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REPORT

DEATH IN FRENCH PRISONS

by Gabriel Capitolo, Emilie Delahais, Vincent Lefebvre,
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Abstract

This report analyses the types of deaths in prison and their challenges, as well as the French State's judicial institutions' protocols when dealing with death and their role in the prevention of death in prison. Through the use of law articles, prisoner testimonies, press articles, state reports, and researchers' publications, not only do we study suicide as the major cause of death in prison, but we also study the whole spectre of natural deaths. This report interrogates the conditions that lead to death in prison, analyses the failures in the prison system in France and its protective role regarding security, health, and the dignity of prisoners. The case studies in this article reveal the failures of the system in maintaining a dignified life behind prison walls GROW seeks to underline the absence of protective measures in the prevention of death in prison, fostering action through a series of recommendations.

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GLOSSARY

Carceral shock: A concept coined by two French psychologists, Aldona Lemiszewska and Dominique Lhuilier, in their book *Le choc carcéral: survivre en prison* (2001). It refers to “*the individual consequences of a first incarceration. [...] Initially experienced in euphoria or, more often, in depressive despondency, it bears witness to the excessive anxiety it reactivates. This rupture and the confrontation with the prison world emerge in the inmates’ discourse in the form of experiences of loss, abandonment and deficiency, if not death*” (Carceropolis.fr).

CDS : Co-detainee support team (*Co-détenu.e.s de soutien*)

CGLPL : Controller General of Places of Deprivation of Liberty (*Contrôleur général des lieux de privation de liberté*)

CPIP : Penitentiary Integration and Probation Counsellor (*Conseiller.ère pénitentiaire d’insertion et de probation*)

ECHR: European Court of Human Rights

Detention centres: The term is commonly used to designate any place where people are deprived of their liberty. More specifically, it refers to prisons housing inmates with more than two years left on their sentence, and with good prospects of reintegration into society.

Homicide: The act of killing another human being. The legal classification of this act depends on intentionality: without the intention to kill, it’s manslaughter; with it, it’s murder. If there is premeditation, it is murder.

Lodging an appeal: Lodging an appeal is the last possible recourse available to the convicted person to challenge a court decision that is contrary, not to the facts, but to due process. The appeal does not suspend enforcement of the sentence. When the Court of Cassation overturns the judgement, the case is brought back before the court whose decision was overturned.

Murder: Defined in article 221-1 of the French Penal Code as “the act of deliberately causing death to another person”. It is punishable by 30 years’ imprisonment.

OIP : International Prison Observatory (*Observatoire international des prisons*)

PAD: Prison Administration Department

Remand centre: Penitentiary facility for inmates whose remaining sentence is less than or equal to two years, as well as defendants awaiting trial. There are 81 maisons d’arrêt in France.

RLRM : Release on Medical Grounds (*Remise en liberté pour raison médicale*)

SEJ: Sentence Enforcement Judge

SPRM : Suspension of Sentences on Medical Grounds (*Suspension de peine pour raison médicale*)

TAP : Tribunal for the Enforcement of Sentences (*Tribunal d’application des peines*)

UHMP : Prison Hospital Units (*Unité hospitalière en milieu pénitentiaire*)

USMP : Prison Sanitary Units (*Unité sanitaire en milieu pénitentiaire*)

UHSA : Specially Adapted Hospital Units (*Unités hospitalières spécialement aménagées*)

UHSI: Interregional Secure Hospital Units (*Unité hospitalière sécurisée interrégionale*)

INTRODUCTION

“Robert Badinter said: “if the right to life is not respected, none of the others will be”. In conclusion, only the enemies of human rights, which remain the essential symbol of progress, oppose the abolition of the death penalty. Now that it has been abolished, what remains is the penalty of elimination. Putting groups of “delinquents” out of action for a prolonged period”¹

Mounir, inmate in a French prison

With these words, used in a letter to L’Envolée, a newspaper specialising in the prison environment, the prisoner was denouncing the way in which decision-makers and, more generally, French society as a whole had neglected the issue of deaths in custody. Since Robert Badinter abolished the death penalty in France on October 9th, 1981, the issue of death under the law has been entirely removed from the political agenda. This historic moment seems to have been synonymous, for the majority of the population, with the end of legal decisions leading to the deaths of individuals for reasons of justice. Before then, death in prison was still relatively commonplace, since it was the result of a clear and precise legal decision. Since the abolition of death as a sentence of justice, the common mind seems to have accepted the idea that French prisoners no longer die in prison. Nonetheless, these court rulings continue to condemn people to death in prison every day. Furthermore, the conditions maintained in French prisons by the various authorities seal, and sometimes hasten, this sad fate. Although prisoners no longer die by guillotine, hanging, or lethal injection, they are now victims of long deaths, punctuated by the painful constraints of detention, which have a destructive impact on their physical and psychological health.

Deaths in prison are traditionally divided into two categories by the Prison Administration Department (DAP): violent deaths and natural deaths. Violent deaths include suicides, overdoses, and homicides, whereas natural deaths are those caused by life-threatening illnesses and medical conditions. However, these two categories are not proportional, since it is important to emphasise the overwhelming weight of suicides, which accounted for 123 out of 178 deaths in prisons in 2011. These dynamics, as well as the fact that death is still a frequent occurrence in French prisons, should encourage us to reflect on the conditions of detention of prisoners who are subject to various situations of vulnerability that could lead to their death. This debate is all the more pressing, given that the prison environment is very different from that of general society, since in the prison microclimate, any death is a violent and general shock, a heavy burden that is added to the already heavy burden of imprisonment.

