detainees for short-term healthcare. Currently, these places resemble places of detention rather than places dispensing healthcare.	**1**
			The detainees must be informed beforehand of their hospitalisation conditions (list of authorised and forbidden personal effects), and on their arrival at the healthcare institution (welcome booklet pertaining to the terms of hospitalisation in secure rooms as well as the related rights).	**1**
			A specific internal regulation for secure rooms must be drafted.	**1**
			In addition to the anomalies of the operation of the secure rooms, their very principle, based exclusively on security concers, must be re-evaluated after analysing their occupancy rate, the installation and the operation of the UHSI.	**1**
			National rules specifying the conditions of recourse to secure rooms and the system of staying in these rooms, as well as the terms of mutual respect of the rights of detainees and the security requirements must be established jointly by the Ministries of Health, Justice and the Interior, with the help of the CNOM.	**1**
		Hospital staff	Mandatory and effective training is desperately needed for all healthcare staff intervening on detainees in hospitals, concerning the ethics, medical privilege and the rights of detainees.	**1**

Penal institution	Searches	Reminder of the recommendations that have already been issued	Searches of detained transsexuals must occur in conditions that allow preserving their dignity and by officers of the same sex as the gender they identify themselves with, without waiting for a change in the civil status.	**1**
			When being taken to hospitals, the patients must not be subjected to a full-body search when their health condition is at risk of worsening and when this condition makes it highly improbable for them to transport forbidden objects.	**1**
			It would be preferable to establish a register indicating the results of searches (number of persons and methods) and to show it to any competent judge on request.	**1**
			The ministerial directives pertaining to the traceability of full-body searches conducted on detainees must be implemented immediately.	**1**
			When the full-body search of a person with reduced mobility is justified, it must be conducted in a closed room.	**1**
			The documents found in the cupboards during searches should be examined in the presence of the detainee and only by officers or warders specially appointed in writing by the head of the institution, and for the sole purpose of verifying that there are no hidden forbidden goods or substances; examining the documents themselves for the purpose of reading them must be banned.	**1**
			Children of incarcerated mothers may be searched only if there are serious suspicions that a rule may be violated, and the search must be strictly limited to the diaper of the child, by its own mother, in front of a third party, but must exclude any contact between the said third party and the child; this search must be subject to a written note, assigning the request of an officer or a warder; the mother must not be searched in the presence of her child.	**1**
		Assessment of the practices	The CGLPL recommended to the Minister of Justice to carry out an evaluation of the ongoing practices in the penal institutions concerning searches, and to draft the directives necessary for a more homogeneous application of the Prisons Act.	**1**
	Controlling violent radicalisation	Grouping	The grouping together of radicalised detainees in dedicated wings involves risks: cohabitation of detainees with varying levels of involvement in the radicalisation process, difficulties in identifying the targeted persons, ignorance of the methods of controlling the detainees concerned.	**1**
			The CGLPL stated that grouping together these people in dedicated wings does not come from any existing legal provision, and since this sui generis system does not fall under ordinary detention or solitary confinement, it is therefore not susceptible to any of the normal means of remedy. The absence of accurate information on the methods of supervision and the detention conditions in these new wings raises fears of this regime possibly sliding towards a de facto isolation of these people.	**1**
Penal institution	Controlling violent radicalisation	"De-radicalisation" programmes	While the so-called de-radicalisation programmes draw on the willingness of the persons concerned, a continuous evaluation of their execution is necessary. Already, it is necessary to ensure that the funds allocated to these programmes do not come at	**1**

