



Report of Various Size – Fieldwork research (FRANET)

Criminal Detention in the EU – Conditions and Monitoring

Country Report France

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Introductory remarks

In the legal texts on the rights of the prisoner, the most elementary (access to care, physical activity in detention, etc) seem at least partly to be recognised and/or respected. In this respect, the penitentiary law of 24 November 2009¹ put forward the need to respect the fundamental rights of the detainee; mentioned in particular are the right to respect of private and family life, the right to information, health, and safety. According to article 22 of the penitentiary law: *'The prison authorities guarantee to any detainee the respect of their dignity and their rights'*; only certain constraints related to safety and/or the loss of liberty can affect the exercise of these rights.

Nevertheless, this assertion does not prevent concrete analysis of the actual situation in detention, such as that which the Controller general of detention facilities carries out in activity reports, inspection reports and recommendations. One of the recurring problems with which detention establishments are faced, or even the principal problem, resides in prison overcrowding which makes it difficult, even impossible, for the Prison authorities to respect the fundamental rights of prisoners. To this prison overcrowding is added a lack of resources granted to the Prison authorities, and consequently, a stagnation or even a decline in the number of prison officers.

One current illustration lies in access to toilets. Each cell is equipped with toilets. In addition to the lack of any real separation between the toilets and the living space, the situation is all the more detrimental to the detainee and their privacy when the cell is shared with other prisoners.

The Controller general of detention facilities presents prison overcrowding as having been chronic in France since the 1990s.² Successive political leaders have become aware of this situation and chosen two types of solution: increasing the number places in detention by building new prisons and developing other means of punishment than detention. However, these solutions have been insufficient³

Although the Prison authorities are subjected to difficulties which could be described as insurmountable, since they are inherent in the loss of liberty, it must be acknowledged that, without prison overcrowding and with additional resources, the Prison authorities could demonstrate better consideration of the fundamental rights of detainees.

¹ France, Penitentiary Law (*Loi pénitentiaire*) n°2009-1436, 24 November 2009, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000021312171&fastPos=1&fastReqId=2032670549&categorieLien=cid&oldAction=rechTexte

² France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2018), 'Fundamental Rights Overcoming Prison Overcrowding. A Concrete Approach Based on the Experience of the Controller General of Detention Facilities' (*Les droits fondamentaux à l'épreuve de la surpopulation carcérale. Approche concrète sur la base de l'expérience du Contrôleur général des lieux de privation de liberté*), p. 30, available at: www.cgpl.fr/wp-content/uploads/2018/02/Rapport-thématique-surpopulation-carcérale_web.pdf

'Overcrowding in French prisons is chronic. Since the beginning of the 1990s, the number of detainees has regularly been higher than the number of places available' (*'La surpopulation dans les prisons françaises est chronique. Depuis le début des années 1990, le nombre de personnes détenues est régulièrement supérieur au nombre de places disponibles'*).

³ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2018), 'Fundamental Rights Overcoming Prison Overcrowding. A Concrete Approach Based on the Experience of the Controller General of Detention Facilities' (*Les droits fondamentaux à l'épreuve de la surpopulation carcérale. Approche concrète sur la base de l'expérience du Contrôleur général des lieux de privation de liberté*), p. 31, available at: www.cgpl.fr/wp-content/uploads/2018/02/Rapport-thématique-surpopulation-carcérale_web.pdf

'For two decades, the policies put in place to tackle overcrowding have been based primarily along two lines: increasing the number of prisons, and developing alternatives to prison and sentencing adjustments. It must be noted that these policies have not been enough to reverse the increase in the prison population' (*'Depuis deux décennies, les politiques mises en place pour lutter contre la surpopulation reposent essentiellement sur deux piliers : l'augmentation du parc pénitentiaire et le choix du développement des alternatives à l'incarcération et des aménagements de peine. Force est de constater que ces politiques n'ont pas suffi à inverser la courbe de la population carcérale'*).

The Controller general of detention facilities provides recommendations in order to reduce the prison population, consequently allowing a more satisfactory respect of the fundamental rights of detainees.

As such, the Controller general of detention facilities has suggested developing sentencing: work release, day parole, electronic tagging, etc. It is also the role of the investigating judge and the judge for freedoms and detention to consider other methods of restricting liberty than provisional detention in criminal cases. According to the Controller general of detention facilities, although the public authorities have become aware of the prison overcrowding situation, there is a lack of any real legislative policy with corresponding resources. Therefore, amnesty may be a judicious short-term measure. In the longer term, the establishment of a prison regulation mechanism to alert local institutions (particularly magistrates) of prison overcrowding, or to provide better information on the prison population, could be a solution to prison overcrowding.⁴

It is essential that efforts are made in order to tackle prison overcrowding if the fundamental rights of detainees are to be gradually not only recognized in legal texts, but implemented effectively.

⁴ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2018), 'Fundamental Rights Overcoming Prison Overcrowding. A Concrete Approach Based on the Experience of the Controller General of Detention Facilities' (*Les droits fondamentaux à l'épreuve de la surpopulation carcérale. Approche concrète sur la base de l'expérience du Contrôleur général des lieux de privation de liberté*), p. 42, available at: www.cgjpl.fr/wp-content/uploads/2018/02/Rapport-thématique-surpopulation-carcérale_web.pdf

'The authorities must question themselves as to the meaning of short prison sentences, the effect of which generally causes real ruptures in the life of a convicted person, without them being able to benefit from any sort of support in prison due to the brevity of their stay'. 'The judges who hand down prison sentences should be attentive to the conditions of detention in the prisons in their jurisdiction and ensure that imprisonment has a purpose' (*Les pouvoirs publics doivent s'interroger sur le sens des courtes peines d'emprisonnement qui ont le plus souvent pour effet de provoquer de réelles ruptures dans la vie d'une personne condamnée sans qu'elle puisse bénéficier d'une aide quelconque en prison en raison de la brièveté de son séjour*. 'Les juges qui prononcent des peines d'emprisonnement doivent être attentifs aux conditions de détention dans les maisons d'arrêt de leur ressort et s'assurer que cette incarcération puisse avoir du sens')

1. Cell space

- a) What is the national standard for cell space available to prisoners in m²? Is it regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?

A circular dated 16 March 1988⁵ determines the size of cells and the capacity of these cells: The size of an individual cell is less than 11m². It is important to note that French law does not determine the minimum size of a cell.⁶

The size of a cell for two detainees is 11 to 14m².

The size of a cell for three detainees is 14 to 19 m².

The size of a cell for four detainees is 19 to 24m².

The size of a cell for five to ten detainees is 24 to 54m².

The nomenclature appearing in the circular of 16 March 1988 is regularly included in reports on detention, and more particularly concerning prison overcrowding.⁷

- b) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

The circular of 16 March 1988 applies to all forms of detention. No distinction is made between detention regimes⁸.

- c) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

In France, each year, the Controller general of detention facilities presents an activity report.⁹ The Association for the Prevention of Torture makes a referral from its website to the reports of the Controller general of detention facilities.¹⁰

The last activity report by the Controller general of detention facilities is from 2017, but on the Association for the prevention of torture site, the most recent report referred is that for the year 2016.

⁵ France, Ministry of Justice (*Ministère de la Justice*), Prison Capacity Circular (*Circulaire Capacité des établissements pénitentiaires*), NOR : JUSE8840016C, 16 March 1988, available at : <http://prison.eu.org/spip.php?article7748>

⁶ Association for communication and on prisons and imprisonment in Europe (*Association pour la communication et sur les prisons et l'incarcération en Europe*), available at: <http://prison.eu.org/spip.php?article354>

⁷ France, Dominique Raimbourg, Report to the Minister for justice. Individual cells. Making prison a tool of the justice system (*Rapport au Ministre de la justice. Encellulement individuel. Faire de la prison un outil de justice*), 2 December 2014, available at: www.justice.gouv.fr/publication/rapport_raimbourg_encellulement_individuel.pdf

⁸ France, Ministry of Justice (*Ministère de la Justice*), Prison Capacity Circular (*Circulaire Capacité des établissements pénitentiaires*), NOR : JUSE8840016C, 16 March 1988, available at : <http://prison.eu.org/spip.php?article7748>

⁹ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2018), Activity report 2017 (*Rapport d'activité 2017*), available at: www.cgpl.fr/rapports-et-recommandations/rapports-annuels-d'activite/ For versions in English: www.cgpl.fr/en/presentation/ (in English, the reports are not up to date since the last translated report is that of 2015)

¹⁰ France, OPCAT, France. NPM Reports and Recommendations, available at: https://apt.ch/en/opcat_pages/reports-recommendations-26/

The recommendation made by the Controller general of detention facilities for accommodation in detention in 2016 consists of ensuring the implementation of standards and the maintenance of buildings: 'It is necessary to guarantee bringing existing establishments and building maintenance up to standards with identified resources and follow-up measures'.¹¹

A more specific recommendation was made for disciplinary areas of detention establishments applicable in the event of solitary confinement following a disciplinary sanction. The Controller general of detention facilities recommends, in order to ensure the respect of the dignity of detainees, that the minimum living area of 6m² per cell is respected: 'Ensure the dignity of the accommodation conditions in disciplinary areas by respecting the minimum of 6m² living space per cell, guaranteeing proper access to natural light, a fire protection system, means of communication with the staff, proper hygiene, adapted walks, possibly with several people, the possibility of taking a daily shower and access to various reading material'.¹²

One recommendation on the size of cells consists of trying to reduce prison overcrowding. For this purpose, in the 2015 report, the Controller general of detention facilities recommends developing alternatives to imprisonment, in particular for short sentences, or to move to a prison regulation consisting of differing the implementation of imprisonment in the event of a lack of capacity. This means that a person who receives a prison sentence would not serve their sentence immediately; it would be served when the reception capacity of the prison service guarantees satisfactory conditions for detention: 'It is up to the Government to set up the means to effectively tackle prison overcrowding, in addition to its plan to increase accommodation capacity, through an effective search for alternatives to imprisonment and with prison regulation. The resources available today are not sufficient to reach that point'; moreover, 'the implementation of prison regulation, appears necessary today in order to guarantee the effectiveness of reducing overcrowding and achieving the objective of solitary

¹¹ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2017), Activity report 2016 (*Rapport d'activité 2016*), p. 20, available at: www.apt.ch/content/files/npm/eca/France_NPM%20annual%20report%202016_FR.pdf

'It is necessary to guarantee bringing existing establishments and building maintenance up to standards with identified resources and follow-up measures' (*Il est nécessaire de garantir la mise aux normes et la maintenance bâtementaire des établissements existants avec des moyens identifiés et un dispositif de suivi*).