The aim of this report is to examine the context of the different types of death in French prisons. For what reasons, both physical and psychological, do people still die in prison today? What role does the French administration play in these events? What measures have been put in place to prevent death in prison and to support fellow inmates when it does occur? To answer these questions, this report provides an overview of the specific situations surrounding violent deaths and natural deaths, as well as the many measures in place, with the aim of formulating recommendations to remedy the shortcomings identified in the prison system.

¹ L’Envolée (2021). *La peine de mort n’a jamais été abolie : dits et écrits de prison*. Le Mas d’Azil : Les Éditions du Bout de la Ville.

VIOLENT DEATHS

Homicides in prison

According to data from the DAP, nearly half of all prison deaths are for violent causes; these translate into accidents, overdoses, suicides, and also homicides². Distinguishing between natural and violent deaths is important in order to determine whether a prisoner's death is due to a medical cause or was caused by an overdose of psychoactive substances. Medical deaths are caused by infectious diseases, cancer, or other illnesses, while other deaths are caused by substance abuse, drug intoxication, or homicide. According to a study by the CESDIP and CNRS published in 2018 in *Population*, there were 178 "violent" deaths in prison in 2011. Of the 178 deaths, 123 were suicides, 28 were related to substance abuse and medical intoxication, 10 were homicides, and the causes of 17 deaths were not specified³. In French prisons, when a detainee dies, the Prison Administration Department (PAD) is obliged to open a file where information about the individual is collected, the circumstances of death, or in the absence of evidence, the history of events having taken place before discovering the deceased detainee. It is pertinent to conduct a post-mortem examination in prison, for example, an autopsy and a toxicological and anatomopathological analysis, in order to determine the cause of death.

It is important to note that when detainees are initially placed in prison, the files do not always specify whether they have a history of drug use, suicide attempts, self-harm, a history of psychological counselling, or whether they suffer from a mental illness. The medical examination that precedes the condition of the detention of an accused person makes it possible to decide whether that person can be placed in police custody, semi-liberty, conditional release on medical grounds, or in detention. Despite this, the examination does not address issues relating to the mental state of detainees, which can be dangerous for individuals placed in joint custody/cell sharing. Inmates' aggressive behaviour is often linked to their mental state. In French prisons, more than 20 physical assaults take place every day between inmates or with prison staff. Between 2011 and 2018, it is estimated that there were more than 8300 physical assaults, mostly in unsupervised areas such as showers or holding cells⁴. Assaults, and violence in prison more generally, can be exacerbated by the circulation and consumption of psychotropic medicines and drugs⁵, which exposes prisoners to death by overdose, but also to potential

² Legally, homicide means the act of killing someone, whether intentionally or not. GROW is aware that this term is fundamentally gendered, because its root is the word "man", although understood in the broad sense of being human. So "homicide" discriminates to some extent against the female population. However, the terms "féminicide" or "meurtre" are not accurate in this context, because it is impossible to verify the intention behind all the homicides committed in prison, but also because it is not possible to confirm whether certain homicides have been committed against women because of their gender. In the absence of a less gendered and more inclusive French language, the term "homicide" will remain the best term for discussing prison issues in the context of deaths in custody.

³ DESEQUELLES A., KENSEY A. et MESLE F. (2018). Circonstances et causes des décès des personnes écrouées en France : le poids écrasant des morts violentes. *Population* 2018/4. Page 757 à 786. [online] Available at: <https://www.cairn.info/revue-population-2018-4-page-757.htm> [Accessed Feb 16th 2023].

⁴ ENAULT N. (2018). Homicides, prises d'otage, agressions physiques... La violence du quotidien en prison. *Francetvinfo.fr* [online] 18 Janv. Available at: https://www.francetvinfo.fr/societe/prisons/infographies-homicides-prises-d-otages-agressions-physiques-la-violence-du-quotidien-en-prison_2564775.html [Accessed Feb 26th 2023].

⁵ As defined by the World Health Organisation (WHO), psychotropic drugs or psychoactive substances are substances which, when taken, produce an effect likely to modify mental activity, and consequently mood, thoughts, consciousness and behaviour. These include, but are not limited to, alcohol, nicotine, marijuana, heroin and cocaine.

death caused by violence. It would be appropriate to examine the psychological state of remand prisoners and detainees before placing them in areas where they can be dangerous for other detainees, leading to assaults and sometimes murder. In this context, GROW encourages the French and international authorities to adopt a legal framework for the introduction of psychological medical devices in detention centres, to supplement the physical examination in order to determine a detainee's fitness to be held with other detainees.

Overdoses

According to the study conducted by the same group of authors, 28 cases of death by overdose or intoxication were recorded in French prisons in 2011⁶. It is estimated that up to 54% of prisoners in France and Europe report using drugs in prison, with almost 36% using them regularly. In EU countries, and particularly in France, between 3% and 26% of drug users in prison say they have taken drugs for the first time in prison.

In addition to the risk of death from overdose, drug use in prison also entails the risk of infection through the sharing of syringes and needles, facilitating contamination between inmates, as well as the risk of transmission of HIV, hepatitis B (HBV), or hepatitis C (VHC). Syringes are cleaned only with water, if at all. The risk of disease transmission is therefore very high⁷. Prisons are overexposed to infectious diseases⁸. It is therefore important to examine the practices of drug bartering and trafficking that take place within French prisons. Deaths by overdose occur in prisons because prisoners are able to obtain substances in sufficient quantities to produce effects that lead to death. Drugs most often enter prisons when prisoners return from leave or during visits. According to authorities, contraband continues to find its way into prison, in the folds of clothes, in food, or even by swallowing small packets of drugs that come out at the end of digestion, at the risk of the packet opening and causing an immediate overdose for the individual. Drugs are also obtained by being thrown over prison walls, a technique known as "parachuting"⁹. Prison smuggling takes the form of exchanges for services, such as prostitution or cell cleaning, as well as smuggling by prison staff, according to the CRIPS IDF¹⁰.