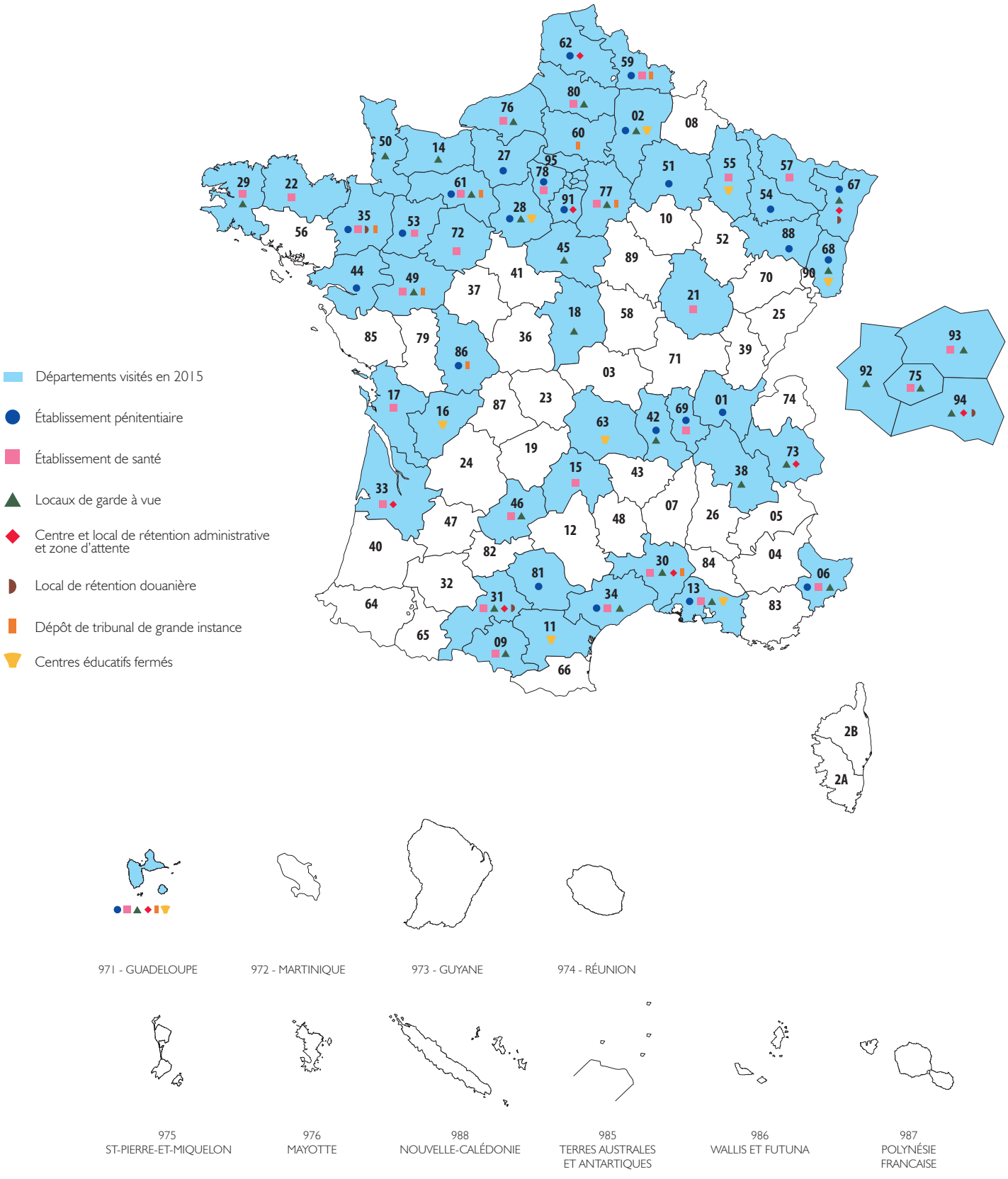
			the expense of the reintegration efforts of other detainees and do not burden the treatment of the entire prison population.	
			The public authorities must put more thought into the nature of the treatment of youth returning from zones of conflict, since it has been observed that incarceration cannot be an undifferentiated method of treating a phenomenon that affects several hundreds of people with varying degrees of intensity.	**1**
	Daily life	Night rounds	The Contrôleur général deems that waking detainees up several times at night, for long periods sometimes, is likely to violate their rights to physical integrity and dignity, and to constitute inhumane and degrading treatment, all the more so as other measures (checking of the bars, allocation of cells close to the guard posts, etc.) are already implemented simultaneously, to ensure the security of the institution and prevent jailbreaks.	**3**
		Poverty in detention	People lacking sufficient financial resources must be able to benefit from aid, in kind, that allows them to use a telephone for free, even if a portion of the cash aid of 20 euros can cover these costs.	**3**
			The Contrôleur général stated that the aid in kind must be given unconditionally to all people recognised by the CPU as lacking sufficient financial resources.	**3**
			In certain institutions, receiving study grants makes people lacking sufficient financial resources ineligible for the cash aid of 20 euros. The Contrôleur général recommended that the amount of the study grants should not be taken into account when examining their financial situation.	**3**
			The Contrôleur général questions the possibility of allowing people lacking sufficient financial resources to have a certain nest egg, through which they can accumulate their savings, month after month, from the cash aid of 20 euros or their study grant, in order to make atypical purchases, on the authorisation of the head of the institution.	**3**
		Protection of property	The CGLPL renewed the recommendation formulated in its Opinion dated 10 June 2010 pertaining to the protection of the property of detainees, stating that the compensation for lost or damaged property should be determined using the value of the new property.	**3**
Administrative detention centre	Physical conditions of accommodation		The physical conditions of accommodation of detainees are unsatisfactory in several cases, certain rooms require a complete renovation, others in basements are cramped, cold and noisy; in other places, the treatment is rudimentary and in one building, only the administrative rooms are air-conditioned and the protection against mosquitoes is not suited to the local conditions.	**1**
Administrative detention	Access to open air spaces		In a few cases, in buildings that are otherwise in a good condition, the treatment of the detainees is close to that of imprisonment, where the detainee is only allowed outside rarely and where the detainees leave the accommodation building only for common meals and administrative formalities.	**1**