¹² France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2017), Activity report 2016 (*Rapport d'activité 2016*), p. 235, available at: www.apt.ch/content/files/npm/eca/France_NPM%20annual%20report%202016_FR.pdf

'Ensure the dignity of the accommodation conditions in disciplinary areas by respecting the minimum of 6m² living space per cell' (*Assurer la dignité des conditions d'hébergement dans les quartiers disciplinaires en respectant le minimum de 6 m² habitables par cellule*).

confinement. It would then be a question of differing imprisonment when the reception capacity of a prison is reached'.¹³ A similar proposal appears in the 2016 report.¹⁴

Please cite any relevant sources

2. Sanitary Facilities

- a) What is the national standard with regard to access to toilets? Are these located in cells? If not, do prisoners have access to these facilities without undue delay, even during the night? Do these facilities offer privacy to prisoners who use them?

¹³ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2016), Activity report 2015 (*Rapport d'activité 2015*), p. 20, available at: www.apt.ch/content/files/npm/eca/France_NPM%20Annual%20Report%202015.pdf

'La mise en place d'une régulation carcérale, paraît aujourd'hui nécessaire pour garantir l'efficacité de la résorption de la surpopulation et l'atteinte de l'objectif d'encellulement individuel. Il s'agirait alors de différer les incarcérations quand la capacité d'accueil d'une maison d'arrêt est atteinte et de libérer certaines personnes détenues en fin de peine, en leur proposant un accompagnement, c'est-à-dire un projet et un contrôle adaptés à leur situation'

English version: 'The implementation of a prison regulation mechanism appears necessary today in order to guarantee the effectiveness of reducing overcrowding and achieving the objective of individual cells. It is therefore a question of differing imprisonment when the reception capacity of a prison is reached, and to release certain people being held at the end of their sentence, by offering them support, meaning a release and monitoring programme adapted to their situation'

France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2016), Activity report 2015 (*Rapport d'activité 2015*), Dalloz, p. 24, available at: http://www.cgpl.fr/wp-content/uploads/2012/12/RA-2015_version-finale_EN_2.pdf

¹⁴ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2017), Activity report 2016 (*Rapport d'activité 2016*), p. 16, available at: www.apt.ch/content/files/npm/eca/France_NPM%20annual%20report%202016_FR.pdf

'Concerning the problems of overcrowding and its consequences on individual cells, the Controller General considers that simply developing construction projects cannot constitute an effective solution. The Controller General's mission indeed leads her to note that there are two other options which the Government should pursue: that of alternatives to prison and sentence adjustments on the one hand, and that of questioning the purpose of certain sentences on the other hand' (*'S'agissant de la problématique de la surpopulation, et de ses conséquences sur l'encellulement individuel, le Contrôleur général considère que le seul développement des projets immobiliers ne peut constituer une solution efficace. Ses missions le conduisent en effet à constater qu'il existe deux autres pistes que le Gouvernement doit poursuivre : celle des alternatives à l'incarcération et des aménagements de peine d'une part, celle d'une interrogation sur le sens de certaines peines d'autre part'*)

¹⁵ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2018), 'Fundamental Rights Overcoming Prison Overcrowding. A Concrete Approach Based on the Experience of the Controller General of Detention Facilities' (*Les droits fondamentaux à l'épreuve de la surpopulation carcérale. Approche concrète sur la base de l'expérience du Contrôleur général des lieux de privation de liberté*), p. 35, available at: www.cgpl.fr/wp-content/uploads/2018/02/Rapport-thématique-surpopulation-carcérale_web.pdf

Toilets are part of the fixtures of a cell;¹⁵ therefore, each cell contains a toilet. In this regard, the Controller general of detention facilities has stated that 'the most frequent breach of privacy mentioned by detainees relates to the use of the toilets in the cell'.¹⁶

In the best of cases, the toilets are separated from rest of the cell only by a partition or a door with a height of approximately one metre, and which therefore does not go up to the ceiling.

Therefore, when the cell is shared the detainee has to use the toilet in the immediate vicinity of fellow detainees and in the same single space which is also used for sleeping and eating.

The justification for this breach of the privacy of detainees is related to security: the detainee must be able to be observed in all parts of the cell by guards through the peephole in the door.¹⁷

- b) What is the national standard with regard to access to regularly cleaned shower/bathing facilities? How often is this access provided? Do these facilities offer privacy to prisoners who use them?

According to the Standard rules of procedure of detention establishments, each detainee must be able to have access to a shower at least three times per week. In addition, as far as possible, the detainee must be able to shower after a sports, work or vocational training activity.¹⁸

In older establishments, due to the layout of the premises, the showers are generally shared. Each shower is partitioned. However, the partition between each shower can sometimes be insufficient. Therefore, privacy is not necessarily guaranteed. This can lead certain detainees to forego taking a shower.¹⁹

¹⁵France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2018), 'Fundamental Rights Overcoming Prison Overcrowding. A Concrete Approach Based on the Experience of the Controller General of Detention Facilities' (*Les droits fondamentaux à l'épreuve de la surpopulation carcérale. Approche concrète sur la base de l'expérience du Contrôleur général des lieux de privation de liberté*), p. 35, available at: www.cglpl.fr/wp-content/uploads/2018/02/Rapport-thématique-surpopulation-carcérale_web.pdf

¹⁶France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2018), 'Fundamental Rights Overcoming Prison Overcrowding. A Concrete Approach Based on the Experience of the Controller General of Detention Facilities' (*Les droits fondamentaux à l'épreuve de la surpopulation carcérale. Approche concrète sur la base de l'expérience du Contrôleur général des lieux de privation de liberté*), p. 11; available at: www.cglpl.fr/wp-content/uploads/2018/02/Rapport-thématique-surpopulation-carcérale_web.pdf

¹⁷ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2018), 'Fundamental Rights Overcoming Prison Overcrowding. A Concrete Approach Based on the Experience of the Controller General of Detention Facilities' (*Les droits fondamentaux à l'épreuve de la surpopulation carcérale. Approche concrète sur la base de l'expérience du Contrôleur général des lieux de privation de liberté*), p. 11, available at: www.cglpl.fr/wp-content/uploads/2018/02/Rapport-thématique-surpopulation-carcérale_web.pdf

'The most frequent breach of privacy mentioned by detainees relates to the use of the toilets in the cell. In the best of cases, the toilets are separated from the rest of the cell only by a partition which does not go up to the ceiling, they are often without a door, or a low wall, with a height of approximately one metre. The justification is related to security: the detainee must be able to be observed in all parts of the cell by guards through the peephole in the door' (*L'atteinte la plus fréquemment évoquée à leur intimité par les personnes détenues est relative à l'utilisation des toilettes en cellule. Dans le meilleur des cas, elles ne sont isolées que par une cloison n'atteignant pas le plafond, le plus souvent sans porte, voire par un simple muret, d'une hauteur d'à peine un mètre. L'explication en est sécuritaire : le détenu doit pouvoir être vu par le personnel de surveillance à tout moment à travers l'œilleton*)

¹⁸ France, Standard rules of procedure for detention establishments, annex to Decree n°2013-368 relating to the Standard rules of procedure for detention establishments (*Règlement intérieur type des établissements pénitentiaires, annexé au décret n°2013-368 relatif aux règlements intérieurs types des établissements pénitentiaires*), 30 April 2013, Article 12, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027382116&categorieLien=id

¹⁹ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2018), 'Fundamental Rights Overcoming Prison Overcrowding. A Concrete Approach Based on the Experience of the Controller General of Detention Facilities' (*Les droits fondamentaux à l'épreuve de la surpopulation carcérale. Approche concrète sur la base de l'expérience du Contrôleur général des lieux de privation de liberté*), p. 11, available at: www.cglpl.fr/wp-content/uploads/2018/02/Rapport-thématique-surpopulation-carcérale_web.pdf

'The design of communal showers with a partition between each shower can be insufficient in some establishments, does not always guarantee privacy, which leads certain detainees to forego taking a shower' (*L'architecture des douches collectives,*

In the more recent establishments, it is recommended that each cell has a shower.²⁰

- c) Is the provision of cleanly sanitary facilities regulated by any legal instrument such as a legislative act, internal prison regulations, manuals, policy papers etc.?

The reference text for access to showers is Article 12 of the Standard rules of procedure for detention establishments annexed to the Decree of 30 April 2013.²¹

- d) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

The standard requirement of three weekly showers set by the Standard rules of procedure for detention establishments applies to all types of establishment.²² In this respect, the first Title of the Rules of standard procedure includes the heading 'Common provisions for all detention establishments'.

- e) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

The recommendations made by the Controller general of detention facilities as regards hygiene are as follows:

- For all detention facilities, the provision of a free hygiene kit containing essential items for personal hygiene.²³
- For all detention facilities, the installation of showers within cells.²⁴.

par un cloisonnement insuffisant dans certains établissements, ne garantit pas toujours l'intimité corporelle, ce qui conduit certaines personnes détenues à renoncer à prendre des douches)

²⁰ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2018), Activity report 2017 (*Rapport d'activité 2017*), p. 241, available at: www.cglpl.fr/wp-content/uploads/2018/05/CGLPL_RA-2017_WEB_2.pdf
'All newly constructed cells are now equipped with a shower in the cell and include a wash-basin which is exterior to the shower space' (*Toute nouvelle construction est désormais équipée de douche en cellule et intègre un point lavabo extérieur à l'espace douche-sanitaire*).