When entering prison, body searches may be necessary for security reasons. Despite the security aspect of these searches, in that they are a procedure that limits and prevents the trafficking of illegal substances into prison, they remain a degrading exercise. This is particularly true of intimate and/or vaginal searches, during which prisoners are subjected to a physical examination of their natural orifices.

⁶ DESESQUELLES A., KENSEY A. et MESLE F. (2018). Circonstances et causes des décès des personnes écrouées en France : le poids écrasant des morts violentes. *Population* 2018/4. Page 757 à 786. [online] Available at: <https://www.cairn.info/revue-population-2018-4-page-757.htm> [Accessed Feb 16th 2023]

⁷ *Ibid.*

⁸ Observatoire européen des drogues et des toxicomanes, Rapport Annuel sur l'état du phénomène de la drogue dans l'UE et en Norvège, 2002. ISSN 1609-6142

⁹ JOUAN, A. (2014). Prisons: les gardiens inquiets des parachutages d'alcool, d'armes, de drogue et de viande. *Lefigaro.fr* [online] 9 avr. Available at: <https://www.lefigaro.fr/actualite-france/2014/04/09/01016-20140409ARTFIG00161-prisons-les-gardiens-inquiets-des-parachutages-d-alcool-d-armes-de-drogue-et-de-viande.php> [Accessed Feb 26th 2023].

¹⁰ Centre Régional d'Information et de Prévention du Sida, Ile-de-France.

The Association for the Prevention of Torture (APT) recognises that these searches are not prohibited, but that they should only be carried out by doctors with the appropriate qualifications¹¹. This humiliating act should only be carried out if there is a significant suspicion of a security issue. For these reasons, GROW questions the quality of the checks carried out when prisoners are returned to custody, as well as the failure of the French state and its prisons to prevent the circulation of drugs in prison. We also focus on prevention and raising awareness of the need to detoxify prisoners. Withdrawal has negative consequences for addicts, which can lead to death. It would seem appropriate to improve care for this category of prisoner in order to protect their health and the safety of other prisoners.

The seven violent deaths not specified in the authors' analysis were sudden deaths of drug users, but for which death by overdose was not confirmed in the absence of test results. In the study carried out, of the 246 deaths for which the authors had access to the files, only 90 toxicological results were available. Three-quarters of these results were positive, i.e. almost 69 analyses, for which the result indicated that the doses were above the therapeutic threshold. Anxiety medications¹² are the most common drugs found in overdose deaths. However, overdoses involving antipsychotics¹³, antidepressants, and alcohol, as well as hard drugs such as heroin, should not be overlooked.

Finally, it is difficult to analyse the unintentionality of deaths caused by overdose. In 2011, only two overdose deaths were counted as suicides. In the first of these two cases, a letter had been left in which the inmate had expressed the intention to die. In the other case, the autopsy doctor mentioned death with "suicidal intent". When a death is suspected of being a suicide, autopsies are only carried out at the request of the public prosecutor. The request is then examined by the Central Commission for Suicide Prevention, a psychiatrist, and a representative of the Ministry of Health¹⁴.

Suicide

An obscure phenomenon

Suicide is a public health problem in France, but it is even more worrying in prisons, where the suicide rate is much higher than in the general population. However, the difficulty of gathering data on the reasons for suicides in French prisons is real because of the opacity of the reports, which do not always mention the responsibilities of the penitentiary centres.

¹¹ Association pour la prévention de la torture (N.D.) Fouilles corporelles. *Apt.ch* [online] Available at: <https://www.apt.ch/fr/resources/detention-focus-database/safety-order-and-discipline/fouilles-corporelles> [Accessed Feb 26th 2023]

¹² Anxiety medications are those used to treat anxiety disorders.

¹³ Antipsychotic drugs help reduce hallucinations and delusions, improve concentration and motivation, relieve anxiety and reduce aggression.

¹⁴ DESESQUELLES A., KENSEY A. et MESLE F. (2018). Circonstances et causes des décès des personnes écrouées en France : le poids écrasant des morts violentes. *Population* 2018/4. Page 757 à 786. [online] Available at: <https://www.cairn.info/revue-population-2018-4-page-757.htm> [Accessed Feb 16th 2023].

The figures speak for themselves: the suicide rate in prisons is seven times higher than in the general French population¹⁵. France has one of the highest suicide rates in prisons in the EU-15, with prisoners committing suicide six times more often than the general population. According to official figures, in 2022, 125 prisoners took their own lives in prison¹⁶, a figure that does not take into account suicides occurring within 24 hours of leaving prison. Furthermore, these figures do not provide any information on the reasons or circumstances in which these suicides took place. The reports published by the judicial authorities do not always mention the responsibilities of the prisons or the conditions of detention, which can have an impact on the mental health of prisoners. This lack of transparency also applies to relatives in individual situations. It is, of course, possible that prisoners' families are generally distrustful of the prison administration because the statistics are often very opaque and are therefore frequent sources of suspicion. More than that, this lack of transparency is all the more problematic for the families and loved ones of prisoners who commit suicide in prison, because of the mystery that surrounds the circumstances of the death. As a result, many families (such as those of Alassane Sangaré¹⁷, Alexis Di Grazia¹⁸, and Pauline Depirou¹⁹) are questioning the role played by the prison administration in these violent deaths.

