

Criminal Detention in the EU: Conditions and Monitoring

Update of FRA's Criminal Detention Database
(FRANET)

Country: France

Contractor's name: Institut français des droits et libertés

Authors: François DESPREZ

Date: 1st April 2024

DISCLAIMER: This document was commissioned under contract as background material for a comparative analysis by the European Union Agency for Fundamental Rights (FRA) for the project: [Criminal Detention in the EU – Conditions and Monitoring](#). The information and views contained in the document do not necessarily reflect the views or the official position of the FRA. The document is made publicly available for transparency and information purposes only and does not constitute legal advice or legal opinion.

Table of Contents

Part I: National standards	7
1. Cells	7
a. Cell space	7
b. Access to natural light and fresh air, cell equipment, furniture, and facilities.....	7
c. Video-surveillance of cells	9
d. NPM assessment.....	10
2. Allocation of detainees	12
a. Geographical allocation	12
b. Allocation within detention facilities	13
c. NPM assessment.....	13
3. Hygiene and sanitary conditions (note – section 11 contains specific questions concerning female detainees)	14
a. Access to toilets	14
b. Access to showers and warm and running water.....	15
c. Access to sanitary products	15
d. Hygienic conditions in cells.....	15
e. NPM assessment.....	16
4. Nutrition.....	17
a. Quality and quantity of food.....	17
b. Drinking water.....	18
c. Dietary requirements.....	18
d. NPM assessment.....	18
5. Time spent outside the cell and outdoors	19
a. Time spent outdoors.....	19
b. Time spent indoors	20
c. Recreational facilities.....	20
d. Educational activities	21
e. NPM assessment.....	22
6. Solitary confinement.....	23
a. Placement in solitary confinement	23
b. Monitoring of detainees	24
c. NPM assessment.....	25
7. Work and education of detainees to promote social reintegration.....	25

a.	General measures to promote social reintegration	25
b.	Access to work	26
c.	Access to education	26
d.	NPM assessment.....	26
8.	Healthcare (note – section 11 contains specific questions concerning female detainees).....	27
a.	Access to healthcare	27
b.	Availability of medical staff.....	28
c.	Medical examination upon admission	29
d.	Preventive care	29
e.	Specialised care.....	29
f.	Treatment of the detainee’s choosing.....	30
g.	NPM assessment.....	30
9.	Prevention of violence and ill-treatment.....	32
a.	Protection from violence by prison staff	32
b.	Protection from violence by other detainees	33
c.	NPM assessment.....	34
10.	Contact with the outside world	35
a.	Visits	35
b.	Correspondence.....	36
c.	Visits with children.....	37
d.	NPM assessment.....	37
11.	Special measures for female detainees	38
a.	General conditions of detention for women and girls.....	38
b.	Separation from men	39
c.	Hygiene	39
d.	Healthcare.....	39
e.	Pregnancy and women with babies or young children.....	39
f.	NPM assessment.....	39
12.	Special measures for foreign nationals.....	40
a.	General measures for foreign nationals	40
b.	Interpretation and translation	40
c.	NPM assessment.....	40
13.	Special measures relating to detention of children and young adults/juvenile detention regime	41

a.	Age groups	41
b.	General measures for detained children and young adults	42
c.	Separation from adults	42
d.	NPM assessment.....	43
14.	Special measures to protect detainees with disabilities or serious medical conditions	44
a.	Care in detention	44
b.	Continuity of care.....	44
c.	Reasonable accommodation and accessibility	45
d.	NPM assessment.....	45
15.	Specific measures to protect detainees with special needs or other vulnerabilities	46
a.	Protection of LGBTI detainees	46
b.	Protection of trans detainees	47
c.	Protection of other vulnerable detainees.....	48
d.	NPM assessment.....	48
16.	Specific measures to address radicalisation in prisons.....	49
a.	General measures to prevent radicalisation.....	49
b.	Risk assessments.....	49
c.	Training of staff.....	49
d.	Deradicalisation measures.....	50
e.	NPM assessment.....	50
17.	Inspections and monitoring	51
a.	Inspections	51
b.	Access to detention facilities by national authorities.....	51
c.	Access to detention facilities by international bodies	52
d.	NPM assessment.....	52
18.	Access to remedy	53
a.	Legal remedies	53
b.	Legal assistance.....	54
c.	Request and complaints.....	54
d.	Independent authority.....	54
e.	NPM assessment.....	55
Part II: National case-law		57
Court of Cassation, Criminal Division / No. 23-84093, 14 February 2024		57
State Council (<i>Conseil d'Etat</i>) / No. 461605, 29 December 2023		58

Administrative Court of Poitiers / No. 2100430, 31 August 2023 59

State Council (*Conseil d'Etat*), urgent applications judge / No. 472994, 15 May 2023 60

Court of Cassation, Criminal Division / No. 22-85670, 15 March 2023 61

State Council (*Conseil d'Etat*) / No. 469304, 20 December 2022 62

Court of Cassation, Criminal Division / No. 22-80807, 16 November 2022..... 64

State Council (*Conseil d'Etat*) / No. 461131, 15 November 2022 65

Court of Cassation, Criminal Division / No. 22-83885, 13 September 2022..... 66

Court of Cassation, Criminal Division / No. 21-84498, 20 October 2021 67

Part I: National standards

1. Cells

a. Cell space

- Remand detention and imprisonment

A circular dated 16 March 1988¹ specifies cell size and capacity:

The size of a single cell is less than 11 m². It is important to note that French law does not specify a minimum cell size².

The cell space for two detainees ranges from 11 up to and including 14 m²).

The cell space for three detainees ranges from 14 up to and 19 m².

The cell space for four detainees ranges from 19 up to and 24 m².

The cell space for five to ten detainees ranges from 24 up to and including 54 m².

The circular of 16 March 1988 applies to all types of deprivation of liberty. No distinction is made according to the type of cell confinement³.

The nomenclature set out in the circular of 16 March 1988 is regularly used in reports on detention, in particular those on prison overcrowding⁴.

The calculation requirements set out by the CJEU in its Dorobantu ruling of 15 October 2019 are not fully complied with, as the circular does not provide for the surface area occupied by toilets to be disregarded. The requirements of the European Commission's Recommendation of 8 December 2022 (paragraph 34) are also not fully met. Here again, the circular does not provide for the surface area occupied by toilets to be disregarded.

- Police custody

With regard to cells in police stations and gendarmerie brigades, in July 2019, the Minister of the Interior reiterated the minimum size of cells: minimum surface area of 7 m² for a single cell and between 12 and 16 m² for a communal cell⁵.

b. Access to natural light and fresh air, cell equipment, furniture, and facilities

- Remand detention and imprisonment

The French Prison Code contains provisions regarding the health and cleanliness of detention facilities.

According to Article R.321-1 of the French Prison Code, "each person is held under satisfactory health and cleanliness conditions".⁶ Article R.321-2 of the French Prison Code specifies that detention facilities, in particular those intended for detainee accommodation, must meet hygiene requirements, taking the climate, in terms of air volume, lighting, heating and ventilation, into account⁷. Sufficiently large openings are required to allow natural light to penetrate and thus allow detainees to read or work; the

¹ France, Ministry of justice (*Ministère de la justice*), Circular NOR: JUSE8840016C "[Capacity of prisons](#)", 16 March 1988.

² France, Association for Communication on prisons and incarceration in Europe, [Prisoner's guide](#), 13 June 2016.

³ France, Ministry of justice (*Ministère de la justice*), Circular NOR: JUSE8840016C "[Capacity of prisons](#)", 16 March 1988.

⁴ France, Raimbourg, D., Report to the Minister of Justice "[Single-cell confinement. Making prison a tool of justice](#)", 2 December 2014; International Prison Observatory (2021)(*Observatoire international des prisons*), The prisoner's guide, The discovery (*Le guide du prisonnier, La découverte*), coll. Guides, p. 160.

⁵ France, Ministry of the Interior (*Ministère de l'intérieur*), "[Police custody conditions](#)" (« *Conditions de la garde à vue* »), 18 July 2019, French Sensate OJ, 18 July 2019, p. 3889.

⁶ France, Prison Code, [Article R.321-1](#).

⁷ France, Prison Code, [Article R.321-2](#).

layout of openings must allow the cell to be ventilated. Artificial light must be suitable for reading and working without impairing eyesight. Sanitary facilities, including toilets (which are part of a cell's furnishings⁸), must be clean and decent and, when the cell is communal, must be arranged in such a way as to protect the privacy of detainees⁹.

However, in 2013, the Controller General of prisons noted that the poor quality of lighting in cells and rooms, in particular for detainees serving long sentences, caused visual pathologies that went beyond the effects of age alone¹⁰. There are also practical difficulties in applying regulatory standards, due on the one hand to the configuration of the premises (small windows, wire mesh and/or gratings added to the bars), and, on the other, to the dilapidated state of electrical installations, forcing detainees to bring in extra lamps and extension cords and multi-plug sockets to be able to plug them in¹¹.

Respect for privacy with regard to toilet access is also unsatisfactory. Detainees in communal cells can experience unpleasant noises and intimate smells, in the only room that is also used for eating and sleeping¹². Such a situation leads to permanent humiliation that undermines dignity¹³. In this regard, the Controller General of prisons (*Contrôleur général des lieux de privation de liberté*) has stated that "*the most frequent infringement of privacy reported by detainees relates to the use of cell toilets*"¹⁴.

In the best of cases, the toilet is only isolated from the rest of the cell by a partition or door about a metre high, which does not go all the way up to the ceiling. In cases of communal cell confinement, detainees thus have to relieve themselves in the immediate vicinity of their fellow detainees, in the same room that is also used for sleeping and eating. The justification for this invasion of the detainee's privacy is security: detainees must be able to be observed by guards through the cell eyepiece anywhere in their cell¹⁵.

According to Article R.321-5 of the French Prison Code, each detainee must have a single bed in their cell¹⁶.

- Police custody

With regard to cells in police stations and gendarmerie brigades, the Minister of the Interior specified on 18 July 2019 that they must be in good condition, clean and heated. The cells have a water point, a

⁸ France, Controller General of prisons (2018), [Fundamental rights put to the test by prison overcrowding. A practical approach based on the experience of the Controller General of prisons](#) (*Les droits fondamentaux à l'épreuve de la surpopulation carcérale. Approche concrète sur la base de l'expérience du Controller General of prisons*), Dalloz, p. 35.

⁹ France, Prison Code, [Article R.321-3](#).

¹⁰ France, Controller General of prisons (2014), [Annual report 2013](#) (*Rapport annuel 2013*), p. 154.

¹¹ France, International Prison Observatory (2021)(*Observatoire international des prisons*), The prisoner's guide, The discovery (*Le guide du prisonnier, La découverte*), coll. Guides, p. 171.

¹² France, International Prison Observatory (2021)(*Observatoire international des prisons*), The prisoner's guide, The discovery (*Le guide du prisonnier, La découverte*), coll. Guides, p. 173.

¹³ France, Controller General of prisons (2018), [Fundamental rights put to the test by prison overcrowding](#) (*Les droits fondamentaux à l'épreuve de la surpopulation carcérale*), Dalloz, p. 11.

¹⁴ France, Controller General of prisons (2018), [Fundamental rights put to the test by prison overcrowding. A practical approach based on the experience of the Controller General of prisons](#) (*Les droits fondamentaux à l'épreuve de la surpopulation carcérale. Approche concrète sur la base de l'expérience du Controller General of prisons*), Dalloz, p. 11.

¹⁵ France, Controller General of prisons (2018), [Fundamental rights put to the test by prison overcrowding. A practical approach based on the experience of the Controller General of prisons](#) (*Les droits fondamentaux à l'épreuve de la surpopulation carcérale. Approche concrète sur la base de l'expérience du Controller General of prisons*), Dalloz, p. 11.

¹⁶ France, Prison Code, [Article R.321-5](#).

toilet and a low wall high enough to ensure privacy. Detainees are provided with a mattress and a single-use survival blanket¹⁷.

c. Video-surveillance of cells

- Remand detention and imprisonment

As a matter of principle, video-surveillance of cells is prohibited. However, in accordance with Article L.223-8 of the French Prison Code, the prison administration may process personal data relating to video-surveillance systems for detention cells in prisons. The aim is to ensure security while avoiding the risk of escape or preventing a suicidal act¹⁸.

Each detainee is informed of the draft of the decision to place them under video-surveillance, and has the right to make written and oral observations, as part of an adversarial procedure. They may be assisted by a lawyer. A detainee may be placed under video-surveillance by a specially-justified decision taken by the Minister of Justice, for a renewable period of three months. Detainees are informed of this decision¹⁹.

The written opinion of the doctor working in the prison may be sought at any time, in particular before any decision is taken to renew the video-surveillance measure²⁰.

The video-surveillance system enables real-time monitoring of detainees. A privacy screen in the cell ensures privacy, while allowing opaque images to be displayed. Camera locations are visible. No biometric devices are coupled with these video-surveillance systems. Recorded images used in this processing are kept on digital media for a period of one month²¹. At the end of the one-month period, any data that has not been forwarded to the judicial authorities or not been the subject of an administrative investigation is deleted²².

- Police custody

According to Article L.256-1 of the French internal security code, the administrative authority may use video-surveillance systems in police custody or customs detention cells to prevent the risk of escape or threats to detainees or others. Detainees are informed of the video-surveillance by a notice posted up in their cell²³. The head of the department responsible for the security of the facilities decides on this video-surveillance, which must be strictly necessary in view of the detainee's behaviour. Video-surveillance is applicable for a 24-hour period, and authorisation from the judicial authority is required to extend the period²⁴.

The video-surveillance system enables real-time monitoring of the person in police custody or customs detention. A privacy screen installed in the police custody or customs detention cell ensures the individual's privacy, while allowing opaque images to be displayed. Camera locations are visible. No biometric or sound capture devices are coupled with these video-surveillance processes. No automated

¹⁷ France, Ministry of the Interior (*Ministère de l'intérieur*), "[Police custody conditions](#)" (« *Conditions de la garde à vue* »), 18 July 2019, French Senate OJ, 18 July 2019, p. 3889.

¹⁸ France, Prison Code, [Article L.223-8](#).

¹⁹ France, Prison Code, [Article L.223-9](#).

²⁰ France, Prison Code, [Article L.223-10](#).

²¹ France, Prison Code, [Article L.223-11](#).

²² France, Prison Code, [Article L.223-12](#).

²³ France, Internal security code (*Code de la sécurité intérieure*), [Article L.256-1](#).

²⁴ France, Internal security code (*Code de la sécurité intérieure*), [Article L.256-2](#).

reconciliation, interconnection or linking with other personal data processing operations may be carried out²⁵.

Images from the video-surveillance system can be consulted in real time by the head of department or their individually designated representative, specially empowered by them. At the end of police custody or customs detention, except where they are used in judicial, administrative or disciplinary proceedings, recordings are kept under the responsibility of the head of the department who placed the person under video-surveillance for a period of forty-eight hours. At the end of this period, the recording is destroyed²⁶.

d. NPM assessment

- Controller General of prisons, [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, 2022
- *"Custody and detention facilities at police stations must be sized in proportion to judicial activity. The number of people accommodated must never exceed the number of people who can be effectively accommodated, with due respect for their dignity and, as long as they need it, for health distancing measures"*²⁷.
- *With regard to police custody facilities, "Sleeping conditions must be respectful of people's dignity. Each room must be provided with a bench of suitable dimensions, a mattress and, at the very least, a blanket, all clean and for individual use"*²⁸.

- Controller General of prisons, [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, 2023
- *"Places of detention must be built, fitted out and maintained in such a way as to preserve the privacy of the persons confined there, both from the staff and from other detainees"*²⁹.
- *"Respect for privacy prohibits the use of permanent surveillance measures, in particular the constant use of video-surveillance in cells, rooms and toilets. In no cases can listening devices be used"*³⁰.
- *"The preservation of privacy in prisons means that they must have permanent control over the natural and artificial lighting of the premises in which they live or work"*³¹.
- *"In addition to being accommodated in facilities occupied in accordance with their capacity, detainees must have a private space and the means to protect it"*³².
- *"The privacy of detainees must be preserved in toilets and showers, the layout of which must allow for seclusion. They must have free access at all times. Those in charge of accommodation must provide them with hygiene products appropriate for their declared gender, so that they can take care of their personal hygiene"*³³.

- Controller General of prisons, [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, 2022

²⁵ France, Internal security code (*Code de la sécurité intérieure*), [Article L.256-3](#).

²⁶ France, Internal security code (*Code de la sécurité intérieure*), [Article L.256-4](#).

²⁷ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 228.

²⁸ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 228.

²⁹ France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, p. 216.

³⁰ France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, p. 216.

³¹ France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, p. 217.

³² France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, p. 217.

³³ France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, p. 217.

- *"Respect for privacy prohibits the use of permanent surveillance measures, in particular the constant use of video-surveillance in cells, rooms and toilets. In no cases can listening devices be used"*³⁴.
- *"The preservation of privacy in prisons means that they must have permanent control over the natural and artificial lighting of the premises in which they live or work"*³⁵.
- *"The privacy of detainees must be preserved in toilets and showers, the layout of which must allow for seclusion. They must have free access at all times. Those in charge of accommodation must provide them with hygiene products appropriate for their declared gender, so that they can take care of their personal hygiene"*³⁶.

Member of the Controller General of prisons, France, No. 1:

"Findings about cells and their condition vary from one prison to another. In detention centres, cell space is over-occupied. The cell space is approximately 9m²; from this 9m², the toilet space and the furniture space (bed, table, etc.) need to be deducted to determine the space left for detainees to move around. This cell space is further reduced if there are many detainees in the cell. So, in practice, we often find ourselves with less than 3m² of space per detainee to move around, even though this is the threshold set by the European Court of Human Rights.

On the subject of material conditions, the condition of the cells has deteriorated in older facilities. Not least because there is a high turnover: many detainees in the cell and a high turnover. But the more people that pass through the cell, the more damage occurs. In the cells, there is also insufficient space to store belongings: personal effects, clothing, etc. The cell is overcrowded.

Access to light is often very limited in cells, as prisons are not located in well-lit areas. Added to this is the presence of bars and gratings on the windows, which reduce access to light. In the cell, detainees can't gaze into the distance.

For security reasons, video-surveillance is used in police custody, as detainees do not remain there for long. However, it is not allowed in prison cells, as this would be an invasion of privacy. The only case of video-surveillance in a detainee's cell is that of Salah Abdeslam (involved in the November 2015 attacks); a special law was needed to achieve this, and the Controller General of prisons strongly opposed it. Installing in-cell video-surveillance for security reasons is an excessive invasion of detainee privacy and intimacy.

As regards air quality, it could be worse. The Controller General of prisons does not measure air quality. Unfortunately, the cell window is often broken or poorly insulated, so there is some form of ventilation. However, it is default ventilation that is surely insufficient, especially given the number of occupants. While there is always air circulating in the cells, given the number of people in the cell it causes humidity problems. The Controller General of prisons has no air quality indicators. In addition, as draughts cannot

³⁴ France, Controller General of prisons (2022), [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, p. 15.

³⁵ France, Controller General of prisons (2022), [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, p. 19.

³⁶ France, Controller General of prisons (2022), [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, p. 98.

be created, the air is not evacuated, giving rise to mould. The question of air quality is of interest as even though it is not measured by the Controller General of prisons, it does affect the dignity of detainees; the reports of the Controller General of prisons are based on criteria laid down by the European Court of Human Rights, and there is a chart of questions that does not include air quality".

Member of the Controller General of prisons, France, No. 2:

"Due to prison overcrowding, detainees have very little cell space.