²¹France, Standard rules of procedure for detention establishments, annex to Decree n°2013-368 relating to the Standard rules of procedure for detention establishments (*Règlement intérieur type des établissements pénitentiaires, annexé au décret n°2013-368 relatif aux règlements intérieurs types des établissements pénitentiaires*), 30 April 2013, Article 12, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027382116&categorieLien=id

²²France, Standard rules of procedure for detention establishments, annex to Decree n°2013-368 relating to the Standard rules of procedure for detention establishments (*Règlement intérieur type des établissements pénitentiaires, annexé au décret n°2013-368 relatif aux règlements intérieurs types des établissements pénitentiaires*), 30 April 2013, Article 12, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027382116&categorieLien=id

²³ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2017), Activity report 2016 (*Rapport d'activité 2016*), p. 205, available at: www.apl.ch/content/files/npm/eca/France_NPM%20annual%20report%202016_FR.pdf

'Each detainee entering a prison receives a hygiene kit containing the essential items for personal hygiene.' (*Chaque personne détenue arrivant dans un établissement pénitentiaire se voit remettre un kit hygiène comprenant les produits basiques essentiels à l'hygiène corporelle*) ;

France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2018), Activity report 2017 (*Rapport d'activité 2017*), p. 241; available at: www.cglpl.fr/wp-content/uploads/2018/05/CGLPL_RA-2017_WEB_2.pdf

²⁴ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2017), Activity report 2016 (*Rapport d'activité 2016*), p. 205, available at: www.apl.ch/content/files/npm/eca/France_NPM%20annual%20report%202016_FR.pdf

- For mental health establishments, extending times of access to showers and to adapt these to the conditions of patients.²⁵

Please cite any relevant sources

3. Time out of cell

- a) What is the national standard set for time per day/week spent by prisoners outside of their cells:
- a. Outdoors (within the boundary of the prison)?

All detainees must be able walk in the open air for at least an hour each day.²⁶

In certain circumstances, in particular under a disciplinary action, the detainee may have certain rights withdrawn. However, it is consistently recalled that they maintain their right to a one-hour walk in the open air. Therefore, a detainee placed in solitary confinement as a security/safety or protection measure cannot take part in group activities or walks; they must, nevertheless, have a one-hour walk in the open air (Article R.57-7-62 of the Code of criminal procedure).²⁷ The same applies to a detainee who, as a sanction, is confined to their cell (Article R.57-7-40 of the Code of criminal)²⁸ or a disciplinary cell (Article R.57-7-45 of the Code of criminal procedure).²⁹

In practice, the Controller general of detention facilities has noted that, due to prison overcrowding, detention establishments apply only the one hour daily walk minimum requirement. As such, in the prisons of Nanterre, Baumettes, Villepinte and Fleury-Mérogis, daily walks in the open air are alternated between the morning and afternoon, therefore a detainee who has a walk on Monday morning must wait until Tuesday afternoon for the next walk. Moreover, in certain establishments, equipment such as benches is insufficient taking into consideration number of detainees walking at the same time.³⁰

'Promote individual responsibility for hygiene by equipping cells (shower, wash-basin and toilets)' (*Favoriser une prise en charge individuelle de l'hygiène par l'équipement des cellules (douche, lavabo et toilettes)*).

²⁵ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2018), Activity report 2017 (*Rapport d'activité 2017*), p. 233, available at: www.cglpl.fr/wp-content/uploads/2018/05/CGLPL_RA-2017_WEB_2.pdf 'Extending times of access to showers and to adapt these to the conditions of patients.' (*Élargir les horaires d'accès aux douches et les adapter à l'état des patients*).

²⁶France, Standard rules of procedure for detention establishments, annex to Decree n°2013-368 relating to the Standard rules of procedure for detention establishments (*Règlement intérieur type des établissements pénitentiaires, annexé au décret n°2013-368 relatif aux règlements intérieurs types des établissements pénitentiaires*), 30 April 2013, Article 12, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027382116&categorieLien=id

²⁷ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-7-62, available at: www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006071154&idArticle=LEGIARTI000023349984

²⁸ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-7-40, available at: www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000023349613&cidTexte=LEGITEXT000006071154&dateTexte=20120427

²⁹ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-7-45, available at: www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006071154&idArticle=LEGIARTI000023349625

³⁰ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2018), 'Fundamental Rights Overcoming Prison Overcrowding.A Concrete Approach Based on the Experience of the Controller General of Detention Facilities' (*Les droits fondamentaux à l'épreuve de la surpopulation carcérale. Approche concrète sur la base de*

b. Indoors in the common area?

The rules relating to movement within detention establishments vary according to the type of establishment.

- In detention centres and prisons (*maisons d'arrêt et les maisons centrales*), detainees are locked up in the cell at night. They can only move freely out of the cell during the day. Leaving the cell during the day must be justified by access to the walk in the open air, an activity, an appointment or a convocation.
When moving around out of the cell, the detainee must be able to prove their identity and reason for leaving the cell.³¹
- In detention centres, the regime is a little more flexible since the detention centre is mainly oriented to the social rehabilitation of the detainee. As such, the detainee is locked up in their cell at night. The detainee is accompanied by a supervisor for their movements during the day. Nevertheless, arrangements are possible depending on the personality, health, the behaviour and the dangerous nature of the detainee:³²
 - The times for opening cell doors may be extended
 - The detainee can move freely in their accommodation unit during the period when cell doors are open
 - Access to the activity room may be without supervision
 - Access to showers may be easier
- In detention centres for detainees on lesser sentences which receive detainees whose sentence is less than two years, and when the detainee is subject of a day parole or work release measure, there may also be more flexibility for movement. As such, the detainee may be in possession of a key or key-card to their cell and may move freely within the establishment.³³

b) Are sports or other recreational and educational facilities available to prisoners? If so what types?

Article 707 of the Code of Criminal Procedure sets out a principle according to which 'the system for the execution of deprivation of liberty sentences aims at preparing the rehabilitation and reintegration

l'expérience du Contrôleur général des lieux de privation de liberté), p. 12, available at: www.cglpl.fr/wp-content/uploads/2018/02/Rapport-thématique-surpopulation-carcérale_web.pdf

'In many other establishments, equipment such as benches or pull-up exercise bars is missing or not adapted to the large number of detainees'. (*Dans de nombreux autres établissements, les équipements tels que les bancs ou les barres de traction font défaut ou ne sont pas adaptés au grand nombre de personnes détenues*).

³¹ France, Standard rules of procedure for detention establishments, annexed to Decree n°2013-368 relating to the Standard rules of procedure for detention establishments (*Règlement intérieur type des établissements pénitentiaires, annexé au décret n°2013-368 relatif aux règlements intérieurs types des établissements pénitentiaires*), 30 April 2013, Articles 42 and 47, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027382116&categorieLien=id

³² France, Standard rules of procedure for detention establishments annexed to Decree n°2013-368 relating to the Standard rules of procedure for detention establishments (*Règlement intérieur type des établissements pénitentiaires, annexé au décret n°2013-368 relatif aux règlements intérieurs types des établissements pénitentiaires*), 30 April 2013, Article 48, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027382116&categorieLien=id

³³ France, Standard rules of procedure for detention establishments annexed to Decree n°2013-368 relating to the Standard rules of procedure for detention establishments (*Règlement intérieur type des établissements pénitentiaires, annexé au décret n°2013-368 relatif aux règlements intérieurs types des établissements pénitentiaires*), 30 April 2013, Article 49, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027382116&categorieLien=id

of the offender in order to enable them to act responsibly, and be respectful of the rules and the interests of society and to avoid re-offending.³⁴

The implementation of the requirement set out in Article 707 of the Code of criminal procedure supposes that activities are offered in detention.

Therefore, for any detainee (either convicted or before conviction in criminal procedure) activities are offered. These activities are mentioned in Articles 15 to 21 of the Standard rules of procedure for detention establishments annexed to the decree of 20 April 2013.³⁵ The activities offered are as follows: work, vocational training, teaching, social and cultural, physical and sporting activities.

Doing activities is in addition an obligation for convicted detainees. The Penitentiary Law of 24 November 2009 requires convicted prisoners to carry out an activity proposed by the head of the establishment and the Director of the Prison and Probation Service.³⁶ According Article R.57-9-1 of the Code of criminal procedure,³⁷ the activity offered consists of a work, vocational training, educational, cultural, social or sporting activities.

Nevertheless, more specifically for work and vocational training activities in detention, the obligation for the Prison authorities to offer this vocational activity is an obligation of means and not of results. That is to say, the Prison authorities are held to make every effort to offer work, but that they are not at fault if they are unable to offer such an activity (Articles 717-3³⁸ and D.432-2³⁹ of Code of criminal procedure). The fact that it is impossible for the prison authorities to offer an activity may be due to a lack of resources (financial or human), the layout of the buildings (for example certain vocational activities, such as furniture making, require a large room; the same applies to certain training activities), the non-conformity of the room intended for the activity with health and/or safety regulations, or the lack of a company interested in having prisoners work within the framework of an agreement with the prison authorities.

- c) Is time spent in cells regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?

Article 4 of the Standard rules of procedure for detention establishments annexed to the decree of 20 April 2013⁴⁰ states that the time during which a person is locked up in their cell at night cannot exceed 12 hours.

³⁴ France, Code of criminal procedure (*Code de procédure pénale*), Article 707, available at: www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000029370803&cidTexte=LEGITEXT000006071154&dateTexte=20180522&fastPos=3&fastReqId=1432599481&oldAction=rechCodeArticle

³⁵ France, Standard rules of procedure for detention establishments annexed to Decree n°2013-368 relating to the Standard rules of procedure for detention establishments (*Règlement intérieur type des établissements pénitentiaires, annexé au décret n°2013-368 relatif aux règlements intérieurs types des établissements pénitentiaires*), 30 April 2013, Articles 15-21, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027382116&categorieLien=id

³⁶ France, Penitentiary Law (*Loi pénitentiaire*) n°2009-1436, 24 November 2009, Article 27, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000021312171&fastPos=1&fastReqId=2032670549&categorieLien=cid&oldAction=rechTexte

³⁷ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-9-1, available at: www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000033700866&cidTexte=LEGITEXT000006071154&dateTexte=20180513&oldAction=rechCodeArticle&fastReqId=1744090663&nbResultRech=1

³⁸ France, Code of criminal procedure (*Code de procédure pénale*), Article 717-3, available at: www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006071154&idArticle=LEGIARTI000006578015&

³⁹ France, Code of criminal procedure (*Code de procédure pénale*), Article D.432-2, available at: www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000033699675&cidTexte=LEGITEXT000006071154&dateTexte=20180510

⁴⁰ France, Standard rules of procedure for detention establishments annexed to Decree n°2013-368 relating to the Standard rules of procedure for detention establishments (*Règlement intérieur type des établissements pénitentiaires, annexé au décret*

- d) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

The rules as regards moving around may be more flexible depending on the type of detention establishment. In this respect, see the distinction presented in the answer to question 3 a) B.