centre	Access to information	The information provided to detainees on the functioning of the CRA is often lacking: there is no "welcome booklet"; the information issued by the OFII is not sufficient and several internal rules of life do not appear in the internal regulations, while the rest is not always displayed in a sufficient number of languages.	**1**
	Notification of rights	Notifying the detainees of the rights is frequently done with the least possible information, and only in the rare cases in which it is not done by the detaining agency. The operation is rapid, a translation is sometimes provided over the phone and no document summarising the rights is provided to the persons involved. This procedure can sometimes ressemble somewhat of an assembly-line approach, and sometimes the rights of appeal and the rights in detention are notified via a partially erroneous print-out, and the policemen themselves act as interpreters.	**1**
	Activities	Lack of activity is a frequent concern in CRA. Often, there is no activity other than television; in some places, an activity room that used to exist has now disappeared, there is no equipment such as games or books, the exercise time is reduced and boredom is rampant. Activities, especially physical ones, must be organised.	**1**
	Implementation of constant recommendations of the CGLPL	The CGLPL, having visited each of the CRA several times and having issued recommendations that do not fit comfortably with the facts, has requested the Government to schedule a systematic implementation of these recommendations and to ensure that they are monitored.	**1**
	Liberty and custody judge	The CGLPL gave a reminder of its recommendation to reduce the intervention period of the liberty and custody judge to 48 hours, which would allow a more effective control of the lawfulness of the procedures.	**2**
	Telephone	The CGLPL recommends that the administrative detention facilities should be equipped with telephones for the detainees and that the booths installed in the centres must guarantee the confidentiality of the conversations. Recommendations were also made to review the frequent practice of confiscating mobile phones from detainees if they contain an in-built camera.	**2**
Administrative detention facility	Physical conditions of accommodation	The conditions for receiving people detained in LRA do not sufficiently maintain their dignity. In general, the rooms are well maintained, but there is no access to an outdoor area for smoking or just to get some fresh air, to the extent that outings are very rare and strongly depend on the needs of the services and officers present.	**1**
Administrative detention	Legal information and advice	The rights of defence and access to legal aid are not properly guaranteed in LRA: the lists of lawyers registered in the competent Bar are not displayed; sometimes, they have not made this journey for several years as they have not been paid; the organisation providing aid to foreign nationals are not always present, and their contact details, as well as those of the consulate authorities, are often not displayed;	**1**

facility			the internal regulations of the LRA are never provided to the detainees; it is impossible request for asylum.	
	Evaluation		The CGLPL suggests that the situation of each administrative detention facility must be audited so that all of those that are not strictly necessary can be shut down.	**1**
Juvenile detention centre	Reminder of the recommendations that have already been issued		An inter-ministerial mission on the apparatus of juvenile detention centres also suggested actions to be taken to "eliminate the structural difficulties of CEF and reduce the risks of the apparatus". These recommendations are in line with those of the CGLPL, especially: - professionalise and consolidate the CEF teams to take better care of minors; - make the qualification of professionals mandatory and continue to strengthen the workforce; - recruit staff according to a required level of qualification and a suitable profile; - implement specific training courses; - optimise education during fostering; - strengthen support for minors for outings; - anticipate crises and functional problems; - intensify and clarify the control of the apparatus.	**1**
Custody facilities	Physical conditions		The lack of operating funds for the national police severely impacts the custody conditions as well as the working conditions of the officers. A certain number of observations can be drawn from this: dirty, dilapidated, poorly lit or poorly heated rooms, unsatisfactory physical hygiene conditions, intermittent access to showers, if they even exist, either because the detainees are not offered any, or due to a lack of hygiene products or bathroom linen. This situation is well known, but the means to remedy it have not been mobilised.	**1**
	Police staff	Role and training	In police stations, it is necessary to define the role of the police custody officer in the job descriptions or memos and improving the training of the law enforcement officers in their role would allow this function to be better implemented.	**1**
			In the customs department, appointing a referral officer would allow the physical conditions of deprivation of liberty to be taken into account. Generalising such an apparatus does not seem to be a very difficult task.	**1**
	Security measures	Night monitoring of cells	In the gendarmerie services, there is often no night-time surveillance of the persons in custody: no visual or auditory surveillance is continuously present, and there is no call button, intercom or CCTV system. The gendarmes themselves express their uneasiness with this situation, since they can be held personally responsible for this source of concern. The only truly satisfactory formula that could guarantee the safety of the persons and protect the responsibility of the law enforcement officers is to place the persons in custody in facilities that are continuously under surveillance. The traceability of the nocturnal surveillance measures of people in custody must be systematically and rapidly ensured.	**1**