The physical condition of the cells is decrepit and dilapidated. The opening to the outside lets in very little light, due to security systems.

As regards the benefits of video-surveillance, respect for detainee privacy precludes filming the inside of a cell".

2. Allocation of detainees

a. Geographical allocation

As a matter of principle, a detainee cannot choose their place of detention³⁷.

For persons in remand detention, Article L.342-1 of the French Prison Code provides that persons in remand detention whose investigation has been completed and who are awaiting trial may benefit from family reunification until their appearance before the trial court, subject to the approval of the judicial authority³⁸. The inter-regional director of prison services, with the approval of the magistrate in charge of the case, may grant the accused person's motion for family reunification³⁹.

According to a circular dated 21 February 2012⁴⁰, as part of the procedure for directing detainees to a prison facility to serve their sentence, maintaining family ties is an essential factor in this referral to preserve detainee equilibrium, their ties with the outside world and facilitate their rehabilitation⁴¹.

According to a circular dated 21 February 2012, a detainee may request a transfer to another prison, in particular with a view to family reunification or a prospect of rehabilitation. For this purpose, detainees must submit a justified request to the prison governor. The latter must compile and prepare a file, which will be submitted to the Interregional Division for its opinion. The final decision rests with the Central Administration of the Ministry of Justice⁴².

³⁷ France, State Council (*Conseil d'Etat*), [Decision No. 441880](#), 21 July 2020.

³⁸ France, Prison Code, [Article L.342-1](#).

³⁹ France, Prison Code, [Article R.342-1](#).

⁴⁰ France, Circular NOR: JUSK1240006C [Relating to directing a detainee in a prison](#) (*Relative à l'orientation en établissement pénitentiaire des personnes détenues*), 21 February 2012.

⁴¹ France, Circular NOR: JUSK1240006C [Relating to directing a detainee in a prison](#) (*Relative à l'orientation en établissement pénitentiaire des personnes détenues*), 21 February 2012.

⁴² France, Circular NOR: JUSK1240006C [Relating to directing a detainee in a prison](#) (*Relative à l'orientation en établissement pénitentiaire des personnes détenues*), 21 February 2012.

b. Allocation within detention facilities

Remand detainees are kept separate from convicted detainees. The former are in a detention centre⁴³ while the latter are in a prison⁴⁴. However, some detainees serving sentences of up to 2 years may be placed in a detention centre. The latter are then placed in a separate section from the accused⁴⁵.

Among penal institutions, detention centres receive detainees sentenced to lesser custodial sentences, while central prisons receive the most severely sentenced detainees. Open prisons receive conditionally paroled detainees, or who may be conditionally released. Finally, juvenile facilities accommodate detainees under the age of 18.

c. NPM assessment

- Controller General of prisons, [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, 2022
- *"The orientation of detainees at the end of the custodial procedure must be based on defined and shared multidisciplinary criteria. The summary documents on which this orientation is based must be given to the people involved and, where applicable, to their legal representatives, and discussed with them. Interested parties must be given the opportunity to express their observations or wishes. They must be able to appeal against their allocation"*⁴⁶.
- *"The orientation chosen for detainees should be periodically re-examined by a multidisciplinary team to ensure that it continues to be appropriate for their changing profile"*⁴⁷.
- Controller General of prisons, [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, 2023
- *"Orientation in a facility must be carried out in the exclusive interest of the persons involved, and cannot be intended to meet the organisational requirements of the administration"*⁴⁸.

Member of the Controller General of prisons, France, No. 1:

"Frequently, detainees are placed in the prison near where they were arrested. However, the arrest often takes place close to the detainee's home and family. So, in terms of distribution, detainees are not too far from their friends and families, and therefore from their place of rehabilitation, since it is easy to imagine that it is near their close relatives and families that the rehabilitation of detainees will be most successful.

However, the prison service has not been proactive in distributing these facilities close to detainees' close relatives and families. It's a fact of life: the detainee has been sentenced by a court in their place of arrest, which often corresponds to their place of residence.

In some cases, the prison administration may transfer detainees to relieve overcrowding in a prison, which may take detainees away from their family. Detainees are not sent to the other end of France, but to a facility where there is less prison overcrowding. This frees up space in a crowded facility; this is particularly true in the Paris region.

⁴³ France, Prison Code, [Article L.211-1](#).

⁴⁴ France, Prison Code, [Article L.211-2](#).

⁴⁵ France, Prison Code, [Article L.211-3](#).

⁴⁶ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 227.

⁴⁷ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 227.

⁴⁸ France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, p. 221.

People who are causing problems in the prison may also be transferred. In this case, too, this may move detainees away from their family. But here again, detainees are not transferred to the other end of France. This transfer is an internal measure taken for the smooth running of the prison.

In terms of detainee orientation, the criterion of family ties takes precedence. The Controller General of prisons often receives requests from people wanting to be closer to their families. However, this number of referrals needs to be put into perspective, as we know that only dissatisfied detainees refer cases to the Controller General of prisons. Detainees also often use the argument of family reunification to escape the harsh detention conditions: family estrangement, but also fear of violence, unfit detention conditions, etc.

It is also important to bear in mind that sometimes rehabilitation can conflict with maintaining family ties. For example, a detainee may want to take a specific training course (in masonry, for example) with a view to their rehabilitation; however, it will be offered in a facility far from their family.

Staying in the same social environment may also increase the risk of recidivism. Doesn't rehabilitation (in the sense of non-recidivism) sometimes mean being detained far from close relatives and family?

In principle, detainees are not distributed within prisons with rehabilitation in mind. The distribution of many detainees is a matter of chance. For other detainees, maintaining family ties is taken into consideration first and foremost with rehabilitation coming second. In addition, the overcrowding in our prisons means that detainees are also sent where there is room".

Member of the Controller General of prisons, France, No. 2:

"Textual provisions govern the proximity of the detainee's family and the need to consider rehabilitation, in determining the facility in which the custodial sentence is carried out. However, the obligation to achieve results in terms of security takes precedence over other considerations, such as taking detainees' rights into consideration (in particular, maintaining family ties and rehabilitation). So if security dictates that a detainee be transferred, it is done. In this respect, the balance between security and detainees' rights is not respected; because the Prison Service puts security first and does not have the means needed to safeguard detainees' rights"

3. Hygiene and sanitary conditions (note – section 11 contains specific questions concerning female detainees)

a. Access to toilets

According to Article R.321-3 of the French Prison Code, *"toilets must be clean and decent. They must be suitably distributed and their number proportionate to the number of detainees. When a cell is occupied by more than one person, an appropriate layout of the toilet space is provided to ensure that the privacy of detainees is protected"*⁴⁹.

In practice, access to toilets in detention constitutes an invasion of privacy. While toilets are always located in the cell, the need for the administration to monitor the entire cell means that toilets are often neither provided with doors nor surrounded by complete partitions. Similar security considerations regularly justify the lack of any specific ventilation system or toilet occlusion system, even when the

⁴⁹ France, Prison Code, [Article R.321-3](#).

toilet is located in the middle of the room, as in the case of disciplinary cells. The fact that the height of the partition isolating toilets is not specified in the texts means that in cells, toilets are isolated by a modest partition, barely one metre high, for "security" reasons: detainees must be able to be seen at all times by supervisory staff through the cell eyepiece⁵⁰.

b. Access to showers and warm and running water

Under Article L.320-1 of the French Prison Code, the prison administration is responsible for ensuring access to hygiene facilities⁵¹.

Article R.321-5 of the French Prison Code stipulates that every detainee must be able to shower at least 3 times a week and, wherever possible, after sports or work⁵².

While in recent prisons, cells are provided with showers, enabling detainees to access them whenever they want, in the majority of prisons these are communal showers. Access to these communal showers is either unrestricted during opening hours or on call from guards⁵³. For communal showers, the partitioning between each shower may sometimes be insufficient; bodily privacy is not necessarily ensured. This may lead some detainees to forego taking showers⁵⁴. According to the International Prison Observatory, communal showers are not respectful of privacy. In addition, showers are often dirty and poorly maintained⁵⁵.

c. Access to sanitary products

According to Article R.212-14 of the French Prison Code, on entering detention, following administrative formalities, detainees are offered a shower and a toilet bag is provided⁵⁶. The prison administration provides soap and toilet paper free of charge. It regularly renews the toiletries of detainees who do not have sufficient resources; other detainees obtain their necessities from the prison canteen⁵⁷.

d. Hygienic conditions in cells

According to Article R.321-4 of the French Prison Code, *"every detainee who is physically able to do so maintains their cell or the space reserved for them in a constant state of cleanliness, and makes their own bed"*⁵⁸. The prison administration provides the products needed to keep cells clean and tidy. According to Article R.232-6 of the French Prison Code, failure to keep the cell clean and tidy is a disciplinary offence⁵⁹.

⁵⁰ France, Senate inquiry committee (2000), [Prison: a humiliation for the Republic](#), Report No. 449.

⁵¹ France, Prison Code, [Article L.320-1](#).

⁵² France, Prison Code, [Article R.321-5](#).

⁵³ France, International Prison Observatory (*Observatoire international des prisons*)(2021), The prisoner's guide, The discovery (*Le guide du prisonnier, La découverte*), coll. Guides, p. 174.

⁵⁴ France, Controller General of prisons (2018), [Fundamental rights put to the test by prison overcrowding. A practical approach based on the experience of the Controller General of prisons](#) (*Les droits fondamentaux à l'épreuve de la surpopulation carcérale. Approche concrète sur la base de l'expérience du Controller General of prisons*), Dalloz, p. 11.

⁵⁵ France, International Prison Observatory (*Observatoire international des prisons*)(2021), The prisoner's guide, The discovery (*Le guide du prisonnier, La découverte*), coll. Guides, p. 174.

⁵⁶ France, Prison Code, [Article R.212-14](#).

⁵⁷ France, International Prison Observatory (*Observatoire international des prisons*)(2021), The prisoner's guide, The discovery (*Le guide du prisonnier, La découverte*), coll. Guides, p. 174.

⁵⁸ France, Prison Code, [Article R.321-4](#).

⁵⁹ France, Prison Code, [Article R.232-6](#).

Repairs, not cleaning and tidying, are the responsibility of the prison administration⁶⁰.

With regard to bedding, Article R.321-5 of the French Prison Code states that *"each detainee must have an individual bed and appropriate bedding, properly maintained and renewed to ensure cleanliness. Bedding that has been used by a detainee may not be reused without first being cleaned or disinfected, as the case may be"*⁶¹. For example, mattresses should be replaced every three years. But in practice, bedding is not replaced systematically; and in cold weather, there may not be enough blankets⁶².

In detention, detainees are responsible for doing their own laundry. For this purpose, they have access to self-service machines (with or without a charge) and a laundry service; or, the detainee's family members do the laundry, collect it and return it during a visit⁶³.

e. NPM assessment

- Controller General of prisons, [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, 2022
- *"On arrival in a prison, all persons must be provided with a meal, basic hygiene products, a shower and, if they lack them, a suitable change of clothes"*⁶⁴.
- With regard to police custody facilities, *"police custody cells must be cleaned on a daily basis. The people in question must have ready, continuous and independent access to an isolated toilet and a drinking water point, day and night. They must be offered a shower, a hygiene kit and a mirror to ensure their personal hygiene, as well as a clean mattress and a blanket in good condition. Clocks must be visible from cells"*⁶⁵.
- With regard to police custody facilities, *"police custody facilities must be kept in a good state of cleanliness, repair and hygiene. They must be clean on arrival and throughout the detention. For this purpose, cleaning services must be such as to allow complete and at least daily cleaning, in particular and even more so when the cells are occupied"*⁶⁶.
- With regard to police custody facilities, *"sleeping conditions must be respectful of people's dignity. Each room must be provided with a bench of suitable dimensions, a mattress and, at the very least, a blanket, all clean and for individual use"*⁶⁷.
- With regard to police custody facilities, *"persons in police custody must be informed on arrival of the possibility of accessing toilets at any time, on request. They must have access to men's and women's hygiene kits at all times, and these must be issued to them systematically and without restriction"*⁶⁸.
- With regard to police custody facilities, *"all public health measures imposed on the general population, such as protective measures and social distancing rules, must be applied within police custody facilities: social distancing, provision of masks renewed every four hours,*

⁶⁰ France, International Prison Observatory (*Observatoire international des prisons*)(2021), The prisoner's guide, The discovery (*Le guide du prisonnier, La découverte*), coll. Guides, p. 175.

⁶¹ France, Prison Code, [Article R.321-5](#).

⁶² France, International Prison Observatory (*Observatoire international des prisons*)(2021), The prisoner's guide, The discovery (*Le guide du prisonnier, La découverte*), coll. Guides, p.173-174.

⁶³ France, International Prison Observatory (*Observatoire international des prisons*)(2021), The prisoner's guide, The discovery (*Le guide du prisonnier, La découverte*), coll. Guides, p.187-188.

⁶⁴ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 224.

⁶⁵ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 227.

⁶⁶ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 228.

⁶⁷ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 228.

⁶⁸ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 228.

*continuous access to hydroalcoholic gel, regular disinfection of premises and contact areas, ventilation of premises*⁶⁹.

- Controller General of prisons, [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, 2022
- *"The privacy of detainees must be preserved in toilets and showers, the layout of which must allow for seclusion. They must have free access at all times. Those in charge of accommodation must provide them with hygiene products appropriate for their declared gender, so that they can take care of their personal hygiene"*⁷⁰.

Member of the Controller General of prisons, France, No. 1:

"The quality of hygiene varies from one prison to another. The vast majority of prisons have an in-cell shower. So there is no problem accessing showers and washing. However, there is a problem of privacy due to the presence of fellow detainees in the cell.

Where there is no shower in the cell, the French Prison Code provides for 3 showers a week. In practice, the difficulty lies in the need for a guard to accompany detainees.

With regard to the distribution of hygiene kits, while the quality of the products (soap, shower gel, etc.) is average, it does have the merit of providing hygiene products, in particular for detainees who cannot afford to buy them otherwise. Hygiene kits are distributed more or less regularly. For example, a detainee may only receive a roll of toilet paper once a month, which is not enough. The problem of effective distribution of hygiene kits is largely due to the availability of the staff who distribute them. There are stocks, and there is no shortage of soap. However, prison administration lacks resources, and guards are mainly assigned to security duties. Also, the less independence detainees have, the more dependent they are on prison staff".

Member of the Controller General of prisons, France, No. 2:

"The inclusion of showers in the cell has improved hygiene in detention. It's much easier than having to wash in communal showers.

Hygiene kits are a minimum. Depending on the prison, they are renewed more or less frequently".

4. Nutrition

a. Quality and quantity of food

- Remand detention and imprisonment

According to Article L.320-1 of the French Prison Code, *"the prison administration ensures accommodation, access to hygiene, food and cohabitation conducive to the prevention of physiological or psychological ailments"*⁷¹.

⁶⁹ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 228.

⁷⁰ France, Controller General of prisons (2022), [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, p. 98.

⁷¹ France, Prison Code, [Article L.320-1](#).

More specifically, Article R.323-1 of the French Prison Code states that *"each detainee receives a varied, well-prepared and well-presented diet, meeting both the quality and quantity rules of dietetics and hygiene, giving consideration to their age, state of health, type of work they do and, wherever possible, their philosophical or religious convictions"*. There are 3 meal distributions a day. The two main meals should be at least 6 hours apart. Detainees who are unwell benefit from a diet in line with medical prescriptions⁷².

Article R.351-5 of the French Prison Code (*Code pénitentiaire*) stipulates that food must be suited to philosophical and religious convictions⁷³.

Article R.412-3 of the French Prison Code insists on the variety of food for detainees working in prison. This work activity can lead to adapted meal times; the 2 main meals must be at least 4 hours apart⁷⁴.

- Police custody

Article 64 of the French criminal procedure code specifies the information that must be included in the police custody report. This report includes a reference to rest and meal times⁷⁵. The French criminal procedure code provides no further clarification on the subject of food in police custody.

b. Drinking water

As a matter of principle, detainees have access to drinking water, as the cell is provided with a water point. However, some detainees may complain of temporary shortcomings in the supply of hot water and/or drinking water⁷⁶.

c. Dietary requirements

In accordance with Articles R.323-1⁷⁷, R.351-5⁷⁸ and R.412-3⁷⁹ of the French Prison Code, food must be varied and in sufficient quantity. Food must be compatible with medical prescriptions if a detainee is unwell. In addition, wherever possible, food should be suited to philosophical and religious convictions.

d. NPM assessment

-Controller General of prisons, [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, 2022

*"Juveniles must be provided with food of satisfactory quality in terms of taste, health and nutrition, and in sufficient quantities to meet the needs of their age. Nutritional quality needs to be addressed everywhere. The involvement of young people in working out menus and their participation in meal conception should be sought"*⁸⁰.

Member of the Controller General of prisons, France, No. 1:

⁷² France, Prison Code, [Article R.323-1](#).

⁷³ France, Prison Code, [Article R.351-5](#).

⁷⁴ France, Prison Code, [Article R.412-3](#).

⁷⁵ France, Criminal procedure code, [Article 64](#).

⁷⁶ France, International Prison Observatory (*Observatoire international des prisons*)(2021), The prisoner's guide, The discovery (*Le guide du prisonnier, La découverte*), coll. Guides, p. 162.

⁷⁷ France, Prison Code, [Article R.323-1](#).

⁷⁸ France, Prison Code, [Article R.351-5](#).

⁷⁹ France, Prison Code, [Article R.412-3](#).

⁸⁰ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 222.

"Textual standards are available for nutrition. That's good. A nutritionist ensures that people eat a healthy diet. Increasingly, however, the Controller General of prisons is finding that detainees are saying that they are hungry. I've been working for the Controller General of prisons since '10, and I've often seen juveniles going hungry. But for the past 2-3 years, adults have also said the same thing. Generally speaking, the quantity of food served is insufficient. Juveniles have an snack in addition compared to adults; but this snack is meager, a fruit for example. Juveniles possibly eat less because food doesn't suit them and, unlike adults, they don't make the effort.

But increasingly, over the past 2-3 years, adults have also been saying that they are hungry. This hunger situation varies according to whether a detainee has money or not; because if they have money, they can buy extras, but if they don't have enough money, it's not always easy to get enough to eat.

While the texts provide for a diet for medical reasons, it's complicated to implement in practice. In detention, as soon as a specific case has to be dealt with, it's generally difficult to implement. Individualisation is difficult to envisage in a prison system that is intended to be communal.

The texts provide for a belief-based diet. But in practice, it's done as simply as possible. For Muslims, in particular, it's a vegetarian diet. It is kept as simple as possible. Obtaining fresh halal meat is rarely possible. You can buy meatballs in the canteen, but not fresh meat, as there is a health risk. In particular, the introduction of meat into the visiting room is subject to disciplinary proceedings".

Member of the Controller General of prisons, France, No. 2:

"For a long time, meals in detention were served in plastic trays. This means a lot of waste for detainees to place in the waste bin in their cell. However, the waste bin is small and can hold up to 6 trays (2 meals a day for 3 detainees) and is emptied only once a day. As a result, the trays could be thrown out of the window. These meals served in trays led to condensation in the trays. So the tray system was abandoned. We've gone back to a ladle serving system. This system raises issues in terms of food safety: you have to trust the hygiene of those who have food in their hands (wearing gloves, hairnets, etc.). This ladle service can also mean that a detainee is favoured by being better served, or conversely, disadvantaged by the person providing the service. For detainees arriving at the end of the serving period, there also may be a shortage of food, leading to tension within the prison.