Suicides in prison are generally linked to factors such as overcrowding, lack of intimacy, isolation, violence, and the absence of adequate psychological support²⁰. In this context, it is crucial to identify the risk factors specific to prisons to prevent suicides. However, data collection is complicated by the lack of a centralised and standardised data collection system. The difficulty in gathering figures and data on the reasons for suicides in French prisons is a major problem that hinders understanding of this phenomenon and hampers the implementation of preventive measures.

Reports from the judicial authorities are often vague and do not provide sufficient detail on the circumstances that led to a prisoner's suicide. For example, a report may state that a prisoner committed suicide in prison, but not mention that the prisoner had made several previous suicide attempts or that

¹⁵ DUTHE G, HAZARD A. (2014). Le suicide en prison [online] Available at: <https://www.ined.fr/fr/tout-savoir-population/memos-demo/focus/suicide-en-prison/> [Accessed March 5th 2023].

¹⁶ Observatoire international des prisons (N.D.). Décès en détention et suicides. *Oip.fr* [online] Available at: <https://oip.org/decrypter/thematiques/deces-en-detention-et-suicides/> [Accessed October 21th 2023].

¹⁷ BEAURY C. (2023) Mort en détention d'Alassane Sangaré : la famille réclame la vérité. *Bondyblog.fr* [online] 23 fév. Available at: <https://www.bondyblog.fr/societe/mort-en-detention-dalassane-sangare-la-famille-reclame-la-verite/> [Accessed Feb 26th 2023].

¹⁸ CHETAİL P. (2022) Alexis Di Grazia, détenu de la prison de Roanne décédé : « Pour sa famille, c'est le combat d'une vie ». *Le-pays.fr* [online] 20 juil. Available at: https://www.le-pays.fr/roanne-42300/faits-divers/alexis-di-grazia-detenu-de-la-prison-de-roanne-decede-pour-sa-famille-c-est-le-combat-d-une-vie_14162368/ [Accessed on Feb 16th].

¹⁹ LASCoux B. (2021) Après le suicide de sa fille à la prison de Caen, un père continue le combat. *Ouest-france.fr* [online] 25 août. Available at: <https://www.ouest-france.fr/normandie/caen-14000/sa-fille-se-pend-en-prison-a-caen-le-pere-ne-desarme-pas-malgre-sa-plainte-classee-sans-suite-d3d6d6da-04de-11ec-bd1d-78bd91918edf> [Accessed on Feb 16th 2023].

²⁰ ECK M., SCOUFLAIRE T., DEBIEN C., AMAD A., SANNIER O., CHAN CHEE C., THOMAS P., VAIVA G., FOVET T. (2019). Le suicide en prison : épidémiologie et dispositifs de prévention. *Elsevier* [online] Available at: <https://hal.science/hal-03486054/document> [Accessed March 5th 2023]

he or she had reported mental health problems²¹. Without this information, it is difficult to understand the underlying factors that led to the suicide.

When a prisoner dies, an administrative file is opened with the DAP. This file includes the prisoner's criminal record (i.e. a form filled in at the start of detention, gradually completed with information about the execution of the sentence), his or her socio-demographic characteristics, as well as a variety of documents enabling an account of the circumstances of the death to be drawn up. The results of post-mortem analyses are incidental, although they are frequently attached. The cause of death of a prisoner is generally determined from this file. However, these are not medical records and do not include a full analysis of the prisoner's history. There is also no specific deadline for the publication of these reports, which means that it can take months or even years before they are published. They can take a long time to compile, and there are no rules governing their publication²². In addition, when these files are published, they can only be accessed via the National Prisoners File, which can only be accessed via the interconnection of administrative Intranets, secured by a smart card system²³. As a result, information is only available to the various departments of the prison administration. This makes it difficult for health professionals, human rights activists, and journalists to monitor trends and put pressure on the authorities to improve suicide prevention in prison. It is therefore important that measures are taken, firstly to standardise the content of individual files, and secondly to provide simpler and more transparent access to these files.

A worsening situation

In France, the suicide rate in prison is much higher than in the community. However, it is important to emphasise that prison does represent a protected environment, which can act as a barrier against certain types of violence, such as traffic accidents, one of the major causes of death in the general French population. It is therefore difficult to put suicide rates in prisons into perspective with those of the general population, as suicide could be numerically much higher in an environment where the causes of death are limited. Despite this, suicide remains a frequent occurrence in prisons: almost one in two deaths in prison is a suicide²⁴. Analysis of prison administration data reveals several risk factors specific to the prison environment, such as pre-trial detention or being placed in a disciplinary cell. Since the mid-19th century, the suicide rate in prisons has risen sharply, reaching 18.5 suicides per 10,000 people

²¹ N.D. (2022). Prison : 122 détenus se sont suicidés en 2021, selon le ministère de la Justice. *Leparisien.fr* [online] 1 mars. Available at: <https://www.leparisien.fr/societe/prison-122-detenus-se-sont-suicides-en-2021-selon-le-ministere-de-la-justice-01-03-2022-WN4SBWR7HJG7XONSJX7X2I7J6U.php> [Accessed March 5th 2023]

²² DESESQUELLES A., KENSEY A. et MESLE F. (2018). Circonstances et causes des décès des personnes écrouées en France : le poids écrasant des morts violentes. *Population* 2018/4. Page 757 à 786. [online] Available at: <https://www.cairn.info/revue-population-2018-4-page-757.htm> [Accessed Feb 16th 2023].