Custody facilities	Security measures	Confiscation of glasses and bras	Very often, detainees are forced to remove their glasses and bras. Ever since its first activity report in 2008, the Contrôleur général has continuously contested the grounds for this measure, highlighting its lack of effectiveness in terms of safety as well as its evident humiliating consequences on persons in custody, thereby making them feel even more vulnerable.	**1**
		Responsibility of the officers	It is necessary to ensure that the staff in charge of implementing the measures of taking people into custody are not encouraged to use excessive precautions due to an excessively extensive definition of their disciplinary responsibility. Once an officer has correctly assessed the risks of a situation and has taken reasonable suitable measures, he should not be held responsible for any unforeseen event. The security of the people in custody must be subject to an obligation of due diligence and not an obligation of result.	**1**
	Access to lawyers		The lawyers must be provided with a room specifically allocated to accommodate persons in custody or in detention, with a call button, electric sockets and the Internet. The list of members of the Bar association must be displayed in it. This description is adequate for an interview room.	**1**
	Access to medicine		Having a general practitioner conduct the examination in the actual confinement facilities is the preferred method as long as it is possible, since this allows verifying the compatibility of the health of the examined person with the measure taken in the actual conditions of its execution.	**1**
	Oversight of the prosecution		The control function of the prosecutors on the places of deprivation of liberty is frequently exercised unsatisfactorily. Directives must be given to the prosecutors to help them in executing a pertinent control.	**1**
Court jails	Physical conditions		The Contrôleur général regrets the continued existence of poorly maintained and often very small rooms, which does not contribute to appeasing the detainees, as well as that of washrooms that do not allow maintaining the privacy of those who use them and which are sometimes not sufficiently clean. The absence of washrooms in the jails sometimes forces the detainee to travel to common washrooms along with his/her escort. Hygiene is not always maintained in these places. This situation must be improved.	**1**
	Registers		In court jails, the frequent absence of occupancy registers or the fact that they are not updated hinders the traceability of inbound persons, the duration of their stay and the enforcement of their rights. Therefore, it is impossible to verify the existence of an effective control of the legal and hierarchical authorities concerning the rights of detainees and the condition of the jails.	**1**

Annexe 2
Map of the institutions and departments visited in 2015



Annexe 3

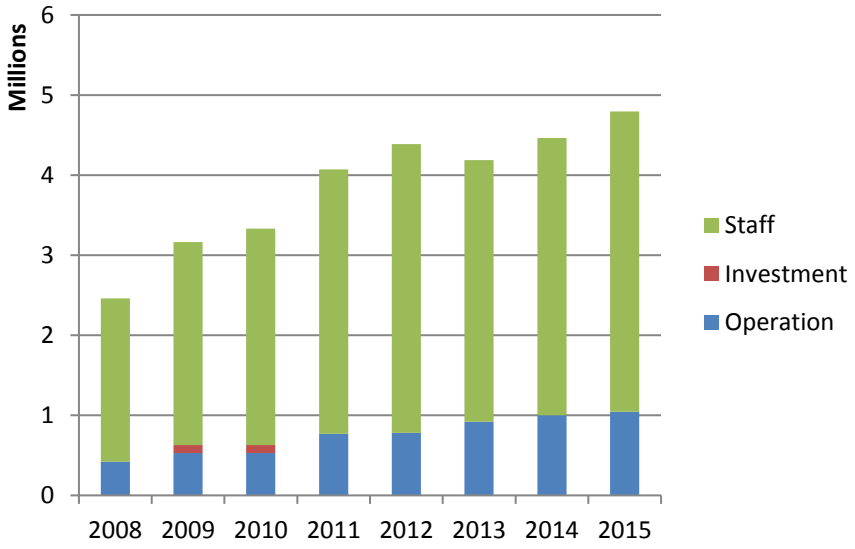
Budget balance sheet

1. Budget allocated to the CGLPL in 2015

LFI 2015*		
staff expenses	€3,750,094	78.22%
of which permanent staff	€3,398,254	
of which casual staff	€351,840	
Other expenditure		
operation	€1,044,138	21.78%
TOTAL	**€4,794,232**	

*in payment appropriations after deduction of frozen sums and reserves

2. Changes in the budget since the CGLPL was created



Annexe 4

The inspectors and staff employed in 2015

Contrôleur général

Adeline Hazan, judge

Secretary-General

André Ferragne, Contrôleur général of French armed forces

Assistants

Nathalie Leroy, deputy assistant

Franky Benoist, administrative assistant

Permanent inspectors:

Adidi Arnould, director of the judicial youth protection service

Ludovic Bacq, prison commandant

Chantal Baysse, director of prison services for rehabilitation and probation

Catherine Bernard, general practitioner for public health

Gilles Capello, director of prison services

Cyrille Canetti, hospital practitioner, psychiatrist.