While diets for medical or religious reasons are provided for by law, they are difficult to implement in practice in detention".

5. Time spent outside the cell and outdoors

a. Time spent outdoors

According to Article R.321-5 of the French Prison Code, every detainee must be able to take a walk of at least one hour outdoors every day⁸¹.

Under certain circumstances, such as a disciplinary sanction, detainees may be deprived of certain prerogatives. However, it has been consistently pointed out that they retain the right to an hour's walk outdoors. Detainees placed in solitary confinement for protection or security reasons cannot take part in communal activities or exercise walks; they must, however, be allowed a hour's walk outdoors (Article R.213-18 of the French Prison Code⁸²). This also holds true for detainees placed in solitary confinement

⁸¹ France, Prison Code, [Article R.321-5](#).

⁸² France, Prison Code, [Article R.213-18](#).

as a sanction (Article R.235-4 of the Penitentiary Code⁸³) or in a disciplinary cell (Article R.235-10 of the Penitentiary Code⁸⁴).

In practice, the Controller General of prisons has observed that, due to prison overcrowding, prisons make do with a minimum of one hour's daily walk. In the Nanterre, Baumettes, Villepinte and Fleury-Mérogis detention centres, for example, there is a daily walk outdoors, alternately in the morning or afternoon; so a detainee taking a walk on Monday morning has to wait until Tuesday afternoon for a further walk. Furthermore, in some facilities, equipment such as benches are insufficient for the number of detainees taking an exercise walk at any one time⁸⁵.

b. Time spent indoors

The ability to leave the cell and move around the prison varies depending on the type of prison.

Convicted detainees are subject to individual day and night imprisonment in detention centres. In penal institutions, they are subject to night-time solitary confinement only.

In principle, people held in detention centres are thus subject to a closed regime: cell doors are kept closed at all times. Any movement within the facility must be accompanied by staff and justified by access to an exercise walk, registration for an activity or an appointment (treatment, lawyers, visiting rooms, etc.)⁸⁶.

In detention centres, the regime is slightly more flexible, since the detention centre is mainly geared towards the social rehabilitation of detainees. Detainees are thus locked in their cells at night for up to 12 hours⁸⁷. Detainees are accompanied by a guard during their movements during the day. However, arrangements are possible depending on the personality, health, behaviour and dangerousness of detainees⁸⁸:

- Cell door opening times can be extended
- Detainees are free to move around their accommodation unit when cell doors are open.
- Access to the activity room may be unsupervised
- Access to showers may be facilitated

In detention centres, the principle is that of an open regime to support social rehabilitation efforts through greater autonomy. This means that cell doors can be left open for part of the day: detainees should be free to move around within the accommodation unit and access showers and communal rooms at these times⁸⁹.

Generally speaking, Article R.213-5 of the French Prison Code stipulates that during the day, detainees may be brought together for work, physical activities, sports, education, vocational training or religious, cultural or leisure activities⁹⁰.

c. Recreational facilities

According to Article R.414-7 of the French Prison Code, all detainees are allowed to take part in physical and sporting activities, unless contraindicated on medical grounds. However, the prison governor may

⁸³ France, Prison Code, [Article R.235-4](#).

⁸⁴ France, Prison Code, [Article R.235-10](#).

⁸⁵ France, Controller General of prisons (2018), [Fundamental rights put to the test by prison overcrowding. A practical approach based on the experience of the Controller General of prisons](#) (*Les droits fondamentaux à l'épreuve de la surpopulation carcérale. Approche concrète sur la base de l'expérience du Controller General of prisons*), Dalloz, p. 12.

⁸⁶ France, International Prison Observatory (*Observatoire international des prisons*)(2021), *The prisoner's guide, The discovery (Le guide du prisonnier, La découverte)*, coll. Guides, p. 162.

⁸⁷ France, Prison Code, [Article R.213-14](#).

⁸⁸ France, Prison Code, [Articles R.213-14](#) and [R.213-15](#).

⁸⁹ France, Prison Code, [Article R.213-16](#); International Prison Observatory (*Observatoire international des prisons*)(2021), *The prisoner's guide, The discovery (Le guide du prisonnier, La découverte)*, coll. Guides, p. 162.

⁹⁰ France, Prison Code, [Article R.213-5](#).

prohibit a detainee from taking part in sporting activities for reasons of security and order. Detainees are required to wear proper sports clothing, and the prison administration can provide this for detainees who do not have sufficient resources⁹¹.

According to Article D.414-8 of the French Prison Code, *"a sports activities' programme is implemented in each prison to promote access to physical exercise for all detainees. This programme aims to develop the physical, motor and interpersonal skills of detainees"*⁹².

Article D.414-9 of the French Prison Code specifies that, subject to architectural constraints, prisons are provided with outdoor and indoor sports facilities that are regulatory and multi-purpose, enabling the organisation of sports sessions and meetings⁹³.

On weekends and public holidays, only outdoor activities are permitted⁹⁴.

Detainees have access to sports activities for between 1 and 3 hours a week. Detainees must be included in a list to be able to access sports activities as they are in much demand and not enough is offered by prisons⁹⁵.

d. Educational activities

Education

Under Article L.411-1 of the French Prison Code, all detainees are required to take part in at least one activity proposed by the prison governor. If detainees are not proficient in the basics, the priority is to teach reading, writing and arithmetic⁹⁶.

Article L.413-1 of the French Prison Code stipulates that in *"prisons, all measures are taken to provide detainees who ask for it with general or vocational training or confirmation of acquired experience. For this purpose, they are given access to the teaching resources needed, including digital resources"*⁹⁷. For this purpose, detainees may be brought together during the day to attend a class⁹⁸.

According to Article R.413-1 of the French Prison Code, detainees must have access to all facilities, compatible with discipline and security requirements, allowing them to benefit from schooling and vocational training, in particular the youngest and least educated detainees and to those experiencing specific social and professional difficulties⁹⁹. Detainees may pursue any studies or training they wish, under conditions compatible with the requirements of maintaining order and security¹⁰⁰. Afterwards, they can take exams certifying their studies¹⁰¹. For this purpose, they can have access to the required

⁹¹ France, Prison Code, [Article R.414-7](#).

⁹² France, Prison Code, [Article D.414-8](#).

⁹³ France, Prison Code, [Article D.414-9](#).

⁹⁴ France, [Circular JUSK0840006C, Measures to improve detention management](#), 5 June 2008.

⁹⁵ France, International Prison Observatory (*Observatoire international des prisons*)(2021), The prisoner's guide, The discovery (*Le guide du prisonnier, La découverte*), coll. Guides, p. 203.

⁹⁶ France, Prison Code, [Article L.411-1](#).

⁹⁷ France, Prison Code, [Article L.413-1](#).

⁹⁸ France, Prison Code, [Article L.213-5](#).

⁹⁹ France, Prison Code, [Article R.413-1](#).

¹⁰⁰ France, Prison Code, [Article R.413-2](#).

¹⁰¹ France, Prison Code, [Article D.413-4](#).

teaching materials and documents in their cell, and can follow remote learning courses. For its part, the prison administration provides primary education¹⁰².

Multimedia library

According to Article R.370-1 of the French Prison Code, access to written and audiovisual publications is provided by the prison's multimedia library¹⁰³. It provides detainees with written and audiovisual publications free of charge¹⁰⁴. The multimedia library supplies detainees with books directly, regularly and without registration¹⁰⁵.

Computer and Internet

Access to computer equipment without connection to the external network is possible as part of socio-cultural activities, training or work activities¹⁰⁶.

Detainees have access to a computer with an Internet connection to consult procedural documents, in particular those sent electronically by their lawyer¹⁰⁷.

According to Article R.332-41 of the French Prison Code, *"each detainee may acquire, through the administration and according to the terms it determines, computer equipment"*¹⁰⁸. A circular dated 13 October 2009 specifies that the prison governor decides whether or not to grant the benefit of computer equipment in the cell based on various criteria: applicant's profile, including level of IT knowledge, technical risks, hardware requirements and cell space requirements. The same circular of 13 October 2019 emphasizes the ban on internet access in cells¹⁰⁹.

e. NPM assessment

- Controller General of prisons, [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, 2023
 - *"While respecting their privacy, authorities must provide detainees with all means of establishing or maintaining emotional or social ties, including through new technologies"*¹¹⁰.

- Controller General of prisons, [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, 2022
 - *"While respecting their privacy, authorities must provide detainees with all means of establishing or maintaining emotional or social ties, including through new technologies"*¹¹¹.

Member of the Controller General of prisons, France, No. 1:

¹⁰² France, Prison Code, [Article D.413-3](#).

¹⁰³ France, Prison Code, [Article R.370-1](#).

¹⁰⁴ France, Prison Code, [Article R.370-3](#).

¹⁰⁵ France, Prison Code, [Article R.414-1](#).

¹⁰⁶ France, Prison Code, [Article R.370-1](#).

¹⁰⁷ France, International Prison Observatory (*Observatoire international des prisons*)(2021), The prisoner's guide, The discovery (*Le guide du prisonnier, La découverte*), coll. Guides, 2021, p. 218.

¹⁰⁸ France, Prison Code, [Article R.332-41](#).

¹⁰⁹ France, [Circular NOR: JUSK0940021C on access to information technology for persons in custody](#), 13 October 2009.

¹¹⁰ France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, p. 218.

¹¹¹ France, Controller General of prisons (2022), [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, p. 156.

"Due prison overcrowding, one might expect that the more people in a cell, the more out-of-cell activities would be proposed. But in fact the opposite is true: the more people there are in cells and in prisons, the more the activities offered are overstretched; not all detainees can be accepted, so many remain in their cells.

When you build a prison, you also build places for communal activities. The theoretical number of detainees who can be assigned within the prison is taken into account. But with prison overcrowding, there is not enough room in the facilities for communal activities.

A 1h30 walk per day is provided for. But beyond that, with prison overcrowding, it is difficult to get classified for an activity. However, the less access detainees have to education or training, the less chance they have of having their sentence commuted (since attendance and seriousness in education or training are taken into account). Access to an activity is a guarantee of rehabilitation. But in overcrowded institutions, the rationale that prevails is not rehabilitation, but the idea that activity is a reward. Turbulent detainees will thus remain isolated. Depending on their behaviour, detainees may or may not have access to activities; so if their behaviour is turbulent, they will not have access to activities and will therefore have no out-of-cell time".

Member of the Controller General of prisons, France, No. 2:

"Out-of-cell time varies from one prison to another. Generally speaking, this out-of-cell time (work, activities, walks, etc.) is insufficiently deployed by the governor. This lack of out-of-cell time means that there is a risk of conviction by the courts for unfit detention conditions: the longer detainees spend in a degraded cell, the more likely it is that the prison administration will be convicted for unfit detention conditions. ».

6. Solitary confinement

a. Placement in solitary confinement

According to Article R.213-17 of the French Prison Code, a defendant may be placed in solitary confinement by administrative or judicial authorities (investigating judge or liberty and custody judge) at any stage in the proceedings¹¹².

For convicts, there are two types of single-cell confinement:

- Preventive single-cell confinement

According to the same Article R.213-17 of the French Prison Code, solitary confinement of a convicted person is decided by the prison administration¹¹³. This solitary confinement in a cell is a protective or security measure, not a disciplinary measure. The decision is made on the basis, in particular, of the detainee's personality, dangerousness, state of health, vulnerability, etc. This solitary confinement decision is made automatically by the prison administration or at the detainee's request¹¹⁴.

The prison administration may terminate the solitary confinement measure at any time (Article R.213-33 of the French Prison Code¹¹⁵).

¹¹² France, Prison Code, [Article R.213-17](#).

¹¹³ France, Prison Code, [Article R.213-17](#).

¹¹⁴ France, Prison Code, [Article R.213-18](#).

¹¹⁵ France, Prison Code, [Article R.213-33](#).

In solitary confinement, detainees retain certain rights (information, visits, correspondence, worship, etc.) but, of course, they cannot take part in communal activities. The only possibility of communal activity is that which may be organised by the prison governor between several detainees placed in solitary confinement (Article R.213-18 of the French Prison Code¹¹⁶). The doctor examines detainees in solitary confinement at least twice a week (Article R.213-19 of the French Prison Code¹¹⁷).

- Single-cell confinement as a sanction

This single-cell confinement can take place in the detainee's cell (Article R.235-4 of the Penitentiary Code¹¹⁸) or in a disciplinary cell (Article R.235-10 of the Penitentiary Code¹¹⁹).

Confinement to a cell or placement in a disciplinary cell are punishments in response to behaviour on the part of the offender that contravenes prison rules.

Solitary confinement involves placing detainees in their cell alone (Article R.235-2 of the French Prison Code¹²⁰). The time solitary confinement lasts varies depending on the seriousness of the offence; it may not exceed 20 days (Article R.235-5 of the French Prison Code¹²¹).

Placement in a disciplinary cell involves placing detainees in a cell fitted out for this purpose, in which the person is alone (Article R.235-6 of the French Prison Code¹²²). The time solitary confinement lasts varies depending on the seriousness of the offence; it may not exceed 20 days (Article R.235-12 of the French Prison Code¹²³).

b. Monitoring of detainees

In solitary confinement, detainees are alone in a cell¹²⁴ whose layout is identical to that of a normal cell¹²⁵.

Detainees retain their rights to information, visits, written and telephone correspondence, and worship¹²⁶. Detainees may not take part in exercise walks and communal activities to which ordinary detainees are entitled, unless authorisation for a specific activity has been granted by the prison governor. However, a person placed in solitary confinement is allowed one hour's walk outdoors every day¹²⁷.

The doctor examines each detainee in solitary confinement at least twice a week and as often as they deem necessary¹²⁸.

In solitary confinement, detainees are subject to special surveillance. This surveillance is characterised by 4 nightly inspections, cell opening by 2 guards, systematic accompaniment of detainees by a guard, keeping of a follow-up sheet for detainees in solitary confinement, and more frequent searches¹²⁹.

¹¹⁶ France, Prison Code, [Article R.213-18](#).

¹¹⁷ France, Prison Code, [Article R.213-19](#).

¹¹⁸ France, Prison Code, [Article R.235-4](#).

¹¹⁹ France, Prison Code, [Article R.235-10](#).

¹²⁰ France, Prison Code, [Article R.235-2](#).

¹²¹ France, Prison Code, [Article R.235-5](#).

¹²² France, Prison Code, [Article R.235-6](#).

¹²³ France, Prison Code, [Article R.235-12](#).

¹²⁴ France, Prison Code, [Article R.213-18](#).

¹²⁵ France, Prison Code, [Article R.213-20](#).

¹²⁶ France, Prison Code, [Article R.213-18](#).

¹²⁷ France, Prison Code, [Article R.213-18](#).

¹²⁸ France, Prison Code, [Article R.213-19](#).

¹²⁹ France, International Prison Observatory (*Observatoire international des prisons*)(2021), The prisoner's guide, The discovery (*Le guide du prisonnier, La découverte*), coll. Guides, p. 120-121.

c. NPM assessment

- Controller General of prisons, [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, 2022
- *"Respect the wishes of transgender people to be assigned to male or female premises and, if necessary, organize specific care as for any other person likely to be a victim of violence, i.e. without resorting to solitary confinement solely on the grounds of their transidentity"¹³⁰.*

Member of the Controller General of prisons, France, No. 1:

"Placement in solitary confinement should normally be exceptional. But in practice, there are many placements in solitary confinement.

In France, there are detainees who have been in solitary confinement for years because solitary confinement is constantly renewed. The initial solitary confinement decision is taken for 3 months by the prison governor and can then be renewed for a further 3 months by the prison governor; after 6 months, the prison administration regional department (Direction régionale de l'Administration pénitentiaire) may renew this solitary confinement and also has jurisdiction after one year of solitary confinement and beyond.

It is difficult to distinguish between solitary confinement decided by the prison administration and solitary confinement at the detainee's own will.

The end of a period of solitary confinement, especially a long one, is difficult and is no guarantee of successful rehabilitation.

Prisoners placed in solitary confinement receive regular psychological follow-up. Prior to the decision to place a detainee in solitary confinement, a psychologist must give an opinion on the detainee's suitability for solitary confinement. However, the psychologist's opinion is indicative and does not have to be followed by the prison governor. Conversely, a psychologist's opinion that a detainee is unfit to be placed in a disciplinary ward must be respected by the prison governor. »

Member of the Controller General of prisons, France, No. 2:

"In prisons, solitary confinement wards are often located next to disciplinary wards. A specific team of guards is thus dedicated to these wards and looks after the detainees there. In solitary confinement wards, as in disciplinary wards, there is a better ratio of guards to detainees. So, the detainee in solitary confinement is better supervised"

7. Work and education of detainees to promote social reintegration

a. General measures to promote social reintegration

To promote the social reintegration of detainees, the French Prison Code requires them to take part in activities appropriate for their age, abilities and personality (work, study, culture, etc.). The aim of these activities is to help detainees reintegrate into society. Detainees are required to take part in one of the activities offered¹³¹. The French Prison Code stipulates that if detainees are not proficient in the basics,

¹³⁰ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 42.

¹³¹ France, Prison Code, [Article L.411-1](#).

the priority of the activity is to teach reading, writing and arithmetic; when they do not speak French, the priority is to learn it¹³².

In particular, Article L.412-2 of the French Prison Code emphasizes that working in detention is part of the process of serving custodial sentences, and prepares detainees for vocational and social rehabilitation¹³³.

The prison rehabilitation and probation service works with the convicted person to prepare for a supervised release as soon as the sentence is final¹³⁴. This can take the form of sentence reduction, temporary absences, work release or semi-liberty.

b. Access to work

In prison, detainees work for the prison administration, for a client or on their own behalf¹³⁵.

As the prison administration is unable to provide work for all detainees who want it, a selection has to be made. Detainees wanting to work must inform the prison administration. The latter, if it accepts that detainees take up a professional activity, places them on a classification list, possibly indicating the type of work considered. If no positions are available, detainees are placed on a waiting list¹³⁶.

c. Access to education

The educational programmes offered by the prison administration are of 2 types:

- Basic skills training for detainees who have difficulties in writing, reading and/or counting¹³⁷.
- The possibility of taking more specific training courses, in particular via remote learning¹³⁸.

d. NPM assessment

- Controller General of prisons, [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, 2023
- *"Unlike people assessed at the beginning of their sentence, who are destined to leave their original institution, the possibility of a temporary transfer to the national assessment centre for persons assessed at the end of their sentence (Centre national d'évaluation des personnes évaluées en fin de peine) should not have any consequences for their working relationship. Those who were previously employed must have their wages maintained throughout the session and be given an assurance that they will go back into their job when they return to their original institution"*¹³⁹.

Member of the Controller General of prisons, France, No. 1:

"There is not enough work or activity on offer in detention.

¹³² France, Prison Code, [Article L.411-1](#).

¹³³ France, Prison Code, [Article L.412-2](#).

¹³⁴ France, Prison Code, [Article L.421-1](#).

¹³⁵ France, Prison Code, [Articles L-412-3 and L.412-4](#).

¹³⁶ France, Prison Code, [Article L.412-5](#).

¹³⁷ France, Prison Code, [Article D.413-3](#).

¹³⁸ France, Prison Code, [Article R.413-2](#).

¹³⁹ France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, p. 222-223.

Work is useful in detention: cleaning the library, cleaning the corridors... But is it useful for rehabilitation? Similarly, workshop work, often provided by external private service providers, is low-skilled, assembly-line work (packaging work, folding work, etc.); is this also useful for rehabilitation ?