²³ MARINI P. (2004). *Rapport général fait au nom de la commission des Finances, du contrôles budgétaire et des comptes économiques de la Nation (1) sur le projet de loi des finances pour 2005. Tome III: les moyens de services et les dispositions spéciales. Annexe n°27: Justice.* [online] Available at: <https://www.senat.fr/rap/l04-074-327/l04-074-3270.html> [Accessed Feb 16th 2023].

²⁴ DESESQUELLES A., KENSEY A. et MESLE F. (2018). Circonstances et causes des décès des personnes écrouées en France : le poids écrasant des morts violentes. *Population* 2018/4. Page 757 à 786. [online] Available at: <https://www.cairn.info/revue-population-2018-4-page-757.htm> [Accessed Feb 16th 2023].

between 2005 and 2010, before stabilising and even falling in 2012²⁵. This drop can be attributed to the development of new suicide prevention measures, which could indicate that the reason suicide was previously on the rise was inaction on the part of public administrations. Even so, the suicide rate is more than seven times higher than that of the general population²⁶.

Christophe Dorangeville, General Secretary of the CGT penitentiary union, points out that although it is difficult to explain every suicide in prison, there are a number of factors that can help to shed light on the situation²⁷. This is particularly the case with the wave of suicides in 2018 at Fleury-Mérogis, which condenses all the problems of prisons in France, such as overcrowding, which affects the mental and physical health of prisoners, and the lack of surveillance staff, which limits the detection of warning signs of suicide. Dorangeville adds that this situation is very prevalent in remand prisons, where the majority of inmates are remand prisoners or convicts with a sentence or residual sentence of fewer than two years, where the prison population density is high, and staff shortages lead to flow management rather than a human relationship with the inmates²⁸.

Overview of suicides in prison

It takes time to spot the warning signs of a suicide attempt, such as isolation, withdrawal, a tendency to talk about difficulties, and to mention death several times. It is important to be able to engage in conversation to observe these signs. A 2015 INED report²⁹ identified the individuals most likely to commit suicide: individuals on remand, who are faced with the shock of imprisonment and uncertainty about their legal fate, are twice as likely to commit suicide as convicted prisoners. As a result, the prisons recording the highest number of suicides are the remand prisons. However, it is important to stress that this phenomenon of prison shock does not only affect remand prisoners³⁰. It can be defined as “*the individual consequences of a first incarceration [...]. [...] Initially experienced in euphoria or, more often, in depressive despondency, it bears witness to the excessive anxiety that it reactivates. This rupture and the confrontation with the prison world emerge in the prisoners’ discourse in the form of*

²⁵ ECK M., SCOUFLAIRE T., DEBIEN C., AMAD A., SANNIER O., CHAN CHEE C., THOMAS P., VAIVA G., FOVET T. (2019). Le suicide en prison : épidémiologie et dispositifs de prévention. *Elsevier* [online] Available at: <https://hal.science/hal-03486054/document> [Accessed March 5th 2023]

²⁶ DUTHE G, HAZARD A. & KENSEY A. (2014). Suicide des personnes écrouées en France : évolution et facteurs de risque. *Population-F*, 69(4), Pages 7 à 38 [online] Available at: https://www.ined.fr/fichier/rte/General/Publications/Population/articles/2014/population_2014_4_suicide_prison_france.pdf [Accessed March 5th 2023]

²⁷ PACAUD V. (2018). Pourquoi se suicide-t-on autant dans les prisons françaises ? *Lesinrocks.com* [online] 10 août. Available at: <https://www.lesinrocks.com/actu/pourquoi-se-suicide-t-autant-dans-les-prisons-francaises-168625-10-08-2018/> [Accessed March 5th 2023]

²⁸ *Ibid.*

²⁹ DUTHE G, HAZARD A. & KENSEY A. (2014). Suicide des personnes écrouées en France : évolution et facteurs de risque. *Population-F*, 69(4), Pages 7 à 38 [online] Available at: https://www.ined.fr/fichier/rte/General/Publications/Population/articles/2014/population_2014_4_suicide_prison_france.pdf [Accessed March 5th 2023].

³⁰ DESEQUELLES A., KENSEY A. et MESLE F. (2018). Circonstances et causes des décès des personnes écrouées en France : le poids écrasant des morts violentes. *Population* 2018/4. Page 757 à 786. [online] Available at: <https://www.cairn.info/revue-population-2018-4-page-757.htm> [Accessed Feb 16th 2023].

*experiences of loss, abandonment and deficiency, if not death*³¹. This phenomenon is almost universal and affects the vast majority of prisoners. In fact, 17% of suicides occur during the first ten days of imprisonment, which seems to indicate that the majority of suicides are the result of prison shock³². It is also possible to identify, even more precisely, which categories of people in prison are more susceptible to this phenomenon. For example, 11% of suicides in prison in 2011 were committed by prisoners with an above-average level of education, compared with a rate of 3% in the general French population. This might suggest that the shock of prison is greater for those with a high level of education³³. A clearer identification of the most vulnerable categories of prisoners could make it possible to focus a greater proportion of suicide prevention efforts on the prisoners most concerned, which could make the prevention strategy more effective. The issue of prison shock is key to understanding suicide in prison, so measures to reduce it, so that it is less of a driver of psychological fragility, and therefore of suicide, would be optimal prevention measures. These could focus on improving the psychological support offered, in particular by increasing the number of mental health staff, but also on developing the CDS system.