- e) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

Concerning the time spent out of the cell, the Controller general of detention facilities has made the following proposals:

- It is necessary to provide a legal framework for and to reassert the value of work in detention. The development and the opening up of vocational training towards the outside must be continued. Measures allowing for a diversification of the vocational activity offered to detainees must be encouraged⁴¹
- To ensure that the provisions of the rules of procedure are compatible with access for all to the library, in particular for detainees who work and those who are placed in solitary or disciplinary confinement⁴²
- As regards gender equality, the provision within detention establishments of mixed activities, in a progressive manner, associated with the provision of clear and systematic information on their mixed nature and in view of obtaining the consent of the participants. The withdrawal is therefore proposed of the words 'on a derogatory basis' of Article 28 of the penitentiary law, replacing them with 'subject to the maintaining of good order and the safety of the establishments, activities may be mixed'⁴³

n°2013-368 relatif aux règlements intérieurs types des établissements pénitentiaires), 30 April 2013, Articles 15-21, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027382116&categorieLien=id

⁴¹ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2018), Activity report 2017 (*Rapport d'activité 2017*), p. 40, available at: www.cglpl.fr/wp-content/uploads/2018/05/CGLPL_RA-2017_WEB_2.pdf
It has been asserted that 'the need to enlarge the organisation and the working methods of external occupations is an objective which the prison authorities endeavour to achieve, ensuring in particular the construction or even the restoration of prison establishments and workshops which meet health and safety standards'.

(*la nécessité de rapprocher l'organisation et les méthodes de travail des activités professionnelles extérieures est un objectif que l'administration pénitentiaire s'efforce d'atteindre, en s'assurant notamment de la construction voire de la rénovation d'établissements pénitentiaires et d'ateliers de production respectant les normes d'hygiène et de sécurité*).

⁴² France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2018), Activity report 2017 (*Rapport d'activité 2017*), p. 67, available at: www.cglpl.fr/wp-content/uploads/2018/05/CGLPL_RA-2017_WEB_2.pdf
The Controller General of detention facilities 'requests that it be ensured that the provisions of the rules of procedure are compatible with access for all to the library, in particular for detainees who work and those who are placed in solitary or disciplinary confinement' (*demande que l'on veille à ce que les dispositions des règlements intérieurs soient compatibles avec l'accès de tous à la bibliothèque, en particulier des détenus qui travaillent et de ceux qui sont placés à l'isolement ou au quartier disciplinaire*).

⁴³ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2017), Activity report 2016 (*Rapport d'activité 2016*), p. 239, available at: www.apt.ch/content/files/npm/eca/France_NPM%20annual%20report%202016_FR.pdf

- The provision of teaching remains insufficient taking into consideration the objective of social reintegration which should govern the prison organization.⁴⁴

Please cite any relevant sources

4. Solitary confinement

- a) What is the national standard set regarding solitary confinement? Is it regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?

There are two types of solitary confinement:

- Solitary confinement on a preventive basis, known as isolation, for reasons related to the safety or the protection of the detainee (Article R.57-7-62 of the Code of criminal procedure).⁴⁵ Solitary confinement may be upon the order of the prison authorities (Articles R.57-7-64 et seq. of Code of criminal procedure)⁴⁶ or at the request of the detainee (Articles R.57-7-70 et seq. Code of criminal procedure).⁴⁷ The decision to use solitary confinement must take into account the personality of the detainee, their dangerous nature, vulnerability and health (Article R.57-7-73 of the Code of criminal procedure).⁴⁸ The prison authorities can end a solitary confinement measure at any time (Article R.57-7-76 of the Code of criminal procedure).⁴⁹

⁴⁴ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2016), Activity report 2015 (*Rapport d'activité 2015*), p. 18, available at: www.apt.ch/content/files/npm/eca/France_NPM%20Annual%20Report%202015.pdf

'L'offre d'enseignement demeure insuffisante au regard des objectifs de réinsertion qui doivent gouverner l'organisation carcérale. Ici, des mineurs n'ont pas plus d'une heure de cours par jour, là, on ne détecte pas l'illettrisme, ailleurs, les enseignants déplorent des retards systématiques dus à l'absence de personnel pour assurer les mouvements'

English version: 'The provision of education remains insufficient with respect to the objectives of social 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 the movement of minors';

France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2016), Activity report 2015 (*Rapport d'activité 2015*), p. 22, available at: http://www.cgpl.fr/wp-content/uploads/2012/12/RA-2015_version-finale_EN_2.pdf

⁴⁵ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-7-62, available at: www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006071154&idArticle=LEGIARTI000023349984

⁴⁶ France, Code of criminal procedure (*Code de procédure pénale*), Articles R.57-7-64 et seq., available at: www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000023349988&cidTexte=LEGITEXT000006071154&dateTexte=20180513

⁴⁷ France, Code of criminal procedure (*Code de procédure pénale*), Articles R.57-7-70 et seq., available at: www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000023350002&cidTexte=LEGITEXT000006071154&dateTexte=20180513

⁴⁸ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-7-73, available at: www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006071154&idArticle=LEGIARTI000023350012

⁴⁹ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-7-76, available at: www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=CF33363C4DF1045BCDE6023AEC35F207.tplgfr26s_2?idArticle=LEGIARTI000023350018&cidTexte=LEGITEXT000006071154&dateTexte=20180513&categorieLien=id&oldAction=&nbResulRech=

Within the framework of solitary confinement, the detainee keeps certain rights (information, visits, correspondence, culture, etc) but, of course, cannot take part in group activities. The only possible exception for a group activity are those which may be organized by the head of the establishment for several detainees placed in solitary confinement (Article R.57-7-62 of the Code of criminal procedure).⁵⁰ The doctor examines detainees placed in solitary confinement at least twice per week (Article R.57-7-63 of the Code of criminal procedure).⁵¹

- Solitary confinement as a sanction. This form of solitary confinement can be done in the cell of the detainee (Article R.57-7-40 of the Code of criminal procedure)⁵² or in a disciplinary cell (Article R.57-7-45 of the Code of criminal procedure).⁵³

Confinement in the cell or placement in a disciplinary cell are sanctions in response to behaviour by the detainee which contravenes the rules of the detention establishment.

Confinement consists of placing the detainee in their cell on their own (Article R.57-7-38 of the Code of criminal procedure).⁵⁴ The duration of confinement varies depending on the seriousness of the behaviour; it cannot exceed 20 days (Article R.57-7-41 of the Code of criminal procedure).⁵⁵

Placement in a disciplinary cell consists of placing the detainee in a cell set up for this purpose in which the person is alone (Article R.57-7-43 of the Code of criminal procedure).⁵⁶ The duration of confinement varies depending on the seriousness of the behaviour; it cannot exceed 20 days (Article R.57-7-47 of the Code of criminal procedure).⁵⁷

- b) *Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).*

These modes of solitary confinement apply to all detainees.

No distinction is made by Articles R.57-7-40, R.57-7-45 and R.57-7-62 of the Code of criminal procedure. Additionally, these Articles are part of Chapter V of Book V of the Code of criminal procedure entitled 'Discipline and safety in detention establishments'.

- c) *Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most*

⁵⁰ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-7-62, available at: www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006071154&idArticle=LEGIARTI000023349984

⁵¹ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-7-63, available at: www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000023349986&cidTexte=LEGITEXT000006071154

⁵² France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-7-40, available at: www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000023349613&cidTexte=LEGITEXT000006071154&dateTexte=20120427

⁵³ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-7-45, available at: www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006071154&idArticle=LEGIARTI000023349625

⁵⁴ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-7-38, available at: www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=CF33363C4DF1045BCDE6023AEC35F207.tplgfr26s_2?idArticle=LEGIARTI000023349609&cidTexte=LEGITEXT000006071154&dateTexte=20120427&categorieLien=id&oldAction=

⁵⁵ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-7-41, available at: www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000023349613&cidTexte=LEGITEXT000006071154&dateTexte=20120427

⁵⁶ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-7-43, available at: www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=CF33363C4DF1045BCDE6023AEC35F207.tplgfr26s_2?idArticle=LEGIARTI000023349621&cidTexte=LEGITEXT000006071154&dateTexte=20120427&categorieLien=id&oldAction=&nbResuItRech=

⁵⁷ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-7-47, available at: www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=CF33363C4DF1045BCDE6023AEC35F207.tplgfr26s_2?idArticle=LEGIARTI000023349629&cidTexte=LEGITEXT000006071154&dateTexte=20120427&categorieLien=id&oldAction=&nbResuItRech=

recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

Concerning the time spent out of the cell, the Controller general of detention facilities has made the following proposals:

- Ensuring better access to libraries for people in solitary or disciplinary confinement⁵⁸
- Improving the conditions for contact with the family or friends of people placed in solitary or disciplinary confinement⁵⁹
- Guaranteeing confidentiality of care in detention establishments, in particular by installing protected consultation places, including in areas of solitary or disciplinary confinement.⁶⁰
- Ensure the dignity of the accommodation conditions in disciplinary areas by respecting the minimum of 6m² per cell, guaranteeing proper access to natural light, a fire protection system, means of communication with the staff, proper hygiene, adapted walks, possibly with several people, the possibility of taking a daily shower and access to various reading material.⁶¹

Please cite any relevant sources

⁵⁸ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2018), Activity report 2017 (*Rapport d'activité 2017*), p. 67, available at: www.cgpl.fr/wp-content/uploads/2018/05/CGLPL_RA-2017_WEB_2.pdf
The Controller General of detention facilities 'requests that it be ensured that the provisions of the rules of procedure are compatible with access for all to the library, in particular for detainees who work and those who are placed in solitary or disciplinary confinement' (*'demande que l'on veille à ce que les dispositions des règlements intérieurs soient compatibles avec l'accès de tous à la bibliothèque, en particulier des détenus qui travaillent et de ceux qui sont placés à l'isolement ou au quartier disciplinaire'*).

⁵⁹ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2017), Activity report 2016 (*Rapport d'activité 2016*), pp. 90-91, 216-217, available at: www.apt.ch/content/files/npm/eca/France_NPM%20annual%20report%202016_FR.pdf

The Controller General of detention facilities 'recommended that the requests for family visiting rooms made by people placed in the disciplinary area are not systematically rejected and are the subject of an individual examination'. 'To prohibit any restriction concerning family ties for the detainees placed in the disciplinary area'. (*'a recommandé que les demandes de parloirs familiaux formulées par les personnes placées au quartier disciplinaire ne soient pas systématiquement rejetées et fassent l'objet d'un examen individualisé* ».

« Prohiber toute restriction touchant les liens familiaux pour les personnes détenues placées au quartier disciplinaire' ».