The aim of this simple work is to re-direct and guide detainees: the aim is to teach detainees how to get out of bed in the morning, rather than to give them training that will help their rehabilitation.

Work or training in building trades, painting, etc. can be used as a means of reintegrating people into society and finding work outside. But there isn't enough work of this kind on offer for detainees. When you're in prison, you don't often have a job that you think you're going to be able to get back into in same line of work.

A few years ago, a job involving answering the telephone as part of a hotline platform had developed, and this activity could be continued outside. But the experiment was too limited. »

Member of the Controller General of prisons, France, No. 2:

"Due to prison overcrowding, many detainees ask to work or have an activity, but there is not enough work or activities for all detainees. There's unemployment in detention. What's more, the work on offer in detention is not very high-skilled, so it's not a tool to facilitate rehabilitation".

8. Healthcare (note – section 11 contains specific questions concerning female detainees)

a. Access to healthcare

The principle of access to healthcare is set out in Article L.322-1 of the French Prison Code. In this way, detainees are ensured the same quality and continuity of healthcare as the general population. Particular attention is paid to the psychological state of detainees¹⁴⁰.

Unless otherwise decided by the Interregional director of penitentiary services, detainees may not be examined or treated by a doctor of their choice¹⁴¹.

Consultations with a specialist (dentist, physiotherapist, etc.) are carried out in detention. But medical positions are not filled, and when they are, they are insufficient to meet needs. Appointments with outside specialists therefore have to be made, but there is a shortage of prison staff to accompany detainees requiring this type of healthcare¹⁴².

According to Article R.322-11 of the French Prison Code, no storage, transfer, donation or exchange of medicines is authorised within the prison. Detainees must be able to justify possession of medication by producing a medical prescription. No medication can be given via visiting rooms or the canteen. If necessary, medical equipment and appliances may be left at the disposal of detainees in accordance with the procedures prescribed by doctors working in prisons, unless otherwise decided by the prison governor decides for order and security reasons¹⁴³.

¹⁴⁰ France, Prison Code, [Article L.322-1](#).

¹⁴¹ France, Prison Code, [Article R.322-1](#).

¹⁴² France, International Prison Observatory (*Observatoire international des prisons*), [Dentist, physiotherapist, ophthalmologist, etc. In prison, specialised healthcare in difficulty](#) (Dentiste, kiné, ophtalmo... En prison, les soins spécialisés à la peine), 5 August 2022.

¹⁴³ France, Prison Code, [Article R.322-11](#).

If detainees require hospitalisation, they are admitted to a healthcare facility, but the prison's internal regulations continue to apply¹⁴⁴. Once the hospitalisation is completed, detainees are returned to the prison as soon as possible¹⁴⁵.

Detainees suffering from mental disorders are hospitalised in a specially equipped hospital unit or an appropriate unit in a healthcare facility, under different conditions depending on whether they are hospitalised with or without their consent¹⁴⁶. If a detainee is hospitalised for a mental disorder, supervision is the prison administration's responsibility¹⁴⁷.

Lastly, under Article D.322-36 of the French Prison Code, convicted detainees suffering from a life-threatening pathology, or whose physical or mental health is permanently incompatible with detention, may benefit from a medical suspension of their sentence¹⁴⁸.

b. Availability of medical staff

Article L.322-1 of the French Prison Code sets out the principle that *"detainees are ensured the same quality and continuity of healthcare as the general population. [...] The prison administration promotes the coordination of those involved in healthcare and education"*¹⁴⁹.

Article L.322-2 of the French Prison Code specifies what cannot be asked of medical staff: an act unrelated to the detainee's healthcare or medical expertise¹⁵⁰.

Daily in-custody healthcare is provided by the Prison Health Unit (*Unité sanitaire en milieu pénitentiaire*)¹⁵¹. Detainees are not free to choose a doctor¹⁵². If circumstantial, part-time or longer, full-time hospitalisation is required, this is carried out in the local public health facility to which the prison is affiliated¹⁵³.

The prison health unit is staffed by general practitioners and specialists, nurses and authorised hospital staff¹⁵⁴. The number of healthcare staff and the time they spend in detention varies according to the prison size¹⁵⁵.

In most prisons, requests for medical appointments are made by letter deposited in the box to which only medical staff have the key¹⁵⁶. With the exception of large prisons, there is no permanent healthcare service in the evenings and at weekends; in case of need, the guard must therefore contact the local hospital¹⁵⁷.

¹⁴⁴ France, Prison Code, [Article R.322-12 and R.322-13](#).

¹⁴⁵ France, Prison Code, [Article D.322-14](#).

¹⁴⁶ France, Prison Code, [Article L.322-8](#).

¹⁴⁷ France, Prison Code, [Article R.322-15](#).

¹⁴⁸ France, Prison Code, [Article D.322-36](#).

¹⁴⁹ France, Prison Code, [Article L.322-1](#).

¹⁵⁰ France, Prison Code, [Article L.322-2](#).

¹⁵¹ France, Prison Code, [Article D.115-3](#).

¹⁵² France, Prison Code, [Article R.322-1](#).

¹⁵³ France, Prison Code, [Article R.115-1](#).

¹⁵⁴ France, Prison Code, [Articles D.115-14 et seq.](#)

¹⁵⁵ France, International Prison Observatory (*Observatoire international des prisons*)(2021), The prisoner's guide, The discovery (*Le guide du prisonnier, La découverte*), coll. Guides p. 371.

¹⁵⁶ France, International Prison Observatory (*Observatoire international des prisons*)(2021), The prisoner's guide, The discovery (*Le guide du prisonnier, La découverte*), coll. Guides, p. 373.

¹⁵⁷ France, International Prison Observatory (*Observatoire international des prisons*)(2021), The prisoner's guide, The discovery (*Le guide du prisonnier, La découverte*), coll. Guides, p. 374.

c. Medical examination upon admission

According to Article R.212-16 of the French Prison Code, *"upon arrival in detention, each detainee is given a medical check-up as soon as possible"*¹⁵⁸. In practice, except in emergencies, this medical check-up takes place during the week of the detainee's arrival. The purpose of this visit is to carry out a complete medical check-up, to provide for any follow-up healthcare and to prevent any psychological problems. On the other hand, a medical check-up is not required when detainees are transferred, but all steps must be taken to ensure continuity of care¹⁵⁹.

On the subject of transfers, Article R.322-5 of the French Prison Code also specifies that a transfer *"to a more appropriate prison may be requested [...] for detainees who do not benefit, in the prison where they are imprisoned, from material detention conditions appropriate for their state of health and for those who require special healthcare"*¹⁶⁰.

d. Preventive care

According to Article L.322-1 of the French Prison Code, the prison administration promotes the coordination of those involved in healthcare and education¹⁶¹.

According to Article L.322-6 of the French Prison Code, at the start of their detention, all detainees are offered a health check-up regarding their consumption of narcotics, psychotropic drugs, alcohol and tobacco. This check-up, carried out as a preventive measure in the interest of public health and the patient, is confidential.

According to Article R.322-6 of the French Prison Code, means of prevention and information on transmissible diseases are made available to detainees¹⁶².

According to Article R.322-9 of the French Prison Code, all detainees must be able to benefit, with their consent, from personalised information and advice regarding human immunodeficiency virus (HIV) infection and, where appropriate, during medical consultations, from the prescription of a screening test and the provision of the result¹⁶³.

e. Specialised care

The French Prison Code sets out a number of provisions for the specific healthcare of detainees.

First and foremost, specific healthcare must be provided for pregnant detainees, who must receive appropriate monitoring and be able to give birth in an appropriate hospital¹⁶⁴.

People with disabilities can also benefit from the help of a professional to carry out certain physical acts, or from the assistance of a carer (who may be another detainee)¹⁶⁵.

¹⁵⁸ France, Prison Code, [Article R.212-16](#).

¹⁵⁹ France, International Prison Observatory (*Observatoire international des prisons*)(2021), The prisoner's guide, The discovery (*Le guide du prisonnier, La découverte*), coll. Guides, p. 372.

¹⁶⁰ France, Prison Code, [Article R.322-5](#).

¹⁶¹ France, Prison Code, [Article L.322-1](#).

¹⁶² France, Prison Code, [Article R.322-6](#).

¹⁶³ France, Prison Code, [Article R.322-9](#).

¹⁶⁴ France, Prison Code, [Article R.322-34](#).

¹⁶⁵ France, Prison Code, [Article R.322-35](#).

In addition, detainees suffering from psychological disorders are specially monitored by the prison administration's medical services. In this respect, they can benefit from hospitalisation in a specialised unit of a healthcare facility¹⁶⁶.

f. Treatment of the detainee's choosing

According to Article R.322-1 of the French Prison Code, except in the case of outside placement or permission to leave (i.e. if the detainee is outside the prison), a detainee cannot be examined or treated by a doctor of their choice. If required, only the Interregional Director of Prison Services can authorise a consultation by a doctor chosen by the detainee. The latter assumes the costs of the consultation¹⁶⁷.

g. NPM assessment

- Controller General of prisons, [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, 2022
- *"The CGLPL points out that respect for medical confidentiality is a patient's right. In accordance with Article R. 4127-4 of the French public health code, this is an absolute duty for the doctor, who is bound by it. The CGLPL recommends that doctors should be reminded of their legal and ethical obligations in this respect. As a consequence, the CGLPL recommends that medical consultations take place without the presence of an escort, and that surveillance should be indirect (out of sight and hearing of the detained patient). In any event, it is the responsibility of escort officers to exercise the utmost discretion with regard to any medical information to which they may have access in the course of their duties"*¹⁶⁸.
- Controller General of prisons, [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, 2023
- "Detainees must be able to communicate with health services under satisfactory conditions of confidentiality. Their transport to a place of healthcare outside the prison must be organised in such a way as to individualise the conditions of surveillance and to protect the person from view in such a way as to protect their privacy and not to undermine their dignity"¹⁶⁹.
- "Confidentiality of healthcare and medical secrecy contribute to respect for privacy and intimacy, and must be scrupulously respected in all acts involving a caregiver and a detained patient. They must be able to see and talk to each other without being seen or heard by third parties. No form of surveillance or restraint must interfere with patient privacy during healthcare. The layout of the premises must enable these legal and ethical principles to be upheld"¹⁷⁰.
- "Detainees must be able to access, receive and store data contained in their medical records under conditions that respect their privacy. It is the responsibility of the authorities in charge of places of detention or the medical services operating there to ensure the effectiveness and confidentiality of this access"¹⁷¹.
- "Administrations must ensure the privacy and dignity of people losing their autonomy by developing partnerships for the purpose of tailoring healthcare conditions to their state of physical or mental health"¹⁷².

¹⁶⁶ France, Prison Code, [Article R 322-15 et seq.](#)

¹⁶⁷ France, Prison Code, [Article R.322-1.](#)

¹⁶⁸ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p.229.

¹⁶⁹ France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, p. 218.

¹⁷⁰ France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, p. 218.

¹⁷¹ France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, p. 218.

¹⁷² France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, p. 218.

- Controller General of prisons, [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, 2022
- *"Detainees must be able to communicate with health services under satisfactory conditions of confidentiality. Their transport to a place of healthcare outside the prison must be organised in such a way as to individualise the conditions of surveillance and to protect the person from view in such a way as to protect their privacy and not to undermine their dignity"¹⁷³.*
- *"The confidentiality of healthcare and medical secrecy contribute to respect for privacy and intimacy, and must be scrupulously respected in all acts involving a caregiver and a detained patient. They must be able to see and talk to each other without being seen or heard by third parties. No form of surveillance or restraint must interfere with patient privacy during healthcare. The layout of the premises must enable these legal and ethical principles to be upheld"¹⁷⁴.*
- *"Detainees must be able to access, receive and store data contained in their medical records under conditions that respect their privacy. It is the responsibility of the authorities in charge of places of detention or the medical services operating there to ensure the effectiveness and confidentiality of this access"¹⁷⁵.*
- *"Administrations must ensure the privacy and dignity of people losing their autonomy by developing partnerships for the purpose of tailoring healthcare conditions to their state of physical or mental health"¹⁷⁶.*

Member of the Controller General of prisons, France, No. 1:

"There is a healthcare unit in every prison. This unit is affiliated to a hospital which is independent of the prison administration.

Detainees are regularly monitored by a doctor and a nurse. From time to time, however, the Controller General of prisons is informed of shortcomings in this monitoring system.

There is a problem of access to psychiatric and psychological care. There is a shortage of practitioners in this field. While psychological and psychiatric care must be ensured for detainees whose mental state deteriorates in detention, care must also be ensured for detainees who enter detention already with a mental disorder; and there are an increasing number of such cases. The medical organisation chart in prisons is based on the theoretical number of detainees, but with prison overcrowding, health professionals are overwhelmed, especially if an increasing number of mentally ill detainees are imprisoned.

¹⁷³ France, Controller General of prisons (2022), [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, p. 122.

¹⁷⁴ France, Controller General of prisons (2022), [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, p. 132.

¹⁷⁵ France, Controller General of prisons (2022), [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, p. 134.

¹⁷⁶ France, Controller General of prisons (2022), [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, p. 136.

As there is already a shortage of psychologists and psychiatrists in hospitals, there is an even greater shortage of this type of healthcare staff in prisons.

In general, there has been a shortage of detention specialists for years: dentists, physiotherapists, etc. This lack is not compensated for by access to outside healthcare. On the one hand, there is a shortage of hospital beds (there are long waiting times for treatment, etc.); and on the other, the prison administration has a limited number of vehicles, drivers and escorts to transport detainees... So, there is a problem of access to hospitals for detainees. Only emergencies can be covered"

Member of the Controller General of prisons, France, No. 2:

"Detainees are medically monitored during their detention by a health unit: medical and psychological follow-up. However, as medical staffing levels are inadequate, the quality of healthcare may be unsatisfactory. In particular, there is a shortage of healthcare professionals in certain specialties (dentists, etc.) to ensure proper follow-up of detainees. »

9. Prevention of violence and ill-treatment

a. Protection from violence by prison staff

- Remand detention and imprisonment

Article R. 122-10 of the French Prison Code describes the behaviour expected of prison staff towards detainees. Prison staff carry out their duties with absolute respect for the people assigned to them by the judicial authorities, and for their rights. Violence or any form of intimidation is forbidden. Discriminatory, insulting or colloquial language is also prohibited¹⁷⁷. Article R.122-11 of the French Prison Code specifies that prison administration staff must take all measures needed to safeguard the life and health of those assigned to them¹⁷⁸.

Security imperatives may sometimes require the use of force by prison officers. Article L.227-1 of the French Prison Code specifies that the use of force is only possible under the following conditions: while limiting to what is strictly necessary; in the event of self-defence, attempted escape or resisting orders through violence or physical inertia. In these same cases, as well as in the event of an attempt on their life or limb, or when, after two loud summonses, they cannot otherwise defend the premises they occupy or the persons allocated to their care, the use of a firearm may be considered. Such use must be absolutely necessary and strictly proportionate¹⁷⁹.

By filing a complaint, the detainee can inform the public prosecutor of the violence they have suffered. As a result, if a prison guard were to commit an offence against a detainee, they could be prosecuted (like any other citizen), with the added risk of a harsher sentence, due to an aggravating circumstance related to their status. However, the courts take a different view of the perpetrator of a violent offence in the case of a prison guard than in the case of any other citizen, due to the difficulty of the job and the conditional authorisation of the use of violence¹⁸⁰.

¹⁷⁷ France, Prison Code, [Article R.122-10](#).

¹⁷⁸ France, Prison Code, [Article R.122-11](#).

¹⁷⁹ France, Prison Code, [Article L.227-1](#).

¹⁸⁰ France, International Prison Observatory (*Observatoire international des prisons*)(2021), The prisoner's guide, The discovery (*Le guide du prisonnier, La découverte*), coll. Guides, p. 674.

Although progress has been made in providing prisons with alarm buttons¹⁸¹, in the event of an emergency, in particular a medical one, the Controller General of prisons regrets the lack of, or the malfunctioning of emergency call buttons in cells. This makes it impossible, in an emergency, for the detainee to ask for help, or to do so by illicit means (mobile phones brought into detention)¹⁸². For example, through the lack of an intercom or call button, a detainee who has been the victim of violence by a fellow detainee or a guard cannot immediately report the situation¹⁸³.

- Police custody

Under Article 63-5 of the French criminal procedure code, police custody must be carried out under conditions respectful of dignity of the individual. The only security measures that can be imposed on a person in police custody are those that are strictly necessary¹⁸⁴.

The Controller General of prisons has noted that progress has been made in providing cells with alarm buttons¹⁸⁵, but such buttons are lacking from cells in some police stations and gendarmerie brigades. As a result, a detained individual may be required to knock on the cell door in order to make an emergency known¹⁸⁶ or may have to be transferred to another gendarmerie brigade for the night, as not all of them have the means required to ensure night-time surveillance¹⁸⁷.

b. Protection from violence by other detainees

- Remand detention and imprisonment

Violence (including sexual violence) against a fellow detainee is a criminal offence as well as a disciplinary offence¹⁸⁸. Such behaviour is therefore liable to criminal and disciplinary prosecution. Before lodging a complaint, the detainee victim must report the facts to a guard and, if necessary, request a meeting with the prison governor. Like any other person, a detainee can lodge a complaint by writing to the public prosecutor. In support of their complaint, the accused may also have recourse to a medical certificate drawn up by the prison doctor, enabling them to establish the consequences of violence or acts of a sexual nature. If the events took place in an area subject to video-surveillance, the detainee victim can also ask for the video tapes to be kept¹⁸⁹.

¹⁸¹ France, Controller General of prisons (2020), [Interpersonal violence in places of deprivation of liberty](#) (*Les violences interpersonnelles dans les lieux de privation de liberté*), Dalloz, p. 123.

¹⁸² France, Controller General of prisons, Committee against Torture (2016), [57th session, Periodic review of France, contribution from the Controller General of prisons](#), p. 28.

¹⁸³ France, Controller General of prisons (2020), [Interpersonal violence in places of deprivation of liberty](#) (*Les violences interpersonnelles dans les lieux de privation de liberté*), Dalloz, p. 69.

¹⁸⁴ France, Criminal procedure code, [Article 63-5](#).

¹⁸⁵ France, Controller General of prisons (2020), [Interpersonal violence in places of deprivation of liberty](#) (*Les violences interpersonnelles dans les lieux de privation de liberté*), Dalloz, p. 123.

¹⁸⁶ France, Controller General of prisons, Committee against Torture (2016), [57th session, Periodic review of France, contribution from the Controller General of prisons](#), p. 48-49.

¹⁸⁷ France, Controller General of prisons (2020), [Interpersonal violence in places of deprivation of liberty](#) (*Les violences interpersonnelles dans les lieux de privation de liberté*), Dalloz, p. 117.

¹⁸⁸ France, Prison Code, [Article R.232-4](#).

¹⁸⁹ France, International Prison Observatory (*Observatoire international des prisons*)(2021), *The prisoner's guide, The discovery (Le guide du prisonnier, La découverte)*, coll. Guides, p. 670-671.

Any inmate who is the victim of an act of violence by a fellow inmate is given priority for single-cell confinement¹⁹⁰ and is subject to special surveillance¹⁹¹.

Combatting violence in detention can thus be seen to mainly involve surveillance by the prison administration, of course, and retrospective punishment. Preventive measures are not highlighted. It should be noted, however, that there are intercom systems and emergency call buttons in detention, which can be used, in particular, in the event of a violent incident. In France, the introduction of this system began in 2007, and the Controller General of prisons recommends developing the system and maintaining the existing ones in good working order¹⁹².