In order to develop a better prevention strategy, it is also necessary to establish which categories of the prison population are susceptible to suicide more generally. The first category at increased risk of suicide is prisoners suffering from mental health problems. The National Consultative Ethics Committee for Health and Life Sciences has already pointed out the link between incarceration and the risk of developing or worsening mental disorders, noting that the rate of psychiatric pathologies is 20 times higher in prison than in the general population³⁴. More than that, the Albrand commission, set up at the request of Rachida Dati, then Minister of Justice, identified depression as a major issue in the question of suicides in prisons. Depression is the leading cause of suicide in French prisons, particularly when it is unidentified or untreated³⁵. It is therefore vital to develop psychiatric measures to prevent suicide.

In 2011, a quarter of suicides had been committed by rapists, which seems to point to a certain correlation between the risk of suicide and the seriousness of the offence committed by the prisoner, which could be explained by a certain degree of guilt³⁶. This feeling is reinforced by the fact that murderers are also a category that is particularly vulnerable to suicide (48 per 10,000, compared with an

³¹ Free translation from French to English: « *conséquences individuelles d'une première incarcération. [...] Vécu dans un premier temps dans l'euphorie ou plus souvent dans l'abattement dépressif, il témoigne de l'excès d'angoisse qu'il réactive. Cette rupture et la confrontation avec l'univers carcéral se dégagent dans le discours des détenus sous forme de vécu de perte, d'abandon et de carence sinon de mort* ». Carcéropolis (N.D.). Choc carcéral. *Carceropolis.fr*. [online] Available at: <https://carceropolis.fr/Choc-carceral> [Accessed Feb 16th 2023].

³² DENECKER X. (2022). Prévenir le suicide en prison. *Anvp.org*. [online] 19 oct. Available at: <https://www.anvp.org/prevenir-le-suicide-en-prison> [Accessed on Feb 16th 2023].

³³ DESESQUELLES A., KENSEY A. et MESLE F. (2018). Circonstances et causes des décès des personnes écrouées en France : le poids écrasant des morts violentes. *Population* 2018/4. Page 757 à 786. [online] Available at: <https://www.cairn.info/revue-population-2018-4-page-757.htm> [Accessed Feb 16th 2023].

³⁴ Comité Consultatif National d'Éthique pour les Sciences de la Vie et de la Santé (2006). Avis n°94 : La santé et la médecine en prison. *Ccne-ethique.fr* [online] Available at: <https://www.ccne-ethique.fr/sites/default/files/2021-02/avis094.pdf> [Accessed Feb 16th 2023].

³⁵ Commission Albrand (2009). La prévention du suicide en milieu carcéral. *Justice.gouv.fr* [online] Available at: http://www.justice.gouv.fr/art_pix/rap_albrand_2009.pdf [Accessed on Feb 16th 2023].

³⁶ DESESQUELLES A., KENSEY A. et MESLE F. (2018). Circonstances et causes des décès des personnes écrouées en France : le poids écrasant des morts violentes. *Population* 2018/4. Page 757 à 786. [online] Available at: <https://www.cairn.info/revue-population-2018-4-page-757.htm> [Accessed Feb 16th 2023].

average of 17 per 10,000 for the entire prison population). In addition, people placed in disciplinary cells are 15 times more likely to commit suicide than those placed in ordinary cells³⁷. Finally, prisoners who still receive frequent visits have lower than average suicide rates (around 10 per 10,000)³⁸, which seems to underline that the loss of social ties (with family, for example) can also explain the act.

Inadequate conditions to prevent suicide

In France, some measures have been taken to prevent suicides in prison, especially through the national action plan of prevention and fight against suicide in prisons of June 15th, 2009. Initially presented by the French Minister of Justice, Rachida Dati, it is a national plan, divided into 20 recommendations, and regularly reviewed by a group of politicians co-chaired by the direction of the PAD and Professor Jean-Louis Terra, a psychiatrist and leading figure in suicide prevention in prisons. The plan has five main lines of action³⁹. The first is to train French prison staff in suicide prevention practices, with an emphasis on staff in contact with vulnerable inmates, such as psychiatric staff and warders in isolation or arrivals wards. The second aim is to improve protection measures for prisoners who commit suicide, in particular by providing them with sheets and clothing that cannot be used in the context of a suicide. The actions then focus on developing a degree of multidisciplinary within the prison environment, in order to develop practices that are more sympathetic to the particularities of this environment. Another priority is to combat the sense of isolation from which prisoners in disciplinary wards can suffer, which is one of the main causes of suicide in prison. Finally, we need to mobilise the entire "prison community" around these prevention efforts, whether they be associations, family members, or partners of the Ministry of Justice. The implementation and multiplication of those measures are monitored by the DAP's Mission for prevention and fight against suicide, created for this purpose. However, one of the major problems with this action plan remains the fact that its competence is given to the DAP, and not to the Ministry of Health, which already has considerable experience in the field of suicide prevention, and could take into account the psychological aspects of the issue, the main blind spot of the prison administration⁴⁰.

A key event was the setting up, as part of the action plan, of co-detainee support teams (CDS), trained by the Red Cross, to help the most vulnerable detainees and minimise the risk of them acting out. This

³⁷ DUTHE G, HAZARD A. & KENSEY A. (2014). Suicide des personnes écrouées en France : évolution et facteurs de risque. *Population-F*, 69(4), Pages 7 à 38 [online] Available at: https://www.ined.fr/fichier/rte/General/Publications/Population/articles/2014/population_2014_4_suicide_prison_france.pdf [Accessed March 5th 2023].