Michel Clémot, general of the gendarmerie

Céline Delbauffe, former lawyer

Thierry Landais, director of prison services

Muriel Lechat, chief superintendent of the French National Police Force

Anne Lecourbe, president of the judiciary of administrative courts

Cécile Legrand, judge

Dominique Legrand, judge

Philippe Nadal, chief superintendent of the French National Police Force

Vianney Sevaistre, civil administrator

Bonnie Tickridge, nurse and supervisor in the voluntary sector

Cédric de Torcy, former director of a humanitarian association

External inspectors

Séverine Bertrand, rapporteur of the Competition Authority

Betty Brahmy, former hospital practitioner, psychiatrist and former permanent inspector

Bernard Bolze, former journalist, association worker

Virginie Brulet, doctor

Jean Costil, former president of an association

Marie-Agnès Credoz, former judge

Stéphanie Dekens, special advisor to the Defender of Rights

Hubert Isnard, former doctor and inspector

Isabelle Fouchard, in charge of research at the CNRS in comparative law

Michel Jouannot, former vice-president of an association

Bertrand Lory, former attaché to the City of Paris

Alain Marcault-Derouard, former executive of a company engaged in public procurement contracts with the prisons administration.

François Moreau, former doctor

Annick Morel, general inspector for social affairs

Félix Masini, former head teacher of a secondary school

Bénédicte Piana, former judge

Stéphane Pianetti, special needs educator

Dominique Secouet, former manager of the Baumettes prison multimedia resource centre

Jean-Louis Senon, University professor, clinical criminology and psychiatry teacher and hospital practitioner

Christian Soclet, former director of the judicial youth protection service

Akram Tahboub, former prison training manager

Dorothée Thoumyre, lawyer.

Departments and centres in charge of referred cases

Legal Affairs Director:

Maddgi Vaccaro, Chief court registrar (till 30 May 2015)

Jeanne Bastard, judge (from 30 November 2015)

Financial and administrative director:

Christian Huchon, head attaché of government departments (till 28 February 2015)

Christine Dubois, head attaché of the Government departments (from 1 May 2015)

Archivist in charge of monitoring recommendations:

Agnés MOUZE, attaché of the Government departments

Inspectors responsible for case referrals:

Benoîte Beaury, archivist

Anna Dutheil, legal officer

Sara-Dorothée Guérin-Brunet, legal expert

Yacine Halla, legal officer

Maud Hoestlandt, lawyer

Lucie Montoy, legal officer

Estelle Royer, legal officier

Inspector - responsible for the Scientific Committee:

Agathe Logeart, journalist and former editor in chief of the *Nouvel Observateur*

Inspector – responsible for communications:

Yanne Pouliquen, former employee of an association for access to legal rights

Inspector - responsible for international affairs:

Anne-Sophie Bonnet, former delegate of the International Committee of the Red Cross

In addition, in 2015, the CGLPL welcomed, for professional training or for temporary employment contracts (CDD):

Laura Bassaler (law student)

Nina Califanio (ENM)

Chloé Chalot (law student)

Etienne Canton (IPAG trainee and CDD)

Flora Defolny (law student)

Sophie Duclos (IEP trainee)

Charlotte Merle (ENM)

Louis Maillard (law student)

Marie Pantalone (ENAP)

Angèle Roisin (IEP trainee and CDD)

Virginie Riou (IRA)

Laura Soudre (ENAP)

Témur Sharopov (Lumière Lyon 2 university)

Annexe 5

Reference texts

Resolution adopted by the General Assembly of the United Nations on 18 December 2002

The General Assembly […]

1. Adopts the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment contained in the annexe to the present resolution, and requests the Secretary-General to open it for signature, ratification and accession at United Nations Headquarters in New York from 1 January 2003;

2. Calls upon all States that have signed, ratified or acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to sign and ratify or accede to the Optional Protocol.

Optional Protocol to the Convention of the United Nations against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Part IV

National Preventive Mechanisms

Article 17

Each State Party shall maintain, designate or establish at the latest one year after the entry into force of the present Protocol or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level. Mechanisms established by decentralised units may be designated as national preventive mechanisms for the purposes of the present Protocol, where they are in conformity with its provisions.

Article 18

1. The States Parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel.

2. The States Parties shall take the necessary measures to ensure that the experts of the national preventive mechanism have the required capabilities and professional knowledge. They shall strive for a gender balance and the adequate representation of ethnic and minority groups in the country.

3. The States Parties undertake to make available the necessary resources for the functioning of the national preventive mechanisms.

4. When establishing national preventive mechanisms, States Parties shall give due consideration to the Principles relating to the status of national institutions for the promotion and protection of human rights.

Article 19

The national preventive mechanisms shall be granted at least the following powers:

a) To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in Article 4, with a view to strengthening where necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;

b) To make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;

c) To submit proposals and observations concerning existing or draft legislation.