⁶⁰ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2017), Activity report 2016 (*Rapport d'activité 2016*), pp. 227-228, available at: www.apt.ch/content/files/npm/eca/France_NPM%20annual%20report%202016_FR.pdf

'Guarantee confidentiality of healthcare in detention establishments, in particular by installing protected consultation places, including in areas of solitary or disciplinary confinement.' (*'Garantir la confidentialité des soins dans les établissements pénitentiaires, notamment en installant des locaux de consultation protégés, y compris dans les quartiers d'isolement ou les quartiers disciplinaires'*).

⁶¹ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2017), Activity report 2016 (*Rapport d'activité 2016*), pp. 235-236, available at: www.apt.ch/content/files/npm/eca/France_NPM%20annual%20report%202016_FR.pdf

'Ensure the dignity of the accommodation conditions in disciplinary area by respecting the minimum of 6m² per cell, guaranteeing proper access to natural light, a fire protection system, means of communication with the staff, proper hygiene, adapted walks, possibly with several people, the possibility of taking a daily shower and access to various reading material' (*'Assurer la dignité des conditions d'hébergement dans les quartiers disciplinaires en respectant le minimum de 6 m² habitables par cellule, en garantissant un accès correct à la lumière naturelle, un dispositif de protection contre l'incendie, des moyens de communication avec le personnel, une hygiène correcte, des cours de promenade adaptées, éventuellement fréquentées par plusieurs personnes, la possibilité de prendre une douche quotidienne et l'accès à des lectures variées'*).

5. Access to healthcare

- a) What is the national standard with regard to access to medical services in prisons? (E.g. do prisoners have prompt access to medical services within prisons or externally? Do prisoners have access to dentists and opticians?)

The law of 18 January 1994⁶² requires the setting up within each prison establishment of an outpatient consultation and care unit. This hospital unit is attached to a health facility, in accordance with Article 46 of the Penitentiary Law of 24 November 2009, according to which health care for detainees is provided by health facilities in accordance with the Public Health Code.⁶³

According to Article R.57-8-1 of the Code of criminal procedure,⁶⁴ medical units in detention facilities carry out:

- a medical examination at the request of the detainee, prison staff or a third party acting in the interest of the detainee;
- a systematic examination of detainees who are entering prison;
- a visit of detainees placed in a disciplinary cell or confinement;
- an examination of a detainee who requests a certificate not to work for medical reasons;
- a medical examination of a detainee who requests a change to the mode of detention; meaning a move to another part of the prison or change to detention due to a medical problem.

Staff working in the medical units in detention facilities are authorised to do this (Article D.386 of the Code of criminal procedure).⁶⁵ People who are not authorised cannot work in detention facilities. Nevertheless, the head of a detention establishment can issue access authorizations, for example:

- hospital staff working temporarily, in particular to replace authorised hospital staff
- hospital staff who work periodically upon the request of the person in charge of the medical Unit
- a specialized healthcare professional whose role is specific (chiropodist, optician etc.)
- staff providing care for persons in the event of loss of independence.⁶⁶

⁶² France, Law n°94-43 relating to public health and social protection (*Loi n°94-43 relative à la santé publique et à la protection sociale*), 18 January 1994, available at:

www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000728979&fastPos=3&fastReqId=34370781&categorieLien=id&oldAction=rechTexte

⁶³ France, Penitentiary Law (*Loi pénitentiaire*) n°2009-1436, 24 November 2009, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000021312171&fastPos=1&fastReqId=2032670549&categorieLien=cid&oldAction=rechTexte

⁶⁴ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-8-1, available at:

www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000023358092&cidTexte=LEGITEXT000006071154&dateTexte=20180522&oldAction=rechCodeArticle&fastReqId=2108066223&nbResultRech=1

⁶⁵ France, Code of criminal procedure (*Code de procédure pénale*), Article D.386, available at:

www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000006516265&cidTexte=LEGITEXT000006071154&dateTexte=20180522&oldAction=rechCodeArticle&fastReqId=1012937059&nbResultRech=1

⁶⁶ France, Ministry for Justice, Ministry for solidarity and health (*Ministère de la Justice, Ministère des solidarités et de la santé*), Provision of healthcare for people placed under judicial control. Methodological guide (*Prise en charge sanitaire des personnes placées sous main de justice. Guide méthodologique*), p. 92; at: http://solidarites-sante.gouv.fr/img/pdf/guide_methodologique_-_prise_en_charge_sanitaire_des_personnes_placees_sous_main_de_justice.pdf

If the health of the detainee justifies such, they may be hospitalized in a health establishment.⁶⁷ In this case, the prison head shall notify the director of the health establishment for them to take the necessary measures to receive the detainee by providing care in premises suitable for the custody of the detainee (Article D.394 of the Code of Criminal Procedure). A hospitalized detainee is regarded as continuing to carry out their sentence or provisional detention (Article D.395 of the Code of criminal procedure). The safety measures taken within the framework of hospitalization must maintain confidentiality of the care provided (Article D.397 of the Code of criminal procedure).

Lastly, according to Article D.348-1 of the Code of criminal procedure,⁶⁸ 'the general inspectorate for social affairs and the services of the regional health agencies shall ensure the measures necessary to maintain the health and hygiene of prisoners in detention establishments. These services supervise inside detention establishments the implementation of the laws and rules relating to public health, and carry out all checks necessary for their role'.

- b) Are there any special provisions relating to the provision of specialist care? (E.g. for long-term diseases, for sick and elderly prisoners, the mentally ill, drug addicted prisoners etc.)

There are specific measures for the provision of specialized care.

- For vulnerable people

For elderly detainees with a long-term illness, staff providing care may be authorized to assist in the event of a loss of independence (assistance toileting, dressing etc).⁶⁹

Within the framework of the prevention of certain diseases, detailed attention must be paid to screening, particularly after the age of 50, of sensory deficiencies which may have an important impact on independence and quality of life.⁷⁰

For detainees with a disability, the penitentiary law of 2009 provides in Article 50, that 'any detainee with a disability has the right to designate a helper of their choice. The prison authorities may oppose the choice of helper with a specifically grounded decision'.⁷¹

- As regards consumption of addictive products (alcohol, tobacco, drugs)

⁶⁷ France, Code of criminal procedure (*Code de procédure pénale*), Article D.391 et suivants, available at: www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006182183&cidTexte=LEGITEXT000006071154&dateTexte=20180522

⁶⁸ France, Code of criminal procedure (*Code de procédure pénale*), Article D.348-1, available at: www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000023410875&cidTexte=LEGITEXT000006071154&dateTexte=20180522&oldAction=rechCodeArticle&fastReqId=524465666&nbResultRech=1

⁶⁹ France, Ministry for Justice, Ministry for solidarity and health (*Ministère de la Justice, Ministère des solidarités et de la santé*), Provision of healthcare for people placed under judicial control. Methodological guide (*Prise en charge sanitaire des personnes placées sous main de justice. Guide méthodologique*), p. 92, available at: http://solidarites-sante.gouv.fr/img/pdf/guide_methodologique_-_prise_en_charge_sanitaire_des_personnes_placees_sous_main_de_justice.pdf

⁷⁰ France, Ministry for Justice, Ministry for solidarity and health (*Ministère de la Justice, Ministère des solidarités et de la santé*), Provision of healthcare for people placed under judicial control. Methodological guide (*Prise en charge sanitaire des personnes placées sous main de justice. Guide méthodologique*), p. 268, available at: http://solidarites-sante.gouv.fr/img/pdf/guide_methodologique_-_prise_en_charge_sanitaire_des_personnes_placees_sous_main_de_justice.pdf

⁷¹ France, Penitentiary Law (*Loi pénitentiaire*) n°2009-1436, 24 November 2009, Article 50, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000021312171&fastPos=1&fastReqId=2032670549&categorieLien=cid&oldAction=rechTexte

The penitentiary law of 24 November 2009⁷² establishes for detainees a right to an assessment as regards mind altering products, alcohol and tobacco. This assessment is carried out upon the entry of the detainee by the detention facility medical unit, and follow-up is ensured throughout detention.⁷³ Detainees who regularly use drugs or abuse alcohol can be the subject of a care injunction (provided for in Article 132-45 of the Criminal code).⁷⁴ The convicting court or the judge for the application of sentences can order the person convicted to fulfil several obligations, among which are a therapeutic injunction when it appears that the convict is a drug user, or habitually consumes excessive amounts of alcohol. As such, the person concerned has to meet a health professional to provide support and prevent addiction, or receive adapted socio-psychological support.

A medical consultation upon departure is compulsory. This is done by a general practitioner from the medical unit. It may be supplemented by a consultation for addiction.⁷⁵

- As regards psychiatry

In the event of a psychiatric disorder, the detainee can be hospitalized, possibly without their consent (Article D.398 of the Code of criminal procedure⁷⁶).⁷⁷

This hospitalization may be 24 hours a day within a public hospital. This hospitalization may also consist of day hospitalization and custody at night; within this framework, the hospitalization is carried out within the health unit in the detention facility.⁷⁸ As such, the medical team from the health unit

⁷² France, Penitentiary Law (*Loi pénitentiaire*) n°2009-1436, 24 November 2009, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000021312171&fastPos=1&fastReqId=2032670549&categorieLien=cid&oldAction=rechTexte

⁷³France, Ministry for Justice, Ministry for solidarity and health (*Ministère de la Justice, Ministère des solidarités et de la santé*), Provision of healthcare for people placed under judicial control. Methodological guide (*Prise en charge sanitaire des personnes placées sous main de justice. Guide méthodologique*), p. 277, available at: http://solidarites-sante.gouv.fr/img/pdf/guide_methodologique_-_prise_en_charge_sanitaire_des_personnes_placees_sous_main_de_justice.pdf

⁷⁴ France, Criminal code (*Code pénal*), Article 132-45, available at: www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006070719&idArticle=LEGIARTI000033460112&dateTexte=&categorieLien=id; France, Ministry for Justice, Ministry for solidarity and health (*Ministère de la Justice, Ministère des solidarités et de la santé*) (2017), Provision of healthcare for people placed under judicial control. Methodological guide (*Prise en charge sanitaire des personnes placées sous main de justice. Guide méthodologique*), p. 315, available at: http://solidarites-sante.gouv.fr/img/pdf/guide_methodologique_-_prise_en_charge_sanitaire_des_personnes_placees_sous_main_de_justice.pdf