- Police custody

Police custody takes place under the responsibility of the police¹⁹³. In the event of an act of violence committed by another person in police custody, the victim can, like any other citizen, lodge a complaint for intentional violence, hold the police officer in charge of police custody liable on disciplinary grounds, and submit a motion for the procedure to be null and void in the context of the investigation to which they are subject.

c. NPM assessment

- Controller General of prisons, [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, 2022
 - *"Any person arriving in a prison must be able to request a medical check-up to ascertain any injuries. For this purpose, any doctor working in such a place must be trained such as to be able to issue a certificate of assault and battery, if the person in question so wishes, which must systematically include the determination of the total temporary disability (ITT)"¹⁹⁴.*
- Controller General of prisons, [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, 2022
 - *"The use of physical restraint in any form inherently entails the risk of violence against those subjected to it. The balance between security and respect for the privacy of detainees must always be maintained, which excludes any systematic use of force or means of restraint. Such practices should only be used as a last resort, after all other means of dealing with transgressive behaviour have been exhausted"¹⁹⁵.*

Member of the Controller General of prisons, France, No. 1:

"There is a real problem of violence in detention. The situation could be vastly improved.

Cell violence between detainees can be difficult to detect. Indeed, it's difficult for a detainee to complain about a violent fellow detainee, as there is a risk of reprisals. This aspect is not sufficiently considered by the prison administration. The detainee should have a reliable, secure means of complaining. In particular, if a detainee reports this type of behaviour, they should be able to change cells and buildings (so as not to bump into the violent fellow detainee during an exercise walk, for example).

¹⁹⁰ France, Prison Code, [Article L.213-1](#).

¹⁹¹ France, Prison Code, [Article L.221-1](#).

¹⁹² France, Controller General of prisons (2018), [Activity report 2017](#) (*Rapport d'activité 2017*), Dalloz, p. 260.

¹⁹³ France, Criminal procedure code, [Articles 62-2 et seq.](#)

¹⁹⁴ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 224.

¹⁹⁵ France, Controller General of prisons (2022), [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, p. 58.

To report a violent incident, the detainee can send a letter to the prison governor. But there is a risk that the letter will be intercepted by a guard. How much confidence does the detainee have in the letter circuit to decide whether or not to write such a letter? What will the prison governor do if the letter reaches them? The prison governor does not read all letters; there is a filter (run by the head of detention). Detainees have limited confidence in the letter circuit.

Finally, if the letter is taken into consideration by the prison governor, there will be an investigation: the violent fellow detainee or member of the prison administration will be heard. Once again, the detainee-victim may fear reprisals. »

Member of the Controller General of prisons, France, No. 2:

"There is violence in detention. And prison staff can't prevent all violence.

However, complaints are not necessarily lodged in the event of violence by a fellow detainee, as the detainee who is the victim fears that their situation will deteriorate even further. The same applies to violence committed by prison staff. So often, due to fear of reprisals, the detainee doesn't report such violence. »

10. Contact with the outside world

a. Visits

- Remand detention and imprisonment

According to Article L.341-1 of the French Prison Code, *"the right of detainees to maintain relations with members of their family is exercised in particular through visits by the their family"*¹⁹⁶. Such visits may take place at least 3 times a week for an accused person and at least once a week for a convicted person¹⁹⁷.

In detention, detainees can talk to staff from the prison rehabilitation and probation service. These exchanges take place, under conditions ensuring confidentiality, either in a visiting room or office, or in the cell of the detainee in question and, if they are in the disciplinary ward, in a special room¹⁹⁸.

The prison health unit is staffed by general practitioners and specialists, nurses and authorised hospital staff¹⁹⁹. In most prisons, requests for medical appointments are made by letter deposited in the box to which only medical staff have the key²⁰⁰.

- Police custody

Under Article 63-2 of the French Code of Criminal Procedure, a person held in police custody may inform a close relative or employer of the situation. The detainee victim may also be authorised by the judicial police officer to communicate in writing, by telephone or during an interview with this close relative²⁰¹.

¹⁹⁶ France, Prison Code, [Article L.341-1](#).

¹⁹⁷ France, Prison Code, [Articles L-341-2 and L.341-3](#).

¹⁹⁸ France, Prison Code, [Article D.113-24](#).

¹⁹⁹ France, Prison Code, [Articles D 115-14 et seq.](#)

²⁰⁰ France, International Prison Observatory (*Observatoire international des prisons*)(2021), The prisoner's guide, The discovery (*Le guide du prisonnier, La découverte*), coll. Guides, p. 373.

²⁰¹ France, Criminal procedure code, [Article 63-2](#).

Under Article 63-3 of the French criminal procedure code, a person held in police custody may ask to be examined by a doctor. This medical check-up must take place away from outside scrutiny and eavesdropping²⁰².

The provisions of Articles 63-2 and 63-3 of the French criminal procedure code apply to juveniles aged 13 who are held in police custody²⁰³. More specifically, for juveniles under the age of 16, a medical check-up is a mandatory requirement²⁰⁴. Furthermore, in the case of juveniles, the legal representative must be informed of the placement in police custody²⁰⁵.

b. Correspondence

- Remand detention and imprisonment

With regard to telephone correspondence, in accordance with Article R.345-11 of the French Prison Code, this is carried out using the telephones provided by the prison. The use or possession of portable phones or any other communicating devices is prohibited²⁰⁶.

For accused persons, the authorisation to make a phone call and the identity of the recipients of such calls are subject to the authorisation of the magistrate conducting the judicial investigation²⁰⁷.

For convicted persons, the decision to authorise, refuse, suspend or withdraw access to the phone is taken by the prison governor²⁰⁸.

Telephone access points were criticised for their lack of confidentiality. For example, the number of landline telephones installed in cells has increased in recent years²⁰⁹.

With regard to written correspondence, detainees are free to write to their close relatives. For accused persons, written correspondence with certain persons may be prohibited by the judge in charge of the judicial investigation²¹⁰. Correspondence sent or received by detainees may be checked and withheld by the prison administration when such correspondence appears to seriously compromise their rehabilitation or the maintaining of proper order and security. When the prison administration decides to withhold a detainee's correspondence, it informs the detainee of its decision. Some written correspondence is, however, protected from prison administration checking, in particular correspondence with a lawyer²¹¹.

With regard to computer exchanges, according to a circular dated 13 October 2009, the exchange or communication by a detainee of any computer medium with the outside world is strictly forbidden²¹². This means that prisoners cannot communicate by e-mail with close relatives.

²⁰² France, Criminal procedure code, [Article 63-3](#).

²⁰³ France, Juvenile criminal justice code, [Article L.413-6](#).

²⁰⁴ France, Juvenile criminal justice code, [Article L.413-8](#).

²⁰⁵ France, Juvenile criminal justice code, [Article L.413-7](#).

²⁰⁶ France, Juvenile criminal justice code, [Article R.345-11](#).

²⁰⁷ France, Juvenile criminal justice code, [Article R.345-12](#).

²⁰⁸ France, Juvenile criminal justice code, [Article R.345-14](#).

²⁰⁹ France, International Prison Observatory (*Observatoire international des prisons*)(2021), The prisoner's guide, The discovery (*Le guide du prisonnier, La découverte*), coll. Guides, p. 346.

²¹⁰ France, Prison Code, [Articles L-345-1 and L.345-2](#).

²¹¹ France, Prison Code, [Articles L-345-3 and L.345-4](#).

²¹² France, [Circular NOR: JUSK0940021C on access to information technology for persons in custody](#), 13 October 2009.

- Police custody

While in police custody, detainees can inform a close relative of the measures taken against them. For the purposes of the investigation, the criminal investigation officer or the public prosecutor may delay this information²¹³. The judicial police officer may authorise the detainee to communicate in writing, by telephone or during an interview with a close relative if such a communication is not incompatible with the purpose of police custody and is not likely to lead to the committing of an offence. The judicial police officer determines the time the interview takes place, the method and how long it lasts. It may not exceed 30 minutes and takes place under the supervision, or even in the presence, of a person designated by the judicial police officer²¹⁴.

c. Visits with children

Detainees have the right to maintain family ties, in particular through visits²¹⁵. In addition to visiting rights, detainees may receive visits from their families in family living units or family visiting rooms. Family living units or family visiting rooms set up within prisons can accommodate any detainee. All detainees are entitled to at least one quarterly visit in a family living unit or a family visiting room, at their request. The time the visit lasts is set to take how far away the visitor lives into account. For accused persons, this right is exercised subject to the agreement of the magistrate in charge of the judicial investigation²¹⁶.

According to Article R.341-15 of the French Prison Code, family visiting rooms are premises specially designed to enable detainees to receive, without continuous and direct supervision, visits from adult members of their family or adult relatives accompanied, where applicable, by one or more juvenile children, for up to six hours during the daytime²¹⁷.

According to Article R.341-16 of the French Prison Code, family living units are premises specially designed to enable detainees to receive, without direct and continuous supervision, visits from adult members of their family or adult relatives accompanied, where applicable, by one or more juvenile children, for a period of between six hours and seventy-two hours. The time the visit in the family living unit lasts is set out in the visiting permit²¹⁸.

d. NPM assessment

- Controller General of prisons, [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, 2023
- *"The rules governing access to visiting rooms and the family life units should be made more flexible and, more generally, all measures facilitating access to visiting facilities for persons under assessment should be taken to allow them to maintain their family ties"*²¹⁹.
- Controller General of prisons, [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, 2022

²¹³ France, Criminal procedure code, [Article 63-2](#).

²¹⁴ France, Criminal procedure code, [Article 63-2](#).

²¹⁵ France, Prison Code, [Article L.341-1](#).

²¹⁶ France, Prison Code, [Article L.341-8](#).

²¹⁷ France, Prison Code, [Article R.341-15](#).

²¹⁸ France, Prison Code, [Article R.341-16](#).

²¹⁹ France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, p. 223.

- *"Access by detainees to written and telephone correspondence must respect their privacy, whether in terms of the material resources made available to them or the conditions under which they are monitored"*²²⁰.
- *"While respecting their privacy, authorities must provide detainees with all means of establishing or maintaining emotional or social ties, including through new technologies"*²²¹.
- *"Detainees must be able to receive regular visits from their close relatives, under satisfactory conditions of privacy which must not be compromised by surveillance arrangements. They must be informed of, and be able to participate in, family events that concern them"*²²².

Member of the Controller General of prisons, France, No. 1:

"Visiting in visiting rooms are still infrequent. Visits can be held once a week in prisons and 3 times a week in detention centres. Visits in visiting rooms generally last 45 minutes.

There's a lack of privacy in visiting rooms. Visiting rooms are spartan and poorly soundproofed.

Family living units are available for detainees to see their children. But there aren't enough of them.

There are also reception rooms for children during visiting hours. But these rooms aren't ideal. In fact, many detainees would rather not see their children than be with them under these conditions. »

Member of the Controller General of prisons, France, No. 2:

"In visiting rooms, the quality of interactions is very relative. It's better than nothing, but it's not much.

In-cell telephones have developed. It's better. You used to have to go outside to access a public phone. So, having a telephone in the cell is a step forward, not least because you can telephone in the evening. But in-cell telephones pose a privacy problem.

While there are special arrangements for children, such as family living units, accommodating children in detention remains a delicate issue."

11. Special measures for female detainees

a. General conditions of detention for women and girls

There are no general rules applicable to women in detention. In detention, women must be separated from men; guards are all women, while male staff are confined to administrative and management tasks (male staff only have access to the women's ward with the authorisation of the prison governor)²²³.

Special rules may apply to pregnant women or women with children who are assigned to special units²²⁴.

²²⁰ France, Controller General of prisons (2022), [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, p. 153.

²²¹ France, Controller General of prisons (2022), [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, p. 156.

²²² France, Controller General of prisons (2022), [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, p. 168.

²²³ France, Prison Code, [Articles D.211-1 and D.211-2](#).

²²⁴ France, Prison Code, [Articles D 216-21 et seq.](#)

b. Separation from men

Women and men are held in separate prisons, or in separate wards of the same prison. In the latter case, all measures must be taken to ensure that no communication between them is possible, with the exception of the organisation of any mixed activities envisaged in Articles L.411-3²²⁵ and R.211-1²²⁶ of the French Prison Code.

c. Hygiene

According to Article L.322-9 of the French Prison Code, women detainees benefit from appropriate healthcare whether they are housed in a women's ward or in a dedicated prison²²⁷. The law makes no specific provision for feminine hygiene products.

d. Healthcare

Women detainees are provided with healthcare appropriate for their needs, whether they are housed in a women's ward or in a dedicated prison²²⁸.

order to protect women's dignity, all childbirth or gynaecological examinations take place without restraint and without the presence of prison staff²²⁹. Article R.322-34 of the French Prison Code specifies that all steps are taken by doctors working in detention to ensure that pregnant women detainees receive appropriate medical care and that their childbirth takes place in a hospital appropriate to their state of health²³⁰.

e. Pregnancy and women with babies or young children

Articles D.216-21 et seq. set out provisions for detained mothers living with their young children.

Pregnant detainees and those who have kept their children with them benefit from appropriate detention conditions²³¹.

Under Article D.216-22 of the French Prison Code, children may be left with their mother in detention until they are eighteen months old. Specially fitted out premises are reserved for mothers who have kept their child with them. If the child needs urgent healthcare in a health facility, the mother may be released to accompany the child, subject to the constraints inherent in detention or resulting from the need to maintain the proper security and order of the facilities, to prevent further offences being committed and to protect the interests of victims. It is the responsibility of the prison rehabilitation and probation service, in liaison with the services responsible for children and the family and with the holders of parental authority, to organise the child's stay with their detained mother and outings outside the prison, and to prepare, where necessary, the child's separation from their mother, in the child's best interests. During the twelve months following their departure, the child may be allowed to stay for short periods with their mother²³².

f. NPM assessment

²²⁵ France, Prison Code, [Article L.411-3](#).

²²⁶ France, Prison Code, [Article R.211-1](#).

²²⁷ France, Prison Code, [Article L.322-9](#).

²²⁸ France, Prison Code, [Article L.322-9](#).

²²⁹ France, Prison Code, [Article L.322-10](#).

²³⁰ France, Prison Code, [Article R.322-34](#).

²³¹ France, Prison Code, [Article D.216-21](#).

²³² France, Prison Code, [Article D.216-22](#).

- Controller General of prisons, [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, 2022
- *"In order to respect their privacy, the sexual and reproductive health of detainees must be approached in a comprehensive, positive way, through health education programmes. They must have access to voluntary means of protection, contraception and procreation"²³³.*

Member of the Controller General of prisons, France, No. 1:

"As a particularity about women in detention, it can be said that women are offered less activities than men. But the ratio of activities to the number of women detainees in prison is to their advantage, as there are fewer women. So women are more likely than men to be classified for a job or activity.

Another special feature of women's prisons is that they have nursery and children's wards. In smaller facilities, this is the equivalent of one or two cells set up to accommodate mothers with children. In larger facilities, there's a real, more pleasant area, as while the mother is detained, the child is not. According to the law, a child can stay with their mother up to the age of 18 months. An extension can be requested for up to 2 years, and will be accepted if the mother's discharge is imminent. Otherwise, this extension is almost never granted, as a young child does not belong in detention. »

Member of the Controller General of prisons, France, No. 2:

"In detention, women are isolated from men as much as possible. But this has negative consequences for them. For example, to access a medical unit that involves crossing an area housing men, they have to wait. »

12. Special measures for foreign nationals

a. General measures for foreign nationals

According to Article R.216-10 of the French Prison Code, foreign detainees are subject to the same rules as French detainees in their penal category²³⁴.

b. Interpretation and translation

Article R.216-11 of the French Prison Code stipulates that an interpreter should only be used if absolutely necessary, if a detainee does not speak or understand the French language, and if there is no one on site able to translate for them²³⁵. More specifically, Article R.234-26 of the French Prison Code envisages the need for an interpreter for a detainee of foreign nationality when appearing before the Disciplinary Committee²³⁶.

c. NPM assessment

- Controller General of prisons, [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, 2022
- *"Information regarding the rights of the person in custody and the operating rules of the place where they are being held must be given to them in a language they understand. Non-French-speaking and deaf people must be assisted by a professional interpreter"²³⁷.*

²³³ France, Controller General of prisons (2022), [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, p. 191.

²³⁴ France, Prison Code, [Article R.216-10](#).

²³⁵ France, Prison Code, [Article R.216-11](#).

²³⁶ France, Prison Code, [Article R.234-26](#).

²³⁷ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 223.

- Controller General of prisons, [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, 2023
- *"In each prison, an agreement with an interpreting service must be entered into to enable a professional interpreter to provide their services at any time, when a detainee or staff do not speak French"*²³⁸.
- *"It is essential for all public authorities to provide detainees with documents translated into a wider range of languages. Computerised translation services must be made available to staff, so that they can instantly translate a document when needed. Finally, these authorities must also provide information to enable illiterate people to receive the information they need"*²³⁹.
- *"The CGLPL recommends that staff should be made aware of the means of communication in an intercultural context"*²⁴⁰.
- *"Detention places those locked up in a vulnerable situation, making some become so silent that they are forgotten. In the face of this silence, the CGLPL reminds us of the obligation incumbent upon authorities in charge of places of detention not only to provide all detainees with the means to have their observations heard, but also to be concerned about their silence and to seek to break it. Interviews, with an interpreter if necessary, must therefore be organised at regular intervals to check that the lack of expressed needs is not due to an inability to do so"*²⁴¹.

Member of the Controller General of prisons, France, No. 1:

"Unfortunately, foreign detainees are at a disadvantage compared with other detainees. In particular, the Prefecture pays particular attention to the legality of the applicant's stay in France. As a result, when foreign detainees are released, they run the risk of being required to leave France. In detention, there is thus a form of systematic identification of illegal situations. »

Member of the Controller General of prisons, France, No. 2:

"For foreigners who speak little or no French, there is a more systematic approach to offering a French learning activity.

In detention, foreign nationals may have difficulty accessing an interpreter. Associations such as CIMADE can offer legal advice, but not in all prisons. At this level, there is a lack of access: foreign detainees should have real access to their rights. »

13. Special measures relating to detention of children and young adults/juvenile detention regime

a. Age groups

- Remand detention and imprisonment

Under Article 122-8 of the French penal code, juveniles capable of discernment are criminally liable. Only juveniles over the age of 13 may be given a custodial sentence, including imprisonment²⁴².

²³⁸ France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2021*), Dalloz, p. 214.

²³⁹ France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2021*), Dalloz, p. 215.

²⁴⁰ France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2021*), Dalloz, p. 215.

²⁴¹ France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2021*), Dalloz, p. 216.

²⁴² France, Penal Code, [Article D. 122-8](#).

Under Article L.334-1 of the French juvenile criminal justice code, juveniles over the age of 13 may be remanded in custody pending their trial²⁴³.

Juveniles given a custodial sentence are assigned to a specialised institution or to the juvenile ward of a prison. A decree issued by the Minister of Justice establishes the list of prisons where juveniles may be incarcerated²⁴⁴.

- Police custody

Articles L.413-1 et seq. of the French juvenile criminal justice code²⁴⁵ set out the conditions for detaining juveniles during investigations. Juveniles under the 10 years of age may not be detained during the investigation. Exceptionally, juveniles aged between 10 and 13 may be detained if there are one or more plausible grounds for presuming that they have committed or attempted to commit a felony or misdemeanor punishable by at least 5 years' imprisonment, and if such a measure is justified. This detention can only last 12 hours (renewable once). Juveniles aged 13 and over can be placed in police custody. Because of their status as juveniles, they benefit from less restrictive police custody than adults (in particular with regard to the rules governing prolongation), as well as greater safeguards (in particular, a mandatory medical check-up and the requirements to inform the juvenile's legal representatives).

b. General measures for detained children and young adults

According to Article L.4 of the French Prison Code, the prison administration must ensure respect for the fundamental rights of children of juveniles in detention²⁴⁶.