Article 20

In order to enable the national preventive mechanisms to fulfil their mandate, the States Parties to the present Protocol undertake to grant them:

a) Access to all information concerning the number of persons deprived of their liberty in places of detention as defined in Article 4, as well as the number of places and their location;

b) Access to all information referring to the treatment of those persons as well as their conditions of detention;

c) Access to all places of detention and their installations and facilities;

d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator where deemed necessary, as well as with any other person who the national preventive mechanism believes may furnish relevant information;

e) The liberty to choose the places they want to visit and the persons they want to interview;

f) The right to have contacts with the Subcommittee on Prevention, to send it information and to meet with it.

Article 21

1. No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the national preventive mechanism any information, whether true or false and no such person or organization shall be otherwise prejudiced in any way.

2. Confidential information collected by the national preventive mechanism shall be privileged. No personal data shall be published without the express consent of the person concerned.

Article 22

The competent authorities of the State Party concerned shall examine the recommendations of the national preventive mechanism and enter into a dialogue with it on possible implementation measures.

Article 23

The States Parties to the present Protocol undertake to publish and disseminate the annual reports of the national preventive mechanisms.

Law no 2007-1545 dated 30 October 2007[(1)]

NOR: JUSX0758488L - Consolidated version as on24 December 2014

Article 1

Amended by Law no. 2014-528 dated 26 May 2014 - Art. 1

The Contrôleur général of places of deprivation of liberty, an independent authority is hereby in made responsible subject to the prerogatives granted by law to judicial or quasi-judicial bodies, for monitoring the conditions of management and transfer of persons in custody, so as to ensure that their fundamental rights are respected.

Within the limit of his powers, he shall not take instructions from any authority..

Article 2

Amended by Law no. 2010-838 dated 23 July 2010 - Art. 2

The Contrôleur général of places of deprivation of liberty shall be appointed because of his expertise and professional knowledge by decree of the President of the Republic for a period of six years. This term may not be renewed.

He may not be prosecuted, investigated, arrested, detained.or tried in respect of opinions expressed or action performed in the performance of his duties.

His appointment may not be terminated before the end of his office except in the case of resignation or inability to perform his duties.

The duties of the Contrôleur général of places of deprivation of liberty are incompatible with any other public employment, any professional activity and any elected office.

Article 3

Amended the following provisions:

Amends the Electoral Code - Art. L.194-1 (V)

Amends the Electoral Code - Art. L.230-1 (V)

Amends the Electoral Code - Art. L.340 (V)

Article 4

The Contrôleur général of places of deprivation of liberty shall be assisted by inspectors that he recruits because of their expertise in the areas related to his task.

The duties of inspectors are incompatible with the performance of activities related to the establishments visited.

In the performance of their tasks, the inspectors are under the exclusive authority of the Contrôleur général of places of deprivation of liberty.

Article 5

The Contrôleur général of places of deprivation of liberty, his team members and the inspectors assisting him are bound by professional secrecy regarding the facts, action and information of which they have knowledge because of their duties, subject to the information required for drawing up reports, recommendations and opinions as provided in Articles 10 and 11.

They shall ensure that no information allowing persons subject to the visit to be identified is included in the documents published under the authority of the Contrôleur général of places of deprivation of liberty and in his public statements.

Article 6

Amended by Law no. 2014-528 dated 26 May 2014 - Art. 2

Any natural person, and any legal person whose stated object is the respect of fundamental rights, may bring to the knowledge of the Contrôleur général of places of deprivation of liberty any facts or situations that may fall within his remit.

Matters shall be referred to the Contrôleur général of places of deprivation of liberty by the Prime Minister, members of the Government, Members of Parliament and the Defender of Rights. He may also take up matters on his own initiative..

Article 6-1

Created by Law no. 2014-528 dated 26 May 2014 - Art. 3

Where a natural person or legal entity brings facts or situations to the attention of the Contrôleur général of places of deprivation of liberty, they shall state, having set out names and addresses, the grounds, as they see it for an infringement or risk of infringement of fundamental rights of persons deprived of their liberty.

Where the facts or the situation brought to his attention fall within his jurisdiction, the Contrôleur général of places of deprivation of liberty may carry out visits, where necessary, on-site.

When these visits have been completed and having received the observations of all interested parties, the Contrôleur général of places of deprivation of liberty may make recommendations in relation to the facts or situations in question to the person responsible for the place of deprivation of liberty. These observations and recommendations may be made public without prejudice to the provisions of Article 5.

Article 7

Amended the following provisions:

Amends Law no. 73-6 dated 3 January 1973 – Art. 6 (Ab)

Amends Law no. 2000-494 dated 6 June 2000 – Art. 4 (VT)

Article 8

Amended by Law no. 2014-528 dated 26 May 2014 - Art. 3

The Contrôleur général of places of deprivation of liberty may, at any time, within the Republic of France, visit any site where people are kept in custody by the decision of a public authority, and

any healthcare facility authorised to admit patients hospitalised without their consent pursuant to Article L.3222-1 of the Public Health Code.