⁷⁵ France, Ministry for Justice, Ministry for solidarity and health (*Ministère de la Justice, Ministère des solidarités et de la santé*), Provision of healthcare for people placed under judicial control. Methodological guide (*Prise en charge sanitaire des personnes placées sous main de justice. Guide méthodologique*), p. 157, available at: http://solidarites-sante.gouv.fr/img/pdf/guide_methodologique_-_prise_en_charge_sanitaire_des_personnes_placees_sous_main_de_justice.pdf

⁷⁶ France, Code of criminal procedure (*Code de procédure pénale*), Article D.398, available at: www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000023410936&cidTexte=LEGITEXT000006071154&dateTexte=20180522&oldAction=rechCodeArticle&fastReqId=1963156502&nbResultRech=1

⁷⁷France, Ministry for Justice, Ministry for solidarity and health (*Ministère de la Justice, Ministère des solidarités et de la santé*), Provision of healthcare for people placed under judicial control. Methodological guide (*Prise en charge sanitaire des personnes placées sous main de justice. Guide méthodologique*), p. 119, available at: http://solidarites-sante.gouv.fr/img/pdf/guide_methodologique_-_prise_en_charge_sanitaire_des_personnes_placees_sous_main_de_justice.pdf

⁷⁸France, Ministry for Justice, Ministry for solidarity and health (*Ministère de la Justice, Ministère des solidarités et de la santé*), Provision of healthcare for people placed under judicial control. Methodological guide (*Prise en charge sanitaire des personnes placées sous main de justice. Guide méthodologique*), p. 138, available at: http://solidarites-sante.gouv.fr/img/pdf/guide_methodologique_-_prise_en_charge_sanitaire_des_personnes_placees_sous_main_de_justice.pdf

includes staff specialized in psychiatry⁷⁹ and the detention establishment has an area dedicated to psychiatry.⁸⁰

In detention facilities, the psychiatry area must meet the mental health needs of detainees. Each prison psychiatry sector is attached to an institution providing care to detainees (in accordance with Article L.6111-1-2 of the Public Health Code) and placed under the authority of a psychiatrist, a hospital practitioner, assisted by a multidisciplinary team (Article D.372 of the Code of Criminal Procedure).⁸¹

A medical consultation upon departure is compulsory. This is done by a general practitioner from the medical unit. It may be supplemented by a psychiatry consultation.⁸²

In addition, according to article R.57-8-5 of the Code of Criminal Procedure, 'before their release, the persons mentioned in Article R. 57-8-3 [subject to social judicial follow up] are the subject of a psychiatric examination with a view to preparing, if necessary, appropriate post-detention care'.⁸³

- c) Is access to healthcare in prisons regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?

The penitentiary law of 24 November 2009⁸⁴ states the fundamental rights of detainees as regards health: the right to medical confidentiality and confidential consultations, the right to an assessment as regards drugs, alcohol and tobacco, the right to a medical examination before release, and the right to help for persons with a disability.

According to Article 46 of the penitentiary law of 24 November 2009, 'the quality and the continuity of care are guaranteed to detainees under conditions equivalent to those for the whole population'.⁸⁵

Articles D.360 et seq. of the Code of Criminal Procedure⁸⁶ present the general provisions on the organization of health care in detention: the need for detention which is compatible with the state of health of the detainee (Articles D.360 and D.382 of the Code of Criminal Procedure), the need for the

⁷⁹France, Ministry for Justice, Ministry for solidarity and health (*Ministère de la Justice, Ministère des solidarités et de la santé*), Provision of healthcare for people placed under judicial control. Methodological guide (*Prise en charge sanitaire des personnes placées sous main de justice. Guide méthodologique*), p. 144, [available at: http://solidarites-sante.gouv.fr/img/pdf/guide_methodologique_-_prise_en_charge_sanitaire_des_personnes_placees_sous_main_de_justice.pdf](http://solidarites-sante.gouv.fr/img/pdf/guide_methodologique_-_prise_en_charge_sanitaire_des_personnes_placees_sous_main_de_justice.pdf)

⁸⁰ France, Code of criminal procedure (*Code de procédure pénale*), Article D.372, available at: www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000033548479&cidTexte=LEGITEXT000006071154&dateTexte=20180522&oldAction=rechCodeArticle&fastReqId=1642562995&nbResultRech=1

⁸¹ France, Code of criminal procedure (*Code de procédure pénale*), Article D.372, available at: <https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006071154&idArticle=LEGIARTI000006516225&dateTexte=&categorieLien=cid>

⁸²France, Ministry for Justice, Ministry for solidarity and health (*Ministère de la Justice, Ministère des solidarités et de la santé*), Provision of healthcare for people placed under judicial control. Methodological guide (*Prise en charge sanitaire des personnes placées sous main de justice. Guide méthodologique*), p. 157, [available at: http://solidarites-sante.gouv.fr/img/pdf/guide_methodologique_-_prise_en_charge_sanitaire_des_personnes_placees_sous_main_de_justice.pdf](http://solidarites-sante.gouv.fr/img/pdf/guide_methodologique_-_prise_en_charge_sanitaire_des_personnes_placees_sous_main_de_justice.pdf)

⁸³ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-8-3, available at: www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000023350342&cidTexte=LEGITEXT000006071154&dateTexte=20180522&oldAction=rechCodeArticle&fastReqId=1366514120&nbResultRech=1

⁸⁴ France, Penitentiary Law (*Loi pénitentiaire*) n°2009-1436, 24 November 2009, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000021312171&fastPos=1&fastReqId=2032670549&categorieLien=cid&oldAction=rechTexte

⁸⁵ France, Penitentiary Law (*Loi pénitentiaire*) n°2009-1436, 24 November 2009, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000021312171&fastPos=1&fastReqId=2032670549&categorieLien=cid&oldAction=rechTexte

⁸⁶ France, Code of criminal procedure (*Code de procédure pénale*), Article D.360 et seq., available at: www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006182179&cidTexte=LEGITEXT000006071154&dateTexte=20180522

consent of the detainee for medical intervention (Article D.362 of the Code of Criminal Procedure), the outlawing of asking a prisoner to submit to biomedical research except in cases of expected benefits for their health (Article D.363 of the Code of Procedure).

Articles D.368 et seq. of the Code of criminal procedure⁸⁷ present the organization of care in detention. This care is provided by a hospital team (Article D.368 of the Code of criminal procedure). To provide care, detention establishments place at the disposal of the medical personnel specialized buildings intended for consultations and examinations; near the consultation unit, a place for temporary accommodation for sick detainees may be provided (Article D.370 of the Code of criminal procedure). If a medical intervention is necessary outside the opening hours of the care unit, a public health establishment is called upon (Article D.374 of the Code of criminal procedure).

d) *Please indicate whether there are different standards applicable to different detention regimes.*

The rules relating to care in detention are common to the various detention regimes. No distinction is made in the legal texts. As such, Article R.57-8-1 of the Code of criminal procedure contains a Chapter VIII heading, 'Health of detainees'.

e) *Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>*

As regards access to care, the proposals of the Controller general of detention facilities are as follows:

- Make use of telephone and digital projects in detention to enable direct and systematic contact between the detainee and the '15' telephone centre when the medical staff working at the institution are absent and the detainee requests an emergency consultation.⁸⁸
- Provide care for elderly or dependent people under conditions similar to those which they have outside detention⁸⁹
- To reduce the numerous transfers to external medical facilities, the intervention of specialist doctors in detention must be increased, and consideration must be given for detainees who meet the legal conditions to receive permission to leave to go to external health establishments alone. Remotely provided medical care should be developed⁹⁰

⁸⁷ France, Code of criminal procedure (*Code de procédure pénale*), Article D.368 et seq, available at: www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006182181&cidTexte=LEGITEXT000006071154&dateTexte=20180522

⁸⁸ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2018), Activity report 2017 (*Rapport d'activité 2017*), p. 261, available at: www.cglpl.fr/wp-content/uploads/2018/05/CGLPL_RA-2017_WEB_2.pdf 'Systematically put the detainee in contact with the '15' telephone centre when the medical staff working at the institution are absent and the detainee requests an emergency consultation' ('*Mettre en relation systématiquement la personne détenue avec le centre 15 lorsque le personnel médical exerçant à l'établissement est absent et qu'elle sollicite une consultation en urgence*')

⁸⁹ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2018), Activity report 2017 (*Rapport d'activité 2017*), p. 240, available at: www.cglpl.fr/wp-content/uploads/2018/05/CGLPL_RA-2017_WEB_2.pdf 'Provide care for elderly or dependent people under conditions similar to those which they have outside detention' ('*Prendre en charge les personnes âgées ou dépendantes dans des conditions similaires à celles qu'elles rencontreraient en milieu libre*').

⁹⁰ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2016), Activity report 2015 (*Rapport d'activité 2015*), p. 50, available at: www.apt.ch/content/files/npm/eca/France_NPM%20Annual%20Report%202015.pdf

- Respect of medical confidentiality is a right for the patient and an absolute duty for the doctor. It is recommended that medical consultations proceed without the presence of an escort and that surveillance is only indirect (out of sight and earshot of the detainee).⁹¹

More specifically, in connection with access to care for female detainees, the Controller general of detention facilities has made the following recommendations:

- Female detainees must be able to benefit from access to gynaecological care, under the conditions provided for in Article 46 of the penitentiary law of 24 November 2009: 'the quality and the continuity of care are guaranteed to detainees under conditions equivalent to those for the whole population'.⁹²
- Strict compliance with the provisions of Article 52 of the Penitentiary law, which states that 'All childbirths or gynaecological examinations shall be conducted without hindrance and without the presence of prison staff, in order to guarantee the right to respect of dignity of female detainees.'⁹³
- In detention, self-esteem must be valued; women must be able to take care of their physical appearance. In the absence of a wide choice in canteens, the introduction of hygiene and make-up products via visiting areas should be authorised⁹⁴

Please cite any relevant sources

« Pour réduire les nombreuses extractions médicales, l'intervention de médecins spécialistes en détention doit être renforcée et une réflexion doit être menée afin que les personnes détenues remplissant les conditions légales bénéficient de permissions de sortir pour se rendre seules dans un établissement de santé ».