In detention, the juvenile is thus subject to special monitoring by a multidisciplinary team²⁴⁷. An annex to Article R.124-3 of the French juvenile criminal justice code sets out specific provisions for detained juveniles: separation of male and female juveniles (however, activities organised in prisons accommodating juvenile detainees may admit detainees of both sexes), the right to inform one's family or legal representative of one's incarceration, a smoking ban, meals that meet the dietary principles needed for juveniles, education and training provided, consultation with youth protection services before any decision on the course of the detention of juveniles, telephone contact with families or legal representatives²⁴⁸.

c. Separation from adults

Article L.124-2 of the French Juvenile Criminal Justice Code emphasises the strict separation of juveniles and adults in detention²⁴⁹.

However, the annex to Article R.124-3 of the Juvenile criminal justice code stipulates that, in exceptional circumstances, the prison governor may authorise the participation of a detained juvenile of at least

²⁴³ France, Juvenile criminal justice code, [Article L.334-1](#).

²⁴⁴ France, Juvenile criminal justice code, [Article R.124-9](#).

²⁴⁵ France, Juvenile criminal justice code, [Articles L.413-1 et seq.](#)

²⁴⁶ France, Prison Code, [Article L.4](#).

²⁴⁷ France, Juvenile criminal justice code, [Article R.124-4](#).

²⁴⁸ France, Juvenile criminal justice code, [Annex to Article R.124-3](#).

²⁴⁹ France, Juvenile criminal justice code, [Article L.124-2](#).

sixteen years of age in activities organised in the prison with adult detainees, if justified by the juvenile's interests²⁵⁰.

d. NPM assessment

- Controller General of prisons, [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, 2022
- *"Staff working with juveniles must undergo appropriate training before taking up their duties. The organisation of services in places where juveniles are detained must ensure that professionals are always on hand to assist them"*²⁵¹.
- *"Juveniles must be provided with food of satisfactory quality in terms of taste, health and nutrition, and in sufficient quantities to meet the needs of their age. Nutritional quality needs to be addressed everywhere. The involvement of young people in working out menus and their participation in meal conception should be sought"*²⁵².
- *"Educational measures aimed at ensuring respect for juveniles' cells and bedrooms must be implemented to curb damage. Repairs must be carried out in good time, and in any case before a new juvenile is accommodated. Learning or re-learning hygiene must be seen as an integral part of the educational process"*²⁵³.
- *"Juveniles must be offered regular and reinforced socio-cultural and sporting activities during periods when teachers are absent. More activities should be organised on Saturdays and Sundays, to reduce the time spent in cells. Young people should be offered an individual programme"*²⁵⁴.
- *"Detained juveniles must benefit from an education that is appropriate to their profile, but similar to that enjoyed by students outside prisons, in particular in terms of the number of hours. Arrangements must be made to ensure educational continuity during school holidays"*²⁵⁵.
- *"The decision to place a juvenile in detention must take the need to maintain family ties into account. For this purpose, preference should be given to referral to a facility close to the family home"*²⁵⁶.
- *"Disciplinary measures applied to juveniles must have an educational aim and must not undermine the maintaining of family ties, education or the physical and psychological development of children. For this reason, placement in a disciplinary ward must be exceptional"*²⁵⁷.
- *"A juvenile has the right to participate in the decision to admit them to psychiatric care, and their consent to the measure must be effectively sought. If the patient's condition does not allow them to express consent, this must be specified in the reasons for the admission decision"*²⁵⁸.

Member of the Controller General of prisons, France, No. 1:

²⁵⁰ France, Juvenile criminal justice code, [Article 9 of the annex to Article R.124-3](#).

²⁵¹ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 221.

²⁵² France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 222.

²⁵³ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 226.

²⁵⁴ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 226.

²⁵⁵ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 226.

²⁵⁶ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 227.

²⁵⁷ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 230.

²⁵⁸ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 233.

"The measures adopted for juveniles include specific care by a counterpart comprising an educator from the judicial protection of youth and a guard.

Juveniles are required to attend school. The educational concern for juveniles is enshrined in the texts. But the effectiveness of this educational commitment depends on the institutions themselves. While juveniles thus have access to schooling, this may not be sufficient in terms of hours.

Single-cell confinement is in principle available in juvenile wards. So there is no overcrowding. However, for teaching and activities, there are organisational problems: it is difficult to adapt schooling for juvenile detainees. Detained juveniles are not taught in the same way as free juveniles. Juvenile detainees often have a chaotic background, and have already drifted away from school. There is a need to tailor and offer something individualised: regarding the content and form of the learning process. Highly specialised teaching is needed. There is a need to tailor to profiles and career paths"

Member of the Controller General of prisons, France, No. 2:

"The main feature of juvenile detention is the priority given to educational and learning activities. Before arriving in detention, as the juvenile had often failed at school, there's a need to offer a learning process, in particular to get back to basics. However, in practice, the implementation of this teaching requirement may prove unsatisfactory in terms of number of hours and adaptation to the detained juvenile with a view to their rehabilitation. »

14. Special measures to protect detainees with disabilities or serious medical conditions

a. Care in detention

- Physical disability

According to Article L.322-11 of the French Prison Code, any detainee with a physical disability can benefit from a caregiver of their choice²⁵⁹. This caregiver assists the disabled detainee in carrying out the required procedures as determined by the doctor, in the absence of professional carers. This caregiver may be another detainee²⁶⁰.

Measures have been taken to encourage detainees with disabilities to engage in activities such as work²⁶¹.

- Mental health

According to Article D.115-6 of the French Prison Code, prison psychiatry sectors meet the mental health needs of the prison population²⁶².

b. Continuity of care

At the time of sentencing, in addition to detention, the judge may also order socio-judicial follow-up, which involves subjecting the convicted person, under the supervision of a judge responsible for

²⁵⁹ France, Prison Code, [Article L.322-11](#).

²⁶⁰ France, Prison Code, [Article R.322-35](#).

²⁶¹ France, Prison Code, [Article L.412-1](#).

²⁶² France, Prison Code, [Article D.115-6](#).

enforcing sentences, to assistance and surveillance obligations²⁶³. These obligations include undergoing medical examinations, treatment or healthcare²⁶⁴. Having served their custodial sentence, the detainee, given their dangerousness, may be placed in preventive detention care, in a socio-medico judicial centre. The centre provides ongoing medical, psychological and social care²⁶⁵.

A person who has been sentenced while their discernment has been impaired and who has not been subject to socio-judicial follow-up may be required by the judge responsible for enforcing sentences to undergo treatment at the end of their sentence²⁶⁶.

c. Reasonable accommodation and accessibility

The prison administration promotes access to prisons for people with disabilities, whether they are detainees, visitors, workers or staff. To improve living conditions for detainees with disabilities, the prison administration provides the required areas and a suitable number of cells for disabled detainees²⁶⁷.

d. NPM assessment

- Controller General of prisons, [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, 2022
 - *"The psychiatric emergency service must provide specialised short-term hospital care, from 48 to 72 hours, in coordination with general emergency services and their technical facilities, where patients must be able to benefit from a complete somatic examination"*²⁶⁸.
 - *"Emergency services must have a specific calming area for agitated patients. Any decision to use solitary confinement or restraint must be preceded by an examination of the patient by a general practitioner or an emergency doctor and, when taken by the latter, must be confirmed by a psychiatrist within one hour, after a meeting with the patient. It must be recorded in the patient's medical file and in a specific register"*²⁶⁹.
- Controller General of prisons, [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, 2023
 - *"Detainees must be able to communicate with health services under satisfactory conditions of confidentiality. Their transport to a place of healthcare outside the prison must be organised in such a way as to individualise the conditions of surveillance and to protect the person from view in such a way as to protect their privacy and not to undermine their dignity"*²⁷⁰.
 - *"Confidentiality of healthcare and medical secrecy contribute to respect for privacy and intimacy, and must be scrupulously respected in all acts involving a caregiver and a detained patient. They must be able to see and talk to each other without being seen or heard by third parties. No form of surveillance or restraint must interfere with patient privacy during healthcare. The layout of the premises must enable these legal and ethical principles to be upheld"*²⁷¹.

²⁶³ France, Penal Code, [Article 131-36-1](#).

²⁶⁴ France, Penal Code, [Article 131-36-2](#) and [Article 132-45](#).

²⁶⁵ France, Prison Code, [Articles D 541-1 et seq.](#)

²⁶⁶ France, Criminal procedure code, [Article 706-136-1](#).

²⁶⁷ France, Prison Code, [Articles D.112-33 and D.112-34](#).

²⁶⁸ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 234.

²⁶⁹ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 234.

²⁷⁰ France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, p. 218.

²⁷¹ France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, p. 218.

- *"Administrations must ensure the privacy and dignity of people losing their autonomy by developing partnerships for the purpose of tailoring healthcare conditions to their state of physical or mental health"*²⁷².
- *"The recurrent nature of the recommendations made by the CGLPL regarding secure rooms in hospitals should encourage the ministers of justice and health to commission a joint mission to improve secure rooms to the regional health agencies and the inter-regional directorates of prison services"*²⁷³.

Member of the Controller General of prisons, France, No. 1:

"As regards the physically handicapped, there are cells in prisons for PRMs (people with reduced mobility). These are individual cells located on the ground floor of the prison. The cell is larger and can contain a bed that can be medicalised.

However, single-cell confinement means isolation from other detainees and prison staff. The physically disabled detainee cannot benefit from the help of another detainee.

In the case of psychological disability, the prison administration takes this into account by placing the detainee suffering from a psychological disorder in solitary confinement. It's a solution without being one. Psychologically handicapped detainees are housed in a so-called "vulnerable persons" ward or "special ward". These wards hold people who it is feared may be victims of violence from other detainees.

Due to this solitary confinement, the psychologically handicapped detainee can benefit from little activity or work.

Despite this identification through solitary confinement of detainees with psychological disorders, access to psychological care in detention is difficult"

Member of the Controller General of prisons, France, No. 2:

"In detention, there are cells appropriate for people with physical disabilities.

For psychological disorders, medical follow-up is provided. But it may be unsatisfactory. What's more, detainees suffering from psychological disorders are often considered vulnerable and therefore isolated. »

15. Specific measures to protect detainees with special needs or other vulnerabilities

a. Protection of LGBTI detainees

There are no specific provisions for LGBTI people. They are treated as vulnerable people who are, in this respect, more likely than others to suffer violence. For example, LGBTI detainees can apply for single-

²⁷² France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, p. 218.

²⁷³ France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, p. 220.

cell confinement at the beginning of their detention, when they are assigned to the facility, or during their detention²⁷⁴.

The prison service has the power to prevent such violence against so-called vulnerable detainees, in particular in view of their situation and/or personality (without this being specific to LGBTI detainees), within the framework of the power of cell assignment and single-cell confinement.

First of all, on arrival in detention, the person follows an induction pathway for arrivals. This allows certain formalities to be completed and the new detainee's situation to be assessed. The new detainee is accommodated in a special section of the prison. Single-cell confinement is provided unless the new detainee presents a risk to their own life or limb. The new detainee is received by the prison governor or by a director of prison services, an officer, a major or a senior guard and rehabilitation and probation staff. New detainees also undergo a medical check-up. The stay of detainees in the arrivals area may not exceed three weeks²⁷⁵. This period of arrival is a kind of observation period for the prison administration. This observation period may enable the prison governor to determine the new detainee's cell assignment.

Both on arrival and during detention, the prison governor decides on the cell assignment of detainees; they may delegate this authority to a prison major or a senior guard under their authority²⁷⁶. The detainee's personality and situation are factors to be considered when determining their assignment.

As regards single-cell allocation, any detainee who is the victim of an act of violence by a fellow inmate is given priority for single-cell confinement²⁷⁷ and is subject to special surveillance²⁷⁸.

In addition, for protection or security reasons, detainees may be placed in solitary confinement at their request or by a decision of the prison administration²⁷⁹.

Finally, it is worth pointing out that detainees with gender dysphoria are frequently stigmatised, and certain recommendations have been made to prevent violence against them. It is thus important to assign transsexuals in their best interests: single-cell confinement, assignment to a detention sector that promotes the healthcare of vulnerable people, solitary confinement; while taking the management imperatives of prisons into consideration. In addition, the detainee's physical and psychological integrity must be protected throughout the care process²⁸⁰.

b. Protection of trans detainees

As in the case of LGBTI detainees, there is no specific provision for transgender people. They are treated as vulnerable persons, and as such are entitled to single-cell confinement.

The same comments can be made as for LGBTI detainees, in terms of the measures that can be taken.

²⁷⁴ France, Prison Code, [Articles D 213-27 et seq.](#)

²⁷⁵ France, Prison Code, [Articles D 212-14 et seq.](#)

²⁷⁶ France, Prison Code, [Article R.113-66.](#)

²⁷⁷ France, Prison Code, [Article L.213-1.](#)

²⁷⁸ France, Prison Code, [Article L.221-1.](#)

²⁷⁹ France, Prison Code, [Article R.213-18.](#)

²⁸⁰ French Ministry of Justice, French Ministry of Solidarity and Health (2017), [Health care for people in custody. Methodological guide](#) (*Prise en charge sanitaire des personnes placées sous main de justice. Guide méthodologique*), p. 124.

c. Protection of other vulnerable detainees

There are no specific requirements for detainees with regard to their origin or religion. They are treated as vulnerable persons, and as such can benefit from single-cell confinement for protection purposes.

d. NPM assessment

- Controller General of prisons, [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, 2022
- *"New clear provisions must be adopted to respect the gender identity of detainees, to support them in their transition and to take their specific needs into account. In the meantime, administrations must issue instructions to ensure that the fundamental rights of transgender people are protected"*²⁸¹.
- *"Anyone arriving in a prison must be asked to express any fears they may have for their safety or respect for their dignity, in particular because of their gender identity. A procedure must be formalised for this purpose, and implemented in a benevolent, confidential way. Transgender people must be free to reveal their trans identity or otherwise"*²⁸².
- *"When a transgender person is identified by the administration or the court, they must be placed in a single cell as soon as they arrive in a prison. They should be asked to indicate the title and first name by which they want to be referred to, both verbally and in writing, including in procedural documents and medical records, in addition to the information given in their identification document. Any preferences expressed in this way must be respected, and the person in question must be able to change them at any time. If the detention is to last for some time, they must be received by a member of management or supervision for a more detailed examination of their situation, and additional, durable measures must then be decided on"*²⁸³.
- *"The initial training of professionals dealing with detainees must include in-depth modules regarding the discrimination suffered by gender minorities"*²⁸⁴.
- *"The decision to search transgender people or any other person "must be needed in view of the aims it has set itself and proportionate to individualised risks". Its practical arrangements must be implemented gradually and "always preserve the dignity and fundamental rights of the persons concerned"*²⁸⁵.
- *"The assignment of transgender people must be subject to an adversarial procedure. People must therefore be systematically consulted about their wishes to be assigned to a male or female sector. For this purpose, they must have been informed of the protective measures that can be deployed should they feel unsafe there. All requests must be granted, except in exceptional cases (which exclude organisational and architectural constraints). The person must then be informed of assignment decision and be able to appeal against it. Transgender people must be able to ask for their situation to be reviewed at any time"*²⁸⁶.
- *"Medical check-ups must be organised as soon as people arrive in prisons, and transgender people questioned about any needs related to their medical transition. If post-operative treatment or healthcare was in progress prior to imprisonment, it must be continued without delay. If a consultation with a specialist is needed, it must take place as soon as possible"*²⁸⁷.

²⁸¹ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 218.

²⁸² France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 218.

²⁸³ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 218.

²⁸⁴ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 219.

²⁸⁵ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 219.

²⁸⁶ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 220.

²⁸⁷ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 221.

- *"Transgender detainees who want to make a legal transition must be supported within institutions by duly trained staff. They must have access to the contact details of associations working for the rights of LGBTI+ people, whose initiatives should be encouraged. A telephone hotline for LGBTI+ people must also be accessible to them free of charge at all times"²⁸⁸.*

Member of the Controller General of prisons, France, No. 1:

"LGBTI and transgender detainees are vulnerable to violence. Some detainees are also vulnerable for reasons of imprisonment: this is the case for offenders convicted of sexual offences and/or offences against juveniles.

The prison administration always looks for a communal organisation. So, there are wards reserved for vulnerable people. But this amounts to solitary confinement with few exercise walks to avoid meeting other detainees.

So vulnerable profiles suffer from a lack of activity. At most, these vulnerable detainees can have access to a small gym (15m² with an exercise bike), access to special walking times (to avoid meeting other detainees); this walk often takes place in a different, smaller courtyard. »

Member of the Controller General of prisons, France, No. 2:

"LGBTI and transgender detainees are considered to be vulnerable. To ensure their security and safety, the prison administration groups them together in certain wards of the prison. »

16. Specific measures to address radicalisation in prisons

a. General measures to prevent radicalisation

In detention, the prevention of radicalisation involves placing radicalised individuals in solitary confinement through single-cell confinement, so as to avoid any proselytising.

b. Risk assessments

Following an assessment by a multidisciplinary team, a detainee may be considered to be radicalised and therefore a danger to other detainees. They may then be placed in a radicalisation treatment unit²⁸⁹. The radicalised detainee is placed in an single cell²⁹⁰.

Detainees in solitary confinement because of their radicalisation are subject to specific security measures and regular assessment of their radicalisation and the danger they represent²⁹¹.

c. Training of staff

Determining whether a detainee has been radicalised is the responsibility of all those involved in detention. Failing specific training to recognize radicalisation, the prison administration has drawn up criteria to help assess the dangerousness of the person and thus refer the matter to the National assessment centre for radicalised persons (*Centre national d'évaluation des personnes radicalisées*). A criteria chart has been set up to determine potential radicalisation and refer the matter to the National

²⁸⁸ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 225.

²⁸⁹ France, Prison Code, [Article R.224-13](#).

²⁹⁰ France, Prison Code, [Article R.224-15](#).

²⁹¹ France, Prison Code, [Article R.224-16](#).

assessment centre: religious practice, religiously motivated violence, membership of a violent religious ideology²⁹².

d. Deradicalisation measures

In detention, radicalised individuals are placed in a radicalisation treatment unit. They are isolated from other detainees. They are subject to a healthcare programme appropriate to their personality and behaviour, which may change over the course of their placement²⁹³: psychologists, social workers, discussion groups, cultural and creative activities, etc.²⁹⁴

Having served their sentence, a person convicted of a terrorist offence may, in order to prevent recidivism and ensure rehabilitation, be subject to a judicial measure to prevent recidivism and ensure rehabilitation. This legal measure involves of health, social, educational, psychological or psychiatric care designed to help the person concerned reintegrate into society and acquire citizenship values. The decision may require the person involved to work or to undergo vocational education or training; it may also prohibit the person from engaging in the activity in the exercise or on the occasion of which the offence was committed²⁹⁵.

e. NPM assessment

- Controller General of prisons, [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, 2022
- *"Despite the CGLPL's recommendation, the decision to assign a detainee to a radicalisation assessment unit is not subject to adversarial debate, and cannot be appealed against. Moreover, the severity of the detention regime in this unit does not appear to have been called into question"*²⁹⁶.

Member of the Controller General of prisons, France, No. 1:

"In detention, there are radicalisation assessment wards and radicalisation management wards. Is this system effective? We don't know.