³⁸ *Ibid.*

³⁹ DATI R. (2009). Prévention du suicide des personnes détenues - Plan d'actions 2009 - Suites du rapport de la commission Albrand. *Justice.gouv.fr* [online] Available at: http://www.justice.gouv.fr/art_pix/plan_ministeriel_2009.pdf [Accessed on Feb 16th 2023].

⁴⁰ N.D. (2021) Monde carcéral et prévention du suicide - Éléments d'information et de prévention. *Renovation-asso.com* [online] 6 janv. Available at: <https://renovation-asso.com/dossier-monde-carceral-et-prevention-du-suicide-elements-dinformation-et-de-prevention/> [Accessed on Feb 16th 2023].

system was first introduced in 2010 in three prisons⁴¹ and has been extended to ten other centres⁴² to date. Although this is a complex system to deploy, particularly as it involves training, one of its major shortcomings is that it is not deployed in all French prisons, creating disparities in the quality of prevention provided. This disparity is all the more marked as there are favoured regions, such as the prisons of Île-de-France or Bouches-du-Rhône, and forgotten regions, such as Hauts-de-France. The CDS scheme brings together volunteer prisoners, selected based on specific criteria following interviews. They then receive suicide prevention training. Supporting inmates provide psychological support to combat isolation, which can encourage suicidal thoughts. This system is an effective measure, as many studies emphasise the key role played by co-inmates in suicide prevention: by their mere presence, they can alleviate a certain feeling of isolation that could be the source of suicidal thoughts⁴³. However, they do not replace the work of prison staff, who remain crucial in monitoring prisoners, in particular through regular rounds every two hours at night. It is crucial that this framework is respected in practice, as the psychological consequences of the CDS role can be extremely serious, especially if the prisoner under surveillance commits suicide in the CDS's cell. Preventing suicide in prisons therefore also involves training prison staff, which is a key aspect of the national action plan. However, it is important to emphasise that staff training should not be confined to prevention, but should also focus on how to manage suicide in a prison environment. This could help to address the high suicide rate among prison staff, which is 31% higher in the PAD than in the general population⁴⁴.

In another attempt to include the entire “prison community”, the PAD has also set up “green letter boxes” in almost all French prisons. Although they are not used exclusively to prevent suicide (they can, in fact, be used to make any kind of report to the DAP), families and loved ones can turn to these boxes to alert them to the risk of suicide by an inmate. Installed next to the visiting rooms or in the family reception areas, these are letterboxes that are emptied daily, into which prisoners' relatives can drop letters expressing their concerns about a prisoner's suicidal tendencies. The establishment can then take precautionary and preventive measures, and systematically get back to the people having contacted them⁴⁵.

To address the problem of suicide, it is also essential to tackle the issue of psychological disorders that can lead to suicide. Article 48 of the Law on the Orientation and Programming of the Justice System of

⁴¹ These are Bordeaux-Gradignan prison (33), Strasbourg prison (67) and Villepinte prison (93).

⁴² The CDS system is now also present in the penitentiary centers of Saint-Denis (93), Réunion (974), Toulon-La-Faralède (83), Bourg-en-Bresse (01), Fresnes (94), Marseille (13), Salon-en-Provence (13), Béziers (34), Tarascon (13), and Le Port (97), as well as the Nice prison (06).

⁴³ ECK M., SCOUFLAIRE T., DEBIEN C., AMAD A., SANNIER O., CHAN CHEE C., THOMAS P., VAIVA G., FOVET T. (2019). Le suicide en prison : épidémiologie et dispositifs de prévention. *Elsevier* [online] Available at: <https://hal.science/hal-03486054/document> [Accessed March 5th 2023].

⁴⁴ N.D. (2021) Monde carcéral et prévention du suicide - Éléments d'information et de prévention. *Renovation-asso.com* [online] 6 janv. Available at: <https://renovation-asso.com/dossier-monde-carceral-et-prevention-du-suicide-elemente-dinformation-et-de-prevention/> [Accessed on Feb 16th 2023].

⁴⁵ N.D. (2018) Prévention du suicide en détention. *Justice.gouv.fr*. [online] 17 oct. Available at: <http://www.justice.gouv.fr/prison-et-reinsertion-10036/ladministration-penitentiaire-10037/prevention-du-suicide-en-detention-27198.html> [Accessed on Feb 16th 2023].

September 9th, 2002⁴⁶ made the necessary provisions for the creation of units specialising in the management of these disorders, but it was not until 2010 that the first nine Specially Adapted Hospital Units (UHSA) were announced. They were then gradually opened between 2010 and 2018, creating 440 places for inmates with mental disorders, regardless of their gender or age, to provide them with psychiatric treatment, at their request or by order of the prefect⁴⁷. For the time being, and until a second wave of UHSAs is launched, the number of places available is a major problem for the overall effectiveness of the system. In fact, it seems difficult for hospital units to respond to requests from 86.4%⁴⁸ of the 72,351⁴⁹ prisoners with mental health problems. In addition, healthcare professionals working in UHSAs criticise the limited resources made available to them. This applies not only to material resources but also to staffing levels, which vary from one establishment to another. What's more, these resources are unevenly distributed across the different UHSAs, with those benefiting from more resources generally being supported by regional hospital centres⁵⁰. Managing this situation is made all the more complicated by the fact that UHSAs are often overused since the facilities for treating mental disorders in prisons, which are mainly made up of the Prison Sanitary Units (USMP) are little used. Reorganising the specific objectives of USMPs and UHSAs could make it possible to increase the effectiveness of the treatment provided for mental health disorders that can lead to suicide.