English version: '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';

France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2016), Activity report 2015 (*Rapport d'activité 2015*), p. 46, available at: www.cgpl.fr/wp-content/uploads/2012/12/RA-2015_version-finale_EN_2.pdf

⁹¹ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2016), Activity report 2015 (*Rapport d'activité 2015*), p. 25, available at: www.apt.ch/content/files/npm/eca/France_NPM%20Annual%20Report%202015.pdf

« La violation du secret médical est quasi systématique. Arguant de motifs de sécurité, le personnel de surveillance est constamment présent au côté des personnes détenues, il assiste aux consultations et aux examens médicaux, aux explications des médecins et, dans de rares cas, à des interventions chirurgicales, quand bien même la personne serait endormie ».

English version: 'The violation of medical confidentiality is virtually systematic. Asserting safety reasons, the supervisory staff are constantly present at the side of detainees, they attend consultations and medical examinations, the doctors' explanations and, in rare cases, surgical operations, even when the person is not conscious' ;

France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2016), Activity report 2015 (*Rapport d'activité 2015*), p. 27, available at: www.cgpl.fr/wp-content/uploads/2012/12/RA-2015_version-finale_EN_2.pdf

⁹² France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2017), Activity report 2016 (*Rapport d'activité 2016*), pp. 48-49, available at: www.apt.ch/content/files/npm/eca/France_NPM%20annual%20report%202016_FR.pdf

⁹³ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2017), Activity report 2016 (*Rapport d'activité 2016*), p. 84, available at: www.apt.ch/content/files/npm/eca/France_NPM%20annual%20report%202016_FR.pdf

⁹⁴ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2017), Activity report 2016 (*Rapport d'activité 2016*), p. 49, available at: www.apt.ch/content/files/npm/eca/France_NPM%20annual%20report%202016_FR.pdf

'In detention, self-esteem must be valued; women must be able to take care of their physical appearance. In the absence of a wide choice in canteens, the introduction of hygiene and make-up products via visiting areas should be authorised' (*'En détention, l'estime de soi doit être valorisée; les femmes doivent pouvoir prendre soin de leur apparence physique. À défaut d'un large choix en cantines, l'entrée de produits d'hygiène et de maquillage via les parloirs doit être autorisée'*).

6. Special measures in place to protect juvenile prisoners.

- a) Are there any legal instruments, such as a legislative act, internal prison regulations, manuals, policy papers etc. regulating the separation of juvenile prisoners from adults? (e.g. a separate juvenile ward, or part of the building, canteen, common area etc.?)

Juvenile detainees are separated from adults.

With regard to pre-trial detention, according to Article 11 of the Order of 2 February 1945 relative to juvenile crime, it is specified that the minor is detained in a special section of the detention facility or in a specialised detention centre for juveniles.⁹⁵

With regard to the carrying out of the sentence, Article 20-2 of the order of 2 February 1945 states the same provision.⁹⁶

As such, the cells, and eating or walking places are separated from those used by adults. Nevertheless, it is provided for that in exceptional circumstances the head of the establishment may authorise a juvenile detainee of over 16 to participate in activities organised in the detention establishment with adults, if this is in the interest of the juvenile.⁹⁷

In the case of detainees who have just reached the age of majority, Article R.57-9-11 of the Code of Criminal Procedure states that 'in exceptional cases, a detainee who reaches the age of majority in detention may be kept in a juvenile area or a specialized juvenile detention facility. They should not have any contact with detainees under the age of sixteen. They cannot be held in such an establishment when over the age of eighteen years and six months'.⁹⁸

In addition, it is stated that female juvenile detainees are separated from male juvenile detainees and are housed in a specific unit under the supervision of female warders; this does not prevent the possible organization of joint activities involving juveniles of both sexes.⁹⁹

Finally, it seems interesting to note that there is a special regime for young adults, that is to say detainees under the age of 21 According to Article D.521-1 of the Code of criminal procedure, an adult

⁹⁵ France, Order n°45-174 relating to juvenile crime (*Ordonnance n°45-174 relative à l'enfance délinquante*), 2 February 1945, Article 11, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000517521&fastPos=1&fastReqId=180624672&categorieLien=cid&oldAction=rechTexte

⁹⁶ France, Order n°45-174 relating to juvenile crime (*Ordonnance n°45-174 relative à l'enfance délinquante*), 2 February 1945, Article 20-2, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000517521&fastPos=1&fastReqId=180624672&categorieLien=cid&oldAction=rechTexte

⁹⁷ France, Standard rules of procedure for detention establishments, annexed to Decree n°2013-368 relating to the Standard rules of procedure for detention establishments (*Règlement intérieur type des établissements pénitentiaires, annexé au décret n°2013-368 relatif aux règlements intérieurs types des établissements pénitentiaires*), 30 April 2013, Article 57, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027382116&categorieLien=id

⁹⁸ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-9-11, available at: www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000023358045&cidTexte=LEGITEXT000006071154&dateTexte=20180522&oldAction=rechCodeArticle&fastReqId=867789343&nbResultRech=1

⁹⁹ France, Standard rules of procedure for detention establishments annexed to Decree n°2013-368 relating to the Standard rules of procedure for detention establishments (*Règlement intérieur type des établissements pénitentiaires, annexé au décret n°2013-368 relatif aux règlements intérieurs types des établissements pénitentiaires*), 30 April 2013, Article 51, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027382116&categorieLien=id

detainee under 21 years old is placed in solitary confinement at night. Nevertheless, these detainees may be placed in a shared cell with detainees of their age for medical reasons or because of their personality.¹⁰⁰

b) What age category falls under this specific juvenile prison regime?

The rules specific to the juveniles apply to detainees under 18.

It should be noted that the above-mentioned attenuation stipulates that, in exceptional cases, a detainee who has reached the age of majority may remain in the area reserved for juveniles or in the specialized establishment for the first 6 months following reaching the age of majority.¹⁰¹

c) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

The rules for separating juveniles and adults apply to all detention regimes.

d) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

Regarding juveniles, the proposals made in recent years by the Controller general of detention facilities concerning female juvenile prisoners can be noted:

- The particular situation of female juveniles must be given specific attention and they should receive equal treatment to that of boys. In this respect, the imprisonment of female juveniles in an area for women is against the law. They must be able to benefit from care within establishments adapted to juveniles¹⁰²
- Female juveniles held in detention establishments other than correctional juvenile facilities should be (as far as is possible and according to the institution's organisation) detained in 'juvenile' areas in the same way as male juveniles. Accommodation is subjected to the principle of non-mixing.¹⁰³

¹⁰⁰ France, Code of criminal procedure (*Code de procédure pénale*), Article D.521-1, available at:

www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000006516592&cidTexte=LEGITEXT000006071154

¹⁰¹ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-9-11, available at: www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000023358045&cidTexte=LEGITEXT000006071154&dateTexte=20180522&oldAction=rechCodeArticle&fastReqId=867789343&nbResultRech=1

¹⁰² France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2017), Activity report 2016 (*Rapport d'activité 2016*), p. 47, available at: www.apt.ch/content/files/npm/eca/France_NPM%20annual%20report%202016_FR.pdf

'The imprisonment of female juveniles in areas for women is against the law. They must be able to benefit from care within establishments adapted to juveniles' (*'L'incarcération des jeunes filles mineures dans des quartiers pour femmes est contraire à la loi. Elles doivent pouvoir bénéficier d'une prise en charge au sein de structures adaptées aux mineurs* »).

¹⁰³ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2017), Activity report 2016 (*Rapport d'activité 2016*), p. 47, available at: www.apt.ch/content/files/npm/eca/France_NPM%20annual%20report%202016_FR.pdf

'Female juveniles held in detention establishments other than correctional juvenile facilities should be - as far as is possible and according to the institution's organisation - detained in 'juvenile' areas in the same way as male juveniles. On the other hand, sleeping accommodation must be subjected to the principle of not being mixed'. (*'Les mineures détenues dans des établissements pénitentiaires autres que les établissements pénitentiaires pour mineurs doivent être – dans la mesure du possible et selon l'architecture de l'établissement – incarcérées au sein des quartiers « mineurs » au même titre que les enfants de sexe masculin. En revanche, l'hébergement doit être soumis au principe de non-mixité* »).

Please cite any relevant sources

7. Special measures in place to protect prisoners from violence

- a) Are any special measures in place to protect prisoners against violence, including sexual violence? (E.g. are prisoners supervised by prison staff? Are there emergency call buttons? Do guards receive training in de-escalation? Do prisoners have access to a complaints mechanism?)

Article 44 of the penitentiary law of 2009 states the principle of responsibility of the Prison authorities in connection with violence suffered by a detainee within the detention establishment. As such, Article 44 sets out that 'the prison authorities must ensure each for detainee effective protection of their physical well-being in all communal and individual areas. Even in the absence of liability, the State is held to make good the damage resulting from the death of a detainee caused by violence committed in a detention establishment by another detainee. Any detainee who is a victim of an act of violence committed by one or more fellow detainees shall be the subject of a special monitoring and detention regime. They primarily benefit from an individual cell. When a detainee has committed suicide, the prison administration shall immediately inform their family or friends of the circumstances in which the death occurred and facilitate, at their request, the subsequent steps that they may take.'¹⁰⁴

Violence in detention against another detainee is likely to be the subject of disciplinary action. According to Article R.57-7-1-2 of the Code of criminal procedure, a detainee committing or attempting to commit physical violence against a detainee¹⁰⁵ constitutes a disciplinary breach of the 1st degree. Beyond disciplinary action, the perpetrator of acts of violence can be the subject of criminal prosecution.

As such, it can be seen that tackling violence in detention consists mainly of monitoring by the Prison authorities and of *ex-post* sanctions. Preventive measures are not emphasised. Concerning showering time, no laws provided for specific monitoring of prisoners; therefore, generally, the time for the shower can consist of opening the cell doors of an area of the prison for 20 minutes to allow prisoners to access the shower. Due to this opening of cell doors, monitoring by guards may be increased.

It should however be noted that there exists in detention inter-phone or emergency button devices which can be employed in the event of violent acts. In France, the implementation of this system began in 2007 and the Controller general of detention facilities recommends developing the devices and maintaining existing ones in good working orders.¹⁰⁶

¹⁰⁴ France, Penitentiary Law (*Loi pénitentiaire*) n°2009-1436, 24 November 2009, Article 44, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000021312171&fastPos=1&fastReqId=2032670549&categorieLien=cid&oldAction=rechTexte

¹⁰⁵ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-7-1, available at: www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000023349175&cidTexte=LEGITEXT000006071154&dateTexte=20180522&fastPos=2&fastReqId=312310784&oldAction=rechCodeArticle

¹⁰⁶ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2018), Activity report 2017 (*Rapport d'activité 2017*), p. 260, available at: www.cglpl.fr/wp-content/uploads/2018/05/CGLPL_RA-2017_WEB_2.pdf

Prison overcrowding and the lack of warders make the monitoring and the protection of vulnerable people difficult. As an illustration of this, certain detainees fear for their safety and may forgo going for a walk.¹⁰⁷

- b) Are there any special measures in place to protect LGBTI prisoners, who are particularly vulnerable to violence/sexual violence?