In detention, risk, in particular that of radicalisation, is managed for security reasons: prevent further radicalisation, combat proselytising. The radicalised detainee must therefore be placed in solitary confinement. But what happens when they leave?

Does isolation from other detainees make for deradicalisation? This solitary confinement prevents and limits proselytising. That's all. But the detainee is not deradicalised

The radicalised detainee is a somewhat new category for which there is a lack of hindsight. For one thing, there is no scientific definition of what a radicalised detainee actually is. We know what violence is, so

²⁹² France, Ministry of Justice, Prison administration department, [Assessment of groups likely to be subject to the judicial measure to prevent terrorist recidivism and reintegration applicable to perpetrators of terrorist offences within the national centre for the assessment of radicalised persons](#), 4 April 2022.

²⁹³ France, Prison Code, [Article R.224-16](#).

²⁹⁴ France, International Prison observatory, French Section, [Fighting radicalisation: a challenge for the prison administration](#), October 2020.

²⁹⁵ France, Criminal procedure code, [Article 706-25-16](#).

²⁹⁶ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 310.

there are wards for violent detainees. But what is a radicalised detainee. The concept behind radicalisation is still recent.

In detention, the primary objective is to combat the proselytising of a charismatic person with sometimes violent pro-Islamic views. We can't leave them in ordinary detention, we have to place them in solitary confinement.

The way in which a radicalised detainee is managed, and in particular their solitary confinement, is a matter for the prison's internal order, and therefore the prison governor's decision. Security comes first.

We need to strike a balance between security and the need to rehabilitate radicalised detainees. But we lack the hindsight and measuring instruments to determine how effective the system is. »

Member of the Controller General of prisons, France, No. 2:

"In detention, there are wards for the treatment of radicalisation. But the effectiveness of this fight against radicalisation in detention is uncertain. In detention, the most important thing is to place radicalised detainees in solitary confinement to prevent them from spreading their ideas to others. »

17. Inspections and monitoring

a. Inspections

There are no standard rules for visiting detention facilities. These are specific to the inspection authority.

b. Access to detention facilities by national authorities

- Prisons

Judicial authorities may inspect prisons. The First president of the court of appeal, the Public Prosecutor, the President of the investigating chamber, the President of the judicial court, the liberty and custody judge, the investigating judge, the sentence enforcement judge and the juvenile judge thus inspect each prison within their jurisdiction at least once a year²⁹⁷.

Deputies, senators and representatives to the European Parliament elected in France may also inspect prisons at any time²⁹⁸.

The same applies to the President of the Bar or the member of the Bar Council appointed within their jurisdiction²⁹⁹.

The Controller General of prisons monitors the conditions under which detainees are taken into care and transferred to the prison administration, to ensure that their fundamental rights are respected³⁰⁰.

²⁹⁷ France, Prison Code, [Article L.131-1](#).

²⁹⁸ France, Prison Code, [Article L.132-1](#).

²⁹⁹ France, Prison Code, [Article L.132-1](#).

³⁰⁰ France, Prison Code, [Article L.133-1](#).

The Defender of rights is responsible for ensuring compliance with the code of ethics of the public prison service, and may carry out checks in prison administration premises³⁰¹.

Under the conditions laid down in the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 26 November 1987, members of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment may inspect places of detention under the control of the prison administration and interview persons held there³⁰².

- Police custody facilities

The public prosecutor inspects police custody facilities whenever they consider it necessary, and at least once a year³⁰³.

Deputies, senators, representatives to the European Parliament elected in France, bar presidents in their jurisdiction or their specially appointed delegates on the bar council are authorised to inspect police custody facilities, customs detention facilities, administrative holding facilities, waiting areas, prisons and closed educational centres, at any time³⁰⁴.

c. Access to detention facilities by international bodies

- Prisons

Representatives of the European Parliament elected in France may inspect prisons at any time³⁰⁵.

Under the conditions laid down in the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 26 November 1987, members of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment may inspect places of detention under the control of the prison administration and interview persons held there³⁰⁶.

- Police custody facilities

European Parliament representatives elected in France are authorised to inspect police custody facilities, customs detention facilities, administrative holding facilities, waiting areas, prisons and closed educational centres, at any time³⁰⁷.

d. NPM assessment

- Controller General of prisons, [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, 2023
- "The CGLPL asks the legislator to extend the right of bar presidents to inspect mental health institutions"³⁰⁸.

Member of the Controller General of prisons, France, No. 1:

³⁰¹ France, Prison Code, [Article L.133-3](#).

³⁰² France, Prison Code, [Article L.135-1](#).

³⁰³ France, Criminal procedure code, [Article 41](#).

³⁰⁴ France, Criminal procedure code, [Article 719](#).

³⁰⁵ France, Prison Code, [Article L.132-1](#).

³⁰⁶ France, Prison Code, [Article L.135-1](#).

³⁰⁷ France, Criminal procedure code, [Article 719](#).

³⁰⁸ France, Controller General of prisons (2023), [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, p. 219.

"The Controller General of prisons has no difficulty whatsoever in inspecting prisons and moving freely within them. From its creation, the, Controller General of prisons (Contrôleur général des lieux de privation de liberté) was easily accepted. What's more, a prison governor may be pleased to see the Controller General of prisons arrive to point out the difficulties they are encountering in their facility.

The Controller General of prisons' inspection lasts one week. So the prison's operation is disrupted. »

Member of the Controller General of prisons, France, No. 2:

"The Controller General of prisons has easy access to prisons and to the various areas of the facility. The few difficulties that may arise relate to interviews with detainees with dangerous profiles. The prison governor may ask for a guard to be not too far away during the interview, or that the detainee be handcuffed. However, interviews with members of the Controller General of prisons must be completely confidential. We can always find a solution for a confidential and secure interview. »

18. Access to remedy

a. Legal remedies

Under Article L.315-9 of the French Prison Code, a detainee may appeal to a judge if they feel that their detention conditions are contrary to human dignity. This judge is either the liberty and custody judge (*juge des libertés et de la détention*) in the case of remand detention, or the sentence enforcement judge (*juge d'application des peines*) in the case of sentencing³⁰⁹.

If the judge deems the request to be well-founded, they give the prison administration a deadline for remedying the situation. If the prison administration fails to do so, the judge may:

- order the detainee's transfer to another facility,
- if the person is in remand detention, the judge may decide to release them, subject to judicial supervision
- if the person is convicted, the judge may decide to adjust the sentence.

The administrative judge also has jurisdiction over detention conditions contrary to human dignity³¹⁰.

Any detainee may submit requests or lodge complaints to the prison governor, who will grant a hearing if sufficient grounds are provided³¹¹.

In addition, *"any detainee aggrieved by an administrative decision may lodge a hierarchical appeal: 1° With the inter-regional director of prison services if the decision is made by the prison governor; 2° With the Minister of Justice, if the decision comes from the inter-regional director of prison services"*³¹².

In accordance with the law of 30 October 2007, in the event of an infringement of a detainee's fundamental rights, the Controller General of prisons may be contacted regarding the detention

³⁰⁹ France, Prison Code, [Article L.315-9](#).

³¹⁰ France, Criminal procedure code, [Article 803-8](#).

³¹¹ France, Prison Code, [Article R.314-1](#).

³¹² France, Prison Code, [Article R.315-2](#).

conditions, police custody, detention or hospitalisation, or the organisation or operation of a service within which the detention takes place³¹³.

The Defender of rights may also be contacted, in particular by any person who considers that their rights and freedoms have been infringed by the operation of a State administration, a local authority, a public institution or a body entrusted with a public service remit. Such is the case of a detainee challenging their detention conditions³¹⁴.

b. Legal assistance

When the prison administration is considering taking an unfavourable individual decision against a detainee, the latter has the right to a lawyer³¹⁵.

Under Article L.313-2 of the French Prison Code, detainees are free to communicate with their lawyer³¹⁶. Persons on remand meet their lawyer in a special visiting room, where confidentiality is ensured. They correspond with them confidentially by telephone and letter³¹⁷. Convicted offenders communicate verbally or in writing with their lawyer; no sanction or measure may remove or restrict the detainee's free communication with their counsel³¹⁸.

c. Request and complaints

According to Article L.312-1 of the French Prison Code, *"all detainees must be able to know their rights and, for this purpose, benefit from a system of free legal consultations set up in each prison"*³¹⁹. This free legal advice scheme cannot relate to the case for which the individual is being detained, nor their detention conditions, nor a case for which a lawyer has already been appointed³²⁰.

d. Independent authority

According to Article R.314-1 of the French Prison Code, *"any detainee may submit requests or lodge complaints to the prison governor, who will grant a hearing if sufficient grounds are provided"*³²¹.

If a detainee is the victim of an offence, as is the case for all citizens, the complaint is brought to the attention of the public prosecutor, who decides what action to take: initiate prosecution, opt for an alternative to prosecution or dismiss the case³²². In the event of public prosecution, the offender is referred to a judge, who may impose a criminal penalty on the offender. The judge may also rule on the civil action and award compensation to the victimized detainee.

According to Article L.133-1 of the French Prison Code, *"the Controller General of prisons monitors the conditions under which detainees are taken into care and transferred to the prison administration, to ensure that their fundamental rights are respected"*³²³. The law of 30 October 2007 provides that *"any*

³¹³ France, Prison Code, [Article L.133-1](#); France, [Law No. 2007-1545 establishing a Controller General of prisons \(Loi n° 2007-1545 instituant un Contrôleur général des lieux de privation de liberté\)](#), 30 October 2007.

³¹⁴ France, Prison Code, [Article L.133-3](#); France, [Organic Law No. 2011-333 regarding the Defender of rights \(Loi organique n° 2011-333 relative au Défenseur des droits\)](#), 29 March 2011.

³¹⁵ France, Prison Code, [Article R.313-1](#).

³¹⁶ France, Prison Code, [Article L.313-2](#).

³¹⁷ France, Prison Code, [Article R.313-12](#).

³¹⁸ France, Prison Code, [Article R.313-15](#).

³¹⁹ France, Prison Code, [Article L.312-1](#).

³²⁰ France, Prison Code, [Article R.312-2](#).

³²¹ France, Prison Code, [Article R.314-1](#).

³²² France, Criminal procedure code, [Article 40](#).

³²³ France, Prison Code, [Article L.133-1](#).

natural person, as well as any legal entity whose purpose is the respect of fundamental rights, may bring to the attention of the Controller General of prisons any events or situations likely to fall within their remit". The Controller General of prisons can also refer matters to themselves, or be asked to do so by the Prime Minister, a member of government, a member of parliament or the Defender of Rights. After carrying out any necessary checks, the Controller General of prisons may make recommendations that may be made public³²⁴.

According to Article L.133-3 of the French Prison Code, "*the Defender of rights is responsible for ensuring compliance with the code of ethics of the public prison service, and may carry out checks in prison administration premises*"³²⁵.

Article L.315-9 of the French Prison Code also provides for detainees to apply to the administrative or judicial courts for an end to detention conditions contrary to human dignity³²⁶. The suspect, who has been remanded in custody, may refer the matter to the liberty and custody judge (*juge des libertés et de la détention*). The convicted detainee, for their part, can refer the matter to the sentence enforcement judge. If the facts attest to an affront to dignity, the judge may decide to transfer the detainee, impose a measure restricting liberty as an alternative to imprisonment (for the convicted person), or even release the detainee under judicial supervision (for the suspect in remand detention)³²⁷. Finally, in the event of unfit detention conditions, the detainee can apply to the administrative court for an injunction to put an end to them³²⁸.

e. NPM assessment

- Controller General of prisons, [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, 2022
 - "*No one may be confined in premises and under conditions that violate the dignity and integrity of persons. If necessary, the judicial authorities must order the transfer of the person in custody to another location or the removal of the measure*"³²⁹.

- Controller General of prisons, [Activity report 2022](#) (*Rapport d'activité 2022*), Dalloz, 2023
 - "*The assessment summary report, which forms the basis for the decision to assign the person to a prison, the person in question must be informed without delay of the future course of their execution or preparation for the hearing before the remand detention court (tribunal de l'application des peines - TAP), in a language and in terms that they understand. This notification must be accompanied by clear information on the remedies available to the interested party, who must be provided with any documents required to exercise them*"³³⁰.

³²⁴ France, [Law No. 2007-1545 establishing a Controller General of prisons](#) (*Loi n° 2007-1545 instituant un Contrôleur général des lieux de privation de liberté*), 30 October 2007, Articles 6 and 6-1.

³²⁵ France, Prison Code, [Article L.133-3](#).

³²⁶ France, Prison Code, [Article L.315-9](#).

³²⁷ France, Criminal procedure code, [Article 803-8](#).

³²⁸ France, Administrative Justice Code, [Articles L.521-1 et seq.](#)

³²⁹ France, Controller General of prisons (2022), [Activity report 2021](#) (*Rapport d'activité 2021*), Dalloz, p. 228.

³³⁰ France, Controller General of prisons (2022), [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, p. 223.

- *"The detainee must be given the opportunity to make representations to the decision-making authority. For this purpose, they must be able to be received by this authority and, if they so wishes, be assisted by a lawyer. Their observations must be recorded in the file"*³³¹.

Member of the Controller General of prisons, France, No. 1:

"In detention, access to rights is largely inadequate. There are points of access to rights, but not to detention and detention conditions. It's more about the legal issues surrounding the case that led to the detainee's detention, or the impact of this detention.

Since there is little or no information on rights, detainees resort to lodging a criminal complaint with the public prosecutor if they have any problems with their detention conditions. Because that's all they know. But the Public Prosecutor's Office dismisses the case with no further action because it's not an offence and it's not the appropriate recourse. Even lawyers (who do a lot of private law, but too little public law) are not really aware of the actual remedies available in relation to prison conditions. A criminal lawyer should have sufficient basic knowledge of public law to challenge a detainee's downgrading at work or in an activity, or to help a detainee who considers their detention conditions unfit. When it comes to these issues, while lawyers are in the front line, they still need to have the required legal grounding to advise detainees properly.

With regard to the rate of dismissal of detainee complaints, this figure must be significant. But sometimes there are objective reasons for the case being dismissed; a complaint made to the public prosecutor about unworthy detention conditions is thus necessarily dismissed. However, when a complaint is dismissed, there is a lot of wasted information, as even if the public prosecutor's office dismisses a complaint for unfit detention conditions, it refers to other events that the public prosecutor might take up. »

Member of the Controller General of prisons, France, No. 2:

"Information on rights, and in particular detention conditions, is lacking in prisons. There are legal access points, and associations can also be involved. But the detainee's main legal adviser is still their lawyer. »

³³¹ France, Controller General of prisons (2022), [Privacy at the risk of deprivation of liberty](#) (*L'intimité au risque de la privation de liberté*), Dalloz, p. 223.

Part II: National case-law

Court of Cassation, Criminal Division / No. 23-84093, 14 February 2024

Thematic area	Hygiene et sanitary conditions
Decision date	14 February 2024
Reference details	No. 23-84093 Cour de cassation, criminelle, Chambre criminelle, 14 février 2024, 23-84.093, Publié au bulletin - Légifrance (legifrance.gouv.fr)
Key facts of the case	A detainee complained about their detention conditions. They felt that they had an insufficient number of showers and that the toilets in their cell were inadequate.
Main reasoning/argumentation	A detainee challenged their detention conditions before the judge, citing an insufficient number of showers and the lack of a closed toilet seat.
Key issues (concepts, interpretations) clarified by the case	The Criminal Division of the French Court of Cassation followed the reasoning of the trial judges, who dismissed the detainee's motion. There were enough showers and the detainee did not demonstrate any impact on their personal health as a result of what they describe as an insufficient number of showers. As regards the lack of a toilet seat, this was not seen to constitute an undignified condition, as long as there was sufficient ventilation and regular cleaning.
Results (sanctions) and key consequences or implications of the case	The Court of Cassation (<i>Cour de cassation</i>) dismissed the appeal, thereby upholding the decision of the Court of Appeal (<i>Cour d'appel</i>). The reasons given by the trial judges were not inadequate.
Key quotation in original language and translated into English with reference details	<i>Le détenu « ne démontre pas en quoi il souffre personnellement ou serait affecté à titre personnel par les prétendues conditions indignes qu'il relève, même cumulées, mais surtout, que les lacunes constatées n'atteignent pas un seuil de gravité tel qu'il puisse être considéré que les conditions de détention actuelles de l'intéressé soient contraires à la dignité de la personne humaine ».</i> The detainee "does not demonstrate how they personally suffers or would be personally affected by the allegedly unfit conditions they identify, even cumulatively, but above all, that the shortcomings identified do not reach a threshold of severity such that it can be considered that the current detention conditions of the person in question are contrary to the dignity of the human person".

Thematic area	Cells
Decision date	29 December 2023
Reference details	No. 461605 ArianeWeb (conseil-etat.fr)
Key facts of the case	<p>Following the publication in the Official Journal of 21 September 2021 of the recommendations of 19 July 2021 of the General Controller of prisons following the findings of her visits to certain police custody facilities, the association of criminal lawyers (<i>association des avocats pénalistes</i>) asked the Minister of Justice and the Minister of the Interior to take all required measures to put an end to the violations of the dignity, privacy and rights of defence suffered by persons held in police custody, in particular, certain measures aimed at increasing capacity or limiting the number of people accommodated, ensuring the required state of cleanliness, ensuring sleeping conditions, ensuring access to toilets and hygiene products and informing those concerned on this subject, applying sanitary measures and ensuring that no person remains locked up in unfit conditions.</p> <p>The Ministers dismissed the motion.</p> <p>Consequently, the criminal lawyers' association's (<i>association des avocats pénalistes</i>) asked the State Council (<i>Conseil d'Etat</i>) to annul the implicit dismissal of this motion and to issue the injunctions implied by this annulment.</p>
Main reasoning/argumentation	<p>According to the plaintiffs, in view of the particular situation of persons held in police custody, and in particular their situation of total dependence, it is up to the administration to take the appropriate measures to ensure respect for their dignity, notwithstanding the duties incumbent on the judicial authorities and the judicial police. Assessing whether the conditions of police custody are unfit depends in particular on the type and duration of the shortcomings observed, and on the reasons for these shortcomings, having regard to the requirements of maintaining security and proper order in the premises concerned</p>
Key issues (concepts, interpretations) clarified by the case	<p>While there are more than 600 police custody facilities across the country, the 19 July 2021 report by the Controller General of prisons was based on a visit to 17 of them, most being within the jurisdiction of the Paris police headquarters. More recent reports also focused on a limited number of sites.</p> <p>It is also clear from the documents in the file that, although some police stations are in a poor state of repair, they have been the subject of a major renovation campaign over the past few years, which has benefited police custody facilities in particular, and which has brought them up to new standards. This was true of some of the police stations visited by the Controller General of prisons.</p>

	<p>The cleaning of premises belonging to the Paris Police Prefecture has been the subject of a new contract, more demanding than the previous one in terms of the services to be provided, and a specialised company has been appointed to monitor the level of service.</p> <p>The Minister of the Interior has also justified a significant increase in expenditure on blankets and their regular cleaning.</p> <p>Furthermore, it does not appear that access to toilets is not ensured.</p> <p>It follows that, while there may still be local shortcomings in the material conditions of police custody, which, where applicable and notwithstanding the measures that are the sole responsibility of the judicial authorities by virtue of the Constitutional Council's decision of 6 October 2023, the administration may be asked to remedy, under the supervision of the competent administrative court, it is not clear from the documents in the file that, at the date of the present decision, such shortcomings would be widespread throughout the country and on a sufficient scale to establish a serious breach, at national level, of human dignity.</p>
Results (sanctions) and key consequences or implications of the case	The criminal lawyers' association's motion was rejected.
Key quotation in original language and translated into English with reference details	<p><i>« Il ne ressort pas des pièces du dossier qu'à la date de la présente décision, des défaillances [à propos de la dignité des conditions de garde à vue] seraient généralisées sur l'ensemble du territoire et d'une ampleur suffisante pour que soit établie une atteinte caractérisée, au niveau national, à la dignité de la personne humaine »</i></p> <p><i>"It does not appear from the documents in the file that, at the date of the present decision, failings [regarding the dignity of police custody conditions] are widespread throughout the country and of sufficient magnitude to establish a serious violation, at national level, of human dignity"</i></p>

Administrative Court of Poitiers / No. 2100430, 31 August 2023

Thematic area	Specific measures to protect detainees with special needs or other vulnerabilities
Decision date	31 August 2023
Reference details	No. 2100430 31 août 2023 - Tribunal administratif, 2ème chambre - 2100430 Dalloz
Key facts of the case	A detainee in sexual transition wanted to wear clothing in keeping with their sexual identity.
Main reasoning/argumentation	The right to assert a person's sexual definition is a fundamental freedom.