Article 8-1

Created by Law no. 2014-528 dated 26 May 2014 - Art. 3

The authorities responsible for the custodial establishment may only object to the visit by the Contrôleur général of places of deprivation of liberty for serious, compelling reasons connected with national defence, public security, natural catastrophes or serious disturbance within the site visited, subject to providing the Contrôleur général of places of deprivation of liberty with justification for their objection. They shall then suggest a deferment. As soon as the exceptional circumstances causing the deferment have come to an end, they shall inform the Contrôleur général of places of deprivation of liberty of the fact.

The Contrôleur général of places of deprivation of liberty shall obtain from the authorities responsible for the custodial establishment any information or document necessary for the performance of his task. At the visits, he may interview any person whose contribution he considers necessary, under conditions ensuring the confidentiality of the conversation.

The secret nature of any information and documents requested by the Contrôleur général of places of deprivation of liberty may not be raised as an objection to him, except if their disclosure is likely to jeopardise national defence secrecy, State security, the secrecy of police work and pre-trial investigations, medical secrecy or professional secrecy applicable to the lawyer-client relationship.

Statements relating to conditions under which a person is or has been detained, on any grounds whatsoever, in police stations, gendarmeries or customs shall be provided to the Contrôleur général of places of deprivation of liberty, except where they relate to personal hearings.

The Contrôleur général of places of deprivation of liberty may delegate the powers mentioned in the first four paragraphs of this Article to the inspectors.

Information covered by medical confidentiality may be disclosed, with the agreement of the person concerned, to inspectors having the professional capacity of doctors. However, information covered by medical confidentiality may be disclosed to them without the consent of the person concerned where it relates to deprivation, abuse and physical violence, whether sexual or physical committed against a minor or a person not able to protect themselves because of their age or physical or psychiatric incapacity.

Article 8-2

Created by Law no. 2014-528 dated 26 May 2014 - Art. 4

No penalty may be ordered and no prejudice may result solely because of links established with the Contrôleur général of places of deprivation of liberty or from information or documents provided to him in carrying out his work. This provision will not be a hindrance to possible application of Article 226-10 of the Penal Code.

Article 9

Amended by Law no. 2014-528 dated 26 May 2014 - Art. 5

At the end of each visit, the Contrôleur général of places of deprivation of liberty shall inform the ministers concerned of his observations regarding, in particular, the state, organisation and operation of the site visited, and also the condition of the persons in custody, taking into account developments in the situation since his visit. Except for cases where the Contrôleur général of

places of deprivation of liberty gives dispensation, ministers are to make observations in response within the time limit provided, which may not be less than one month. These comments in response shall then be attached to the visit report drawn up by the Contrôleur général.

If he observes a serious infringement of the fundamental rights of a person in custody, the Contrôleur général of places of deprivation of liberty shall promptly notify the competent authorities of his observations, shall give them a period within which to respond and, at the end of this period, shall determine whether the infringement notified has ceased. If he deems necessary, he shall then publish the contents of his observations and the responses received.

If the Contrôleur général becomes aware of facts suggesting the existence of a criminal offence, he shall promptly bring it to the attention of the Public Prosecutor, in accordance with Article 40 of the code of criminal procedure.

The Contrôleur général shall promptly bring to the attention of the authorities or persons having disciplinary powers any facts that might lead to disciplinary proceedings.

The Public Prosecutor and the authorities or persons invested with disciplinary powers shall inform the Contrôleur général of places of deprivation of liberty of the action taken in relation to his procedures.

Article 9-1

Created by Law no. 2014-528 dated 26 May 2014 - Art. 8

Where requests for information, documents or comments made on the basis of Articles 6-1, 8-1 and 9 are not acted upon, the Contrôleur général of places of deprivation of liberty may serve notice on the parties concerned to respond within a time limit which he shall set.

Article 10

Amended by Law no. 2014-528 dated 26 May 2014 - Art. 6

Within his field of competence, the Contrôleur général of places of deprivation of liberty shall issue opinions, make recommendations to the public authorities and propose to the Government any amendment to applicable legislative and regulatory provisions.

After having informed the authorities responsible, he may publish these opinions, recommendations or proposals, as well as any observations made by these authorities.

Article 10-1

Created by Law no. 2014-528 dated 26 May 2014 - Art. 7

The Contrôleur général of places of deprivation of liberty may send to authorities having responsibility, advisory notices on construction, restructuring or rehabilitation proposals relating to any place of deprivation of liberty.

Article 11

The Contrôleur général of places of deprivation of liberty shall submit an annual activity report to the President of the Republic and to Parliament. This report is published.

Article 12

The Contrôleur général of places of deprivation of liberty shall cooperate with competent international bodies.