There do not exist provisions specific to LGBTI detainees. They are in fact treated as being part of a broader category of vulnerable people. Indeed, LGBTI detainees may constitute a population likely to be more at risk of violence in detention than other detainees.

The Prison authorities have the possibility of preventing such violence towards vulnerable detainees, in particular by taking into consideration their personality and/or their situation (though this is not specific to LGBTI detainees) within the framework of being able to assign individual cells.

Firstly, upon arrival in detention, the person follows an arrival programme. This makes it possible to carry out certain formalities and to assess the situation of the new detainee. Reception of new detainees is carried out in a special area of the detention establishment. Individual cells are used unless the new detainee appears to be a suicide risk. The new detainee is met the head of the establishment or by a director of prison services, an officer, a major or a first supervisor and the probation staff. The new detainee also has a medical examination. The presence of the detainee in the arrival area cannot exceed three weeks.¹⁰⁸ This arrival period for the new detainee constitutes a form of observation period by the prison authorities. This observation period will make it possible for the head of the establishment to determine the provision of a cell for the new detainee.

Both at the time of arrival and during detention, it is the head of the establishment who decides on the provision of a cell for detainees; they may delegate this to a penitentiary major or a first supervisor, placed under their authority (Article R.57-6-24 of the Code of criminal procedure).¹⁰⁹ The personality

'To install inter-phones or call buttons which also function during the night in order to signal a need for assistance' (*Mettre en place des dispositifs d'interphonie ou de boutons d'appel fonctionnant également la nuit afin de signaler un besoin d'assistance*).

¹⁰⁷ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2018), 'Fundamental Rights Overcoming Prison Overcrowding. A Concrete Approach Based on the Experience of the Controller General of Detention Facilities' (*Les droits fondamentaux à l'épreuve de la surpopulation carcérale. Approche concrète sur la base de l'expérience du Contrôleur général des lieux de privation de liberté*), p. 12, available at: www.cgpl.fr/wp-content/uploads/2018/02/Rapport-thématique-surpopulation-carcérale_web.pdf

'In certain establishments, overcrowding prevents the implementation of specific provisions for the protection of people known as vulnerable who are mixed with other detainees, due to not being able to set up specific times for walks or activities. At the prison of Nîmes, in particular, detainees say they do not often go for walks, fearing for their safety'. (*Dans certains établissements la surpopulation empêche la mise en place de disposition particulière pour la protection des personnes dites vulnérables mélangées avec le reste de la détention, faute de pouvoir mettre en place des créneaux spécifiques pour les promenades ou les activités. A la maison d'arrêt de Nîmes notamment, les personnes détenues disent se rendre peu en promenade craignant pour leur sécurité*).

¹⁰⁸ France, Standard rules of procedure for detention establishments, annexed to Decree n°2013-368 relating to the Standard rules of procedure for detention establishments (*Règlement intérieur type des établissements pénitentiaires, annexé au décret n°2013-368 relatif aux règlements intérieurs types des établissements pénitentiaires*), 30 April 2013, Articles 2 and 3, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027382116&categorieLien=id

¹⁰⁹ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-6-24, available at: www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000028936482&cidTexte=LEGITEXT000006071154&dateTexte=20180525

and the situation of the detainee are factors to be taken into account for the determination of their cell type.

The detainee may ultimately make a request for a change of cell.¹¹⁰

On assigning individual cells, Article 44 of the penitentiary law of 2009: 'Any detainee who is a victim of an act of violence committed by one or more fellow detainees shall be the subject of a special monitoring and detention regime. They primarily benefit from an individual cell.'¹¹¹

Moreover, during detention, it is possible, as a safety or protection measure, to operate a system of isolation of a detainee upon their request or upon a decision of the Prison authorities (Article R.57-7-62 of the Code of criminal procedure).¹¹² The opinion of the doctor in the detention establishment must be sought (Articles R.57-7-64,¹¹³ R. 57-7-70¹¹⁴ and R.57-7-73¹¹⁵ of the Code of criminal procedure).

Finally, it is possible to underline that, being frequently the subject of stigmatisation, and in particular to avoid violence against them, certain recommendations are made in connection with detainees presenting gender dysphoria. Thus, it is important to assign cells to transsexuals in the best of their interests: individually, placement in a detention area for the care of vulnerable persons, placement in solitary confinement; while taking into account the imperatives of prison management. Moreover, throughout the course of care, protection of the physical and mental well-being of the person should be ensured.¹¹⁶

- c) Are these measures regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?

In this respect, the main principles are set out in the penitentiary law of 2009 and implemented by the regulations of the Code of Criminal Procedure.

- d) *Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).*

The rules stated apply to all detention regimes.

¹¹⁰ France, Ministry of Justice, Prison Administration Directorate (*Ministère de la Justice, Direction de l'administration pénitentiaire*), I am in detention. Guide for new detainees (*Je suis en détention. Guide du détenu arrivant*), p. 24, available at: www.justice.gouv.fr/art_pix/Guide_Je_suis_en_detention_V7_FINAL_opt.pdf

¹¹¹ France, Penitentiary Law (*Loi pénitentiaire*) n°2009-1436, 24 November 2009, Article 44, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000021312171&fastPos=1&fastReqId=2032670549&categorieLien=cid&oldAction=rechTexte

¹¹² France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-7-62, available at: www.legifrance.gouv.fr/affichCode.do?idArticle=LEGIARTI000023349984&idSectionTA=LEGISCTA000023349982&cidTexte=LEGITEXT000006071154&dateTexte=20180525

¹¹³ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-7-64, available at: www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000023349988&cidTexte=LEGITEXT000006071154&dateTexte=20180525

¹¹⁴ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-7-70, available at: www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000023350002&cidTexte=LEGITEXT000006071154&dateTexte=20180525

¹¹⁵ France, Code of criminal procedure (*Code de procédure pénale*), Article R.57-7-73, available at: www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000023350010&cidTexte=LEGITEXT000006071154&dateTexte=20180525

¹¹⁶ France, Ministry for Justice, Ministry for solidarity and health (*Ministère de la Justice, Ministère des solidarités et de la santé*), Provision of healthcare for people placed under judicial control. Methodological guide (*Prise en charge sanitaire des personnes placées sous main de justice. Guide méthodologique*), p. 124, available at: http://solidarites-sante.gouv.fr/img/pdf/guide_methodologique_-_prise_en_charge_sanitaire_des_personnes_placees_sous_main_de_justice.pdf

It is possible, nevertheless, to quote a provision specific to prison (*Maison d'arrêt*). According to Article 38 of the Standard rules of procedure for detention establishments,¹¹⁷ for some prisons (*Maisons d'arrêt*), 'if a detainee wishes to be paced in an individual cell but the internal distribution and number of detainees does not allow for this, they may submit to the head of the establishment a request to be transferred to the nearest prison (*Maisons d'arrêt*) allowing for such a placement'.

- e) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English) These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of--designated-npmby-regions-and-countries/>

The recommendations of the Controller general of detention facilities as regards tackling violence in detention are as follows:

- Continue with the systematic installation of inter-phones or emergency call buttons which also function during the night and ensure the maintenance of those which already exist¹¹⁸
- Maintain and structure the role of health professionals who work in detention facilities in screening for violence in accordance with the provisions of the European prison rules.¹¹⁹

Please cite any relevant sources

8. Responsible authorities

- a) What authority is responsible for the provision of additional information requested under Article 15 of the EAW Framework Decision? (Please specify whether there a central authority deals with these requests, if yes, please provide contact details, such as the name of the institution, a website,

¹¹⁷France, Standard rules of procedure for detention establishments, annexed to Decree n°2013-368 relating to the Standard rules of procedure for detention establishments (*Règlement intérieur type des établissements pénitentiaires, annexé au décret n°2013-368 relatif aux règlements intérieurs types des établissements pénitentiaires*), 30 April 2013, Article 38, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027382116&categorieLien=id

¹¹⁸ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2018), Activity report 2017 (*Rapport d'activité 2017*), p. 260, available at: www.cglpl.fr/wp-content/uploads/2018/05/CGLPL_RA-2017_WEB_2.pdf 'To install inter-phones or call buttons which also function during the night in order to signal a need for assistance' ('*Mettre en place des dispositifs d'interphonie ou de boutons d'appel fonctionnant également la nuit afin de signaler un besoin d'assistance*').

¹¹⁹ France, Controller general of detention facilities (*Contrôleur général des lieux de privation de liberté*) (2017), Activity report 2016 (*Rapport d'activité 2016*), pp. 25-26, available at: www.apt.ch/content/files/npm/eca/France_NPM%20annual%20report%202016_FR.pdf

The Controller General of detention facilities 'therefore recommends affirming and structuring the role of health professionals who work in prisons to identify violence, in accordance with the provisions of the European prison rules' ('*préconise ainsi d'affirmer et de structurer le rôle des professionnels de santé qui exercent en milieu pénitentiaire dans le dépistage de la violence, conformément aux dispositions des règles pénitentiaires européennes*').

physical and email addresses, and a telephone number. In the absence of a central authority, who deals with those requests?)

The public ministry for the investigating jurisdiction, judgement or application of sentences.¹²⁰. There is no central authority for requests for provision of additional information. These are handled directly by the relevant Ministry.

- b) What authority is responsible for monitoring conditions of detention and putting forward recommendations?

The Controller general of detention facilities.

Internet site: www.cglpl.fr/

Internet site in English: www.cglpl.fr/en/

Postal address of the Controller of detention facilities: Madame le Contrôleur générale des lieux de privation de liberté, CS70048, 75921 Paris, Cedex 19.

Contact via the internet: www.cglpl.fr/accueil/contact/

Please cite any relevant sources

¹²⁰ France, Code of criminal procedure (*Code de procédure pénale*), Articles 695-16 et suivants, available at: www.legifrance.gouv.fr/affichCode.do;jsessionid=027C43EEF6A10431C35042ED4936C009.tplgfr41s_3?idSectionTA=LEGI SCTA000006182916&cidTexte=LEGITEXT000006071154&dateTexte=20180522