Key issues (concepts, interpretations) clarified by the case	The plaintiff stated that the decision prohibiting him from wearing women's clothing in their cell infringed his sexual identity.
Results (sanctions) and key consequences or implications of the case	Inherently and by its effects on his detention conditions, the contested decision constituted a decision likely to be the subject of an appeal for abuse of power. The plea in bar raised by the Minister of Justice in his defence must therefore be rejected
Key quotation in original language and translated into English with reference details	« Le droit à affirmer une définition sexuelle de la personne, entre autre par la tenue vestimentaire, doit être regardé comme une liberté fondamentale » "The person's right to assert a sexual definition, in particular through clothing, must be considered as a fundamental freedom"

State Council (*Conseil d'Etat*), urgent applications judge / No. 472994, 15 May 2023

Thematic area	Hygiene and sanitary conditions
Decision date	15 May 2023
Reference details	No. 472994 Conseil d'État, Juge des référés, 15/05/2023, 472994, Inédit au recueil Lebon - Légifrance (legifrance.gouv.fr)
Key facts of the case	The International Prison Observatory (French section) and the association of lawyers for the defence of detainees' rights (<i>association des avocats pour la défense des droits des détenus</i>) denounced detention conditions at the Saint-Etienne penitentiary
Main reasoning/argumentation	With regard to respect for detainees' dignity, the petitioning associations called for measures to be taken as soon as possible to replace dangerous objects and equipment in cells, to replace broken or defective windows, to supply new furniture, to refurbish cells in the disciplinary section, to partition off toilets in cells in building A and in two cells in the women's section, and to ensure that detainees' personal hygiene was respected.
Key issues (concepts, interpretations) clarified by the case	Even if it is difficult, in the current state of the investigation, to form an idea of the pace and type of work carried out by the administration to deal with requests to replace dangerous or obsolete objects or equipment or broken windows that are reported to it, it did not follow from the investigation, and in particular from the CGLPL's inspection report of February 2019 as well as from the documents produced by the prison administration, that it would not deal with these requests. While the CGLPL noted in February 2019 that "the cells in Building A are in an unfit condition, in terms of walls, floors, windows, electricity, toilet equipment and furniture in general, etc.", this observation referred to a general situation that called for structural measures that could be implemented and, consequently, would have an effect in the very short

	<p>term, and which were therefore not among the emergency measures that the situation allowed to be taken usefully within the powers that the urgent applications judge has under Article L. 521-2 of the Code of Administrative Justice.</p> <p>Accordingly, in the light of the investigation, and even supposing that certain photographs produced established a failure on the part of the prison administration at the Saint-Etienne detention centre to repair or replace certain defective or dangerous equipment, this failure did not appear to be such that it would contribute to exposing all detainees, in a characterised way, to inhuman or degrading treatment, nor that it should lead the urgent applications judge of the State Council (<i>Conseil d'Etat</i>) to order a measure in the very near future, given the measures already taken by the facility.</p> <p>However, during the course of the investigation, the authorities failed to provide a convincing answer to the question of how dirty some of the communal showers in Building A were, or how this could be remedied. Its failure to maintain some of the communal showers in a state of cleanliness that complies with the hygiene requirements for detention premises, as set out in Article R. 321-2 of the French Prison Code, creates, in view of the regular use of these premises by detainees, unfit detention conditions that are likely to infringe the detainees' privacy to an extent that exceeds the restrictions inherent in detention, as well as to expose them to inhuman or degrading treatment, seriously infringing these two fundamental freedoms.</p>
<p>Results (sanctions) and key consequences or implications of the case</p>	<p>As a result, the administration should be enjoined to clean these communal showers as soon as possible, either by the general service teams or, on an ad hoc basis, by a private service provider</p>
<p>Key quotation in original language and translated into English with reference details</p>	<p><i>« Il résulte de la combinaison des dispositions des articles L. 511-1, L. 521-2 et L. 521-4 du code de justice administrative qu'il appartient au juge des référés, lorsqu'il est saisi sur le fondement de l'article L. 521-2 et qu'il constate une atteinte grave et manifestement illégale portée par une personne morale de droit public à une liberté fondamentale, de prendre les mesures qui sont de nature à faire disparaître les effets de cette atteinte ».</i></p> <p><i>"It follows from the combination of the provisions of Articles L. 511-1, L. 521-2 and L. 521-4 of the Code of Administrative Justice that it is up to the urgent applications judge, when a case is referred to them on the basis of Article L. 521-2 and they find a serious and manifestly unlawful infringement of a fundamental freedom by a legal entity governed by public law, to take measures likely to eliminate the effects of this infringement".</i></p>

Court of Cassation, Criminal Division / No. 22-85670, 15 March 2023

<p>Thematic area</p>	<p>Cells</p>
<p>Decision date</p>	<p>15 March 2023</p>

Reference details	No. 22-85670 Cour de cassation, criminelle, Chambre criminelle, 15 mars 2023, 22-85.670, Inédit - Légifrance (legifrance.gouv.fr)
Key facts of the case	An accused person, remanded in custody, complains of unfit detention conditions.
Main reasoning/argumentation	The order of the president of the penal enforcement division of the Nancy Court of Appeal, dated 19 July 2022, declaring that there was no need to rule on their motion regarding their detention conditions.
Key issues (concepts, interpretations) clarified by the case	An appeal for unfit detention conditions is irrelevant if the detainee has been transferred to another detention centre.
Results (sanctions) and key consequences or implications of the case	The Court of Cassation dismissed the appeal; the latter being irrelevant due to the detainee's transfer to another detention centre.
Key quotation in original language and translated into English with reference details	« <i>Le recours ayant pour objet soit de permettre une amélioration des conditions de détention de la personne condamnée dans l'établissement où elle est incarcérée au jour de sa requête, soit d'empêcher la continuation de ces conditions lorsqu'elles seraient indignes, le pourvoi est devenu sans objet en raison du transfèrement de M. [V] [D] le 2 novembre 2022</i> ». "As the purpose of the appeal is either to allow an improvement in the detention conditions of the convicted person in the facility where they are incarcerated on the day of their motion, or to prevent the continuation of these conditions when they would be unfit, the appeal has become moot due to the transfer of Mr. [V] [D] on 2 November 2022".

State Council (Conseil d'Etat) / No. 469304, 20 December 2022

Thematic area	Cells
Decision date	20 December 2022
Reference details	No. 469304 ArianeWeb (conseil-etat.fr)
Key facts of the case	Following a visit, the General Controller of prisons noted, in her urgent recommendations drawn up on 30 June 2022 regarding the Bordeaux-Gradignan prison (Gironde), published in the Official Journal on 13 July, "a significant number of malfunctions resulting in serious violations of the

	<p><i>dignity and fundamental rights of detainees, whose living conditions are particularly unfit</i>". The CGLPL particularly highlighted the overcrowding, meaning that several detainees were placed in the same cell with mattresses on the floor, and also the dilapidated condition of the premises.</p> <p>Following these urgent recommendations by the CGLPL, the International Prison Observatory, on the basis of Article L. 521-2 of the Code of Administrative Justice, referred the matter to the urgent applications judge of the Bordeaux Administrative Court, asking them to order the closure of the prison, in particular cell No. 625, or, failing that, to enjoin a large number of various measures designed to remedy the situation described in these recommendations.</p>
<p>Main reasoning/argumentation</p>	<p>The State Council (<i>Conseil d'Etat</i>) dismissed the International prison observatory's motion. The Council of State (<i>Conseil d'Etat</i>) noted that, as a result of the work carried out by the prison administration, the furnishings in cell No. 625 were satisfactory, in particular the partitions isolating the toilets. In addition, the State Council (<i>Conseil d'Etat</i>) considered, in light of the explanations provided by the prison administration, that the overcrowding in cell No. 625 (with a 3rd detainee placed on the floor) was only temporary.</p>
<p>Key issues (concepts, interpretations) clarified by the case</p>	<p>The French section of the International Prison Observatory therefore has no grounds for requesting that cell No. 625 be closed or that it be occupied by a single detainee, given that any detainee who considers themselves to be suffering from unfit detention conditions may, if necessary, refer the matter to the judicial authorities on the basis of Article 803-8 of the Code of Criminal Procedure.</p>
<p>Results (sanctions) and key consequences or implications of the case</p>	<p>The International Prison Observatory's motion was rejected.</p>
<p>Key quotation in original language and translated into English with reference details</p>	<p><i>« L'administration pénitentiaire étant tenue d'accueillir, quel que soit l'espace dont elle dispose, la totalité des personnes mises sous écrou en mettant en œuvre les dérogations au principe de l'encellulement individuel prévues par les dispositions du code pénitentiaire, il lui appartient, en fonction des moyens dont elle dispose, de favoriser les circulations et les activités hors de la cellule de manière adéquate pour atténuer les inconvénients inhérents aux conditions de détention au sein de la cellule ».</i></p> <p><i>"As the prison administration is obliged to accommodate all detainees, regardless of the space available, by implementing the exceptions to the principle of single-cell confinement provided for by the provisions of the French Prison Code, it is up to the prison administration, depending on the means at its disposal, to encourage movement and activities outside the cell in an appropriate way to alleviate the inconveniences inherent in detention conditions within cells".</i></p>

Court of Cassation, Criminal Division / No. 22-80807, 16 November 2022

Thematic area	Access to remedy
Decision date	16 November 2022
Reference details	No. 22-80807 Cour de cassation, criminelle, Chambre criminelle, 16 novembre 2022, 22-80.807, Publié au bulletin - Légifrance (legifrance.gouv.fr)
Key facts of the case	A detainee complains of unfit detention conditions, arguing that they are handcuffed during medical appointments and that no guards are present.
Main reasoning/argumentation	A sentence enforcement judge declared the convict's detention conditions to be contrary to human dignity, in particular due to the presence of prison staff during a medical consultation and the failure to translate medical prescriptions for the Spanish-speaking detainee. The Court of Appeal censured this decision. The presence of prison staff during the medical check-up and handcuffing may be called for by the medical team, as justified by the convict's past behaviour. There is also no legal requirement to translate medical prescriptions.
Key issues (concepts, interpretations) clarified by the case	Security/safety may require a breach of medical confidentiality. The past behaviour of detainees and the expectations of medical staff may justify the presence of prison staff during the medical check-up. The lack of a translation of a medical prescription cannot be invoked when the detainee has appropriate medical treatment.
Results (sanctions) and key consequences or implications of the case	The Court of Cassation (<i>Cour de cassation</i>) dismissed the appeal, thereby upholding the decision of the Court of Appeal (<i>Cour d'appel</i>). On the one hand, the prison administration's escort may have been justified by the detainee's past behaviour. In addition, the detainee was receiving medical treatment suitable for their state of health.
Key quotation in original language and translated into English with reference details	« Dès lors que les allégations du demandeur sur son menottage lors des déplacements dans l'établissement où il est détenu ne sont plus d'actualité, le grief ne saurait être admis». « il n'est pas contesté que M. [E] a eu accès à un traitement médical adapté à son état de santé, le président de la chambre de l'application des peines a justifié sa décision » "Since the plaintiff's allegations that he was handcuffed when moving around the prison where he was being held are no longer valid, the complaint cannot be accepted". "it is not disputed that Mr. [E] had access to medical treatment appropriate to his state of health, and the president of the enforcement division justified their decision"

State Council (*Conseil d'Etat*) / No. 461131, 15 November 2022

Thematic area	Contact with outside world
Decision date	15 November 2022
Reference details	No. 461131 Conseil d'État, 6ème chambre, 15/11/2022, 461131, Inédit au recueil Lebon - Légifrance (legifrance.gouv.fr)
Key facts of the case	The governor of the Roanne detention centre withdrew the visitor permit from a close relative of a detainee.
Main reasoning/argumentation	The State Council (<i>Conseil d'Etat</i>) ruled that reasons must be given for withdrawing a visiting permit. In this case, as the reasoning was not factually detailed, there was serious doubt as to its legality. As a result, the State Council (<i>Conseil d'Etat</i>) overturned the Administrative Court's decision to withdraw legal visiting rights. With regard to the request for suspension of visiting rights, the State Council (<i>Conseil d'Etat</i>) considered, in view of a number of facts, that the condition of urgency was not met and that the request for suspension should be rejected.
Key issues (concepts, interpretations) clarified by the case	The State Council (<i>Conseil d'Etat</i>) emphasised the need to give rigorous reasons for suspending visiting rights. Indeed, "the right of detainees to maintain relations with members of their family is exercised in particular through visits by the their family" (Article L.341-1 of the French Prison Code)
Results (sanctions) and key consequences or implications of the case	Failing sufficient justification, visiting rights cannot be suspended.
Key quotation in original language and translated into English with reference details	<i>« Une décision retirant un permis de visite précédemment délivré doit être motivée. Il ressort des pièces du dossier soumis au juge des référés que la décision de retrait du permis de visite faisant l'objet de la demande de suspension, si elle cite certaines dispositions législatives, ne comporte aucune mention de circonstance de fait la justifiant ».</i> <i>"Reasons must be given for any decision to withdraw a previously-issued visit permit. It is clear from the documents in the file submitted to the urgent applications judge that the decision to withdraw the visiting permit which is the subject of the application for suspension, while citing certain legislative provisions, makes no mention of any factual circumstances justifying it".</i>

Court of Cassation, Criminal Division / No. 22-83885, 13 September 2022

Thematic area	Cells
Decision date	13 September 2022
Reference details	No. 22-83885 Cour de cassation, criminelle, Chambre criminelle, 13 septembre 2022, 22-83.885, Publié au bulletin - Légifrance (legifrance.gouv.fr)
Key facts of the case	An accused person, remanded in custody, complains of the indignity of their detention conditions.
Main reasoning/argumentation	The liberty and custody judge, after hearing the prison administration, declared the defendant's motion to be inadmissible. According arbitration judges, a detainee who brings a case before a judge for unworthy detention conditions cannot invoke the rules applicable to litigation regarding remand detention, since the purpose is not to examine the merits of this detention, but rather the conditions under which it is taking place. In addition, the procedure applicable to claims of unfit detention conditions sufficiently ensures the right of access to a judge. The detainee may, at the time of lodging the motion, ask to appear before the liberty and custody judge, who, on receiving such a motion, must proceed with the hearing. Likewise, the detainee may submit any useful observations to the president of the investigating chamber, either personally or through their lawyer, and the magistrate is obliged to respond.
Key issues (concepts, interpretations) clarified by the case	The liberty and custody judge (<i>juge des libertés et de la détention</i>) declares the motion for an examination of the detention conditions admissible if the allegations of conditions contrary to human dignity contained therein are detailed, personal and current, so that they constitute prima facie evidence that the detention conditions do not respect human dignity. This provision aims to provide the effective and preventive remedy required by the European Convention for the Protection of Human Rights, while reserving it for situations whose description by the plaintiff convinces the judge to use their powers of verification. As a result, the liberty and custody judge cannot rule on the merits of the motion without first ruling on its admissibility.
Results (sanctions) and key consequences or implications of the case	Censure of the decision of the Investigating chamber.
Key quotation in original language and translated into English with reference details	« En se prononçant sur le bien-fondé de la requête, alors que le premier juge n'avait pas au préalable statué sur la recevabilité de celle-ci par une ordonnance rendue conformément à l'article R. 249-21 du code de procédure pénale, mais s'était, au contraire, prononcé notamment en considération d'informations transmises par l'administration pénitentiaire, qu'il n'avait pas à prendre en compte à ce stade, le président de la chambre de l'instruction a méconnu le texte susvisé et le principe ci-dessus énoncé ».

	<p><i>"By ruling on the merits of the motion , even though the first judge had not first ruled on the admissibility of the motion by means of an order issued in accordance with Article R. 249-21 of the Code of Criminal Procedure, but had, on the contrary, ruled in particular on the basis of information sent by the prison administration, which they were not required to take into account at this stage, the president of the investigating chamber disregarded the aforementioned text and the principle set out above".</i></p>
--	--

Court of Cassation, Criminal Division / No. 21-84498, 20 October 2021

Thematic area	Cells
Decision date	20 October 2021
Reference details	<p>No. 21-84498 Cour de cassation, criminelle, Chambre criminelle, 20 octobre 2021, 21-84.498, Publié au bulletin - Légifrance (legifrance.gouv.fr)</p>
Key facts of the case	An accused person, remanded in custody, complains of the indignity of their detention conditions: limited personal space, cells shared with other detainees, presence of cockroaches and bedbugs, limited access to unheated showers with no privacy.
Main reasoning/argumentation	The trial judges dismissed the petition. They consider that the factual data contained in the report on detention conditions in the Angoulême prison, drawn up by the Controller General of prisons in December 2019, cannot correspond to the individual situation of Mr. [U] who was incarcerated in this facility in December 2020. Furthermore, Mr. [U] does not demonstrate that he himself has suffered the consequences of the exceptional nature of single-cell confinement that he points out in this report, which, however, confirms that some detainees can ask to be placed in solitary confinement if they so wish.
Key issues (concepts, interpretations) clarified by the case	A motion for unfit detention conditions is admissible if the detainee puts forward credible evidence in support of this motion. Judges may not require a detainee to provide evidence of unfit detention conditions.
Results (sanctions) and key consequences or implications of the case	Censure of the decision of the Investigating chamber.
Key quotation in original language and translated into English with reference details	<p><i>« saisie d'une description du demandeur qui évoquait un espace personnel réduit dans une cellule partagée avec d'autres détenus, la présence de cafards et de punaises de lits, un accès particulièrement limité aux douches non chauffées et dépourvues d'intimité, la chambre de l'instruction devait en apprécier le caractère précis, crédible et actuel, sans s'arrêter au fait que le rapport du Contrôleur général des lieux de privation de liberté décrivait des conditions de détention antérieures à l'incarcération de M. [U], ni</i></p>

	<p><i>exiger de celui-ci qu'il démontre le caractère indigne de ses conditions personnelles de détention».</i></p> <p><i>"the investigating chamber had to assess the precise, credible and current nature of the applicant's description, which referred to reduced personal space in a cell shared with other detainees, the presence of cockroaches and bedbugs, and in particular limited access to unheated showers with no privacy, without stopping to consider the fact that the report by the Controller General of prisons described detention conditions prior to Mr. [U]'s incarceration, or requiring him to demonstrate the unit nature of his personal detention conditions".</i></p>
--	--