Article 13

Amended by Law no. 2008-1425 dated 27 December 2008 - Art. 152

The Contrôleur général of places of deprivation of liberty shall manage the appropriations required for the performance of his task. These appropriations shall be recorded in the programme of the "Government action directorate" mission related to the protection of fundamental rights and freedoms. The provisions of the Law of 10 August 1922 on the organisation of auditing of expenses incurred do not apply to the management thereof.

The Contrôleur général of places of deprivation of liberty shall submit his accounts for audit by the auditor-general's department (*Cour des comptes*).

Article 13-1

Created by Law no. 2014-528 dated 26 May 2014 - Art. 9

Hindering the Contrôleur général of places of deprivation of liberty in the course of his duties is punishable by a fine of €15,000.

1° By hindering the progress of checks on-site provided for by Article 6-1 and visits provided for by Article 8;

2° Or refusing to provide information or documents necessary to the checks provided for under Article 6-1 or visits provided for under Article 8, by hiding or making the said information or documents disappear or altering their content;

3° Or taking measures to hinder, by threat or illegal action relations that any person might have with the Contrôleur général of places of deprivation of liberty in application of this act;

4° Or ordering a penalty against a person solely because of links established with the Contrôleur général of places of deprivation of liberty or from information or documents provided to him in carrying out his work that this person may have provided.

Article 14

The conditions of application of this law, including those under which the inspectors mentioned in Article 4 are called to participate in the task of the Contrôleur général of places of deprivation of liberty, are stated by decree in the Council of State (*Conseil d'État*).

Article 15

Amended the following provisions:

Amends the Code for Entry and Residence of Foreigners and Right of Asylum (*Code de l'entrée et du séjour des étrangers et du droit d'asile*) - Art. L111-10 (M)

Article 16

This act is applicable in Mayotte, the Wallis and Futuna Islands, the French Southern and Antarctic Lands, French Polynesia and New Caledonia.

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(1) Preparatory work: Law no. 2007-1545.

French Senate: Bill no. 371 (2006-2007);

Report by Mr Jean-Jacques Hyest, on behalf of the Law Commission, no. 414 (2006-2007);

Discussion and adoption on 31 July 2007 (Adopted text no. 116, 2006-2007).

French National Assembly: Bill, adopted by the Senate, no. 114;

Report by Mr Philippe Goujon, on behalf of the Law Commission, no. 162;

Discussion and adoption on 25 September 2007 (Adopted text no. 27).

French Senate: Bill no. 471 (2006-2007);

Report by Mr Jean-Jacques Hyest, on behalf of the Law Commission, no. 26 (2007-2008);

Discussion and adoption on 18 October 2007 (Adopted text no. 10, 2007-2008).

Annexe 6

The rules of operation of the CGLPL

The CGLPL drew up internal rules in accordance with Article 7 of Decree no. 2008-246 of 12 March 2008 concerning its operation.

In addition the inspectors are subject to compliance with the principles of professional ethics in the performance of their duties with regard to their conduct and attitude during visits and the drawing up of reports and recommendations.

The whole of these texts, as well as all of the other reference texts, may be consulted 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 Contrôleur général 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
BP 10301
75921 Paris cedex 19

The inspectors and the centre 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, while verifying the situations recounted and conducting investigations, where necessary on-site, in order to try to provide a response to the problem(s) raised as well as identifying possible problems of a more general order and where need be, putting forward recommendations to prevent any new breach of a fundamental right.

> Above all, apart from cases referred and on-site inquiries, the CGLPL conducts visits in any place of deprivation of liberty; either in an unexpected manner or scheduled a few days before arrival within the institution.

Visits 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 two out of three 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 visits, 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 medical and professional privilege applicable to relations between lawyers and their clients.

At the end of each visit, the teams of inspectors each write their draft report or initial report, which, according to the provisions of Article 31 of the rules and regulations of the CGLPL[48] "is submitted to the Contrôleur général, who then sends it to the head of the institution, in order to obtain the latter's comments on the facts ascertained during the visit. Except in case of special circumstances and subject to the cases of urgency mentioned in the second paragraph of Article 9 of the Law dated 30 October 2007, the head of the institution is given one month to reply. In the absence of a response within this deadline, the Contrôleur général 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.

And Article 32 of the same rules and regulations states that "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 calls together the inspectors having conducted the visit, in order to modify the report if necessary and draft the conclusions or recommendations which accompany the final report, referred to as the "visit report" [which] is sent by the Contrôleur général to the appropriate ministers having competence to deal with the facts ascertained and recommendations contained therein. In accordance with the above-mentioned Article 9, deadline of between five weeks and two months, except in case of urgency, is fixed for responses from ministers."

Once all of the ministers concerned have made their observations, these visit reports are then published on the CGLPL website, which was brought into production in April 2009.

In addition the Contrôleur général may decide to publish specific recommendations concerning one or several institutions as well as overall assessments on transverse 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.

[48] *Internal rules and regulations established in application of Article 7 of Decree no. 2008-246 dated 12 March 2008.*

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