In addition, the Law of August 15th, 2014 extends an already existing system, the Suspension of Sentences on Medical Grounds (SPRM), to psychological pathologies. By submitting an expert opinion, or in an emergency, under a certificate from the attending physician, any prisoner with a psychological

⁴⁶ Free translation from French to English: "I. - Prisoners suffering from mental disorders receive psychiatric care with their consent. When detainees in unrestricted psychiatric care require full-time hospitalisation, this is carried out in a healthcare establishment mentioned in article L. 3222-1 within a specially equipped hospital unit.

II. - When their mental disorders make their consent impossible, detainees may be subject to psychiatric care without consent, detainees may be subject to psychiatric care without consent in application of article 3214-3. Prisoners admitted for psychiatric care without consent are only cared for in accordance with 1) of I of article L. 3211-2-1. They are hospitalised in a health establishment mentioned in article L. 3222-1 in a specially adapted hospital unit or, on the basis of a medical certificate, in an adapted unit."

From the French: « I. - Les personnes détenues souffrant de troubles mentaux font l'objet de soins psychiatriques avec leur consentement. Lorsque les personnes détenues en soins psychiatriques libres requièrent une hospitalisation à temps complet, celle-ci est réalisée dans un établissement de santé mentionnée à l'article L. 3222-1 au sein d'une unité hospitalière spécialement aménagée.

II. - Lorsque leurs troubles mentaux rendent impossible leur consentement, les personnes détenues peuvent faire l'objet de soins psychiatriques sans consentement, les personnes détenues peuvent faire l'objet de soins psychiatriques sans consentement en application de l'article 3214-3. Les personnes détenues admises en soins psychiatriques sans consentement sont uniquement prises en charge sous la formation au 1) du I de l'article L. 3211-2-1. Leur hospitalisation est réalisée dans un établissement de santé mentionné à l'article L. 3222-1 au sein d'une unité hospitalière spécialement aménagée ou, sur la base d'un certificat médical, au sein d'une unité adaptée. » - - Article L. 3214-1 du code de la santé publique. Available at: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000031928545 [Accessed on Feb 16th 2023]

⁴⁷ DANIEL A., DELBOS V., DURAND-MOUYSSET S., EMMANUELLI J., SCHECHTER F. (2018). Évaluation des unités hospitalières spécialement aménagées (UHSA) pour les personnes détenues. *Justice.gouv.fr*. [online] Available at: http://www.justice.gouv.fr/art_pix/Rapport_UHSA_20190107.pdf [Accessed on Feb 16th 2023].

⁴⁸ WHO (2022) Status report on prison health in the WHO European Region 2022. *World Health Organisation*. [online] Available at: <https://www.who.int/europe/publications/i/item/9789289058674> [Accessed on Feb 16th 2023].

⁴⁹ Direction de l'Administration Pénitentiaire (2023). Statistiques des établissements et des personnes écrouées en France. *Justice.gouv.fr*. Mars 2023. [online] Available at: http://www.justice.gouv.fr/art_pix/statistiques_etablissements_personnes_ecrouees_france_202303.pdf [Accessed on March 16th 2023].

⁵⁰ DANIEL A., DELBOS V., DURAND-MOUYSSET S., EMMANUELLI J., SCHECHTER F. (2018). Évaluation des unités hospitalières spécialement aménagées (UHSA) pour les personnes détenues. *Justice.gouv.fr*. [online] Available at: http://www.justice.gouv.fr/art_pix/Rapport_UHSA_20190107.pdf [Accessed on Feb 16th 2023].

condition that could represent a danger to their life and is incompatible with the conditions of detention in the ward in which they are being held can obtain a suspension of their sentence for an indefinite period. This measure could help to combat the rising suicide rate by enabling prisoners suffering from mental illnesses that make them predisposed to suicide to obtain the help they need for reasons of personal safety.

Nevertheless, the Ministry of Justice has published a report showing that 122 prisoners committed suicide in French prisons in 2021, a slight increase from the previous two years⁵¹. In 2020, 119 people took their own lives under custody, compared to 114 in 2019⁵². Although the Council of Europe considers suicide prevention to be a public health issue, successive French governments have refused to transfer this responsibility from the prison administration to the Ministry of Health⁵³. As a result, the measures currently available do not appear to be completely effective in preventing suicide, particularly as they are not sufficient in themselves and need to be supplemented by other measures. However, the possibility of preventing all suicides should be kept in perspective. Aurélie Pascal, Director of Prison Services, gives the example of a man who had been seen by a warden in the morning and appeared to be doing well, but who committed suicide that very afternoon, fifteen days prior to his release. She stresses that it is impossible to establish infallible rules in this area⁵⁴.

Fleury-Mérogis, a particularly high rate: the 2018 wave

February 2018 saw the start of what would become known as “the black series” at the Fleury-Mérogis prison, which in July of that year housed almost 4,238 inmates for 2,956 places. On February 27th, an inmate committed suicide by hanging himself. Over the following month and a half, three other inmates took their own lives inside the prison. While the PAD refused to comment on the matter, one warden pointed to “*a problem of unease, particularly in building D3, but it is impossible to know the cause*”⁵⁵. François Bès, coordinator of the International Prison Observatory (OIP) research unit, said he was already worried about the growing numbers “*because that would be almost as many as the deaths counted over a twelve-month period in some years*”⁵⁶; by way of comparison, in 2015, three suicides

⁵¹ N.D. (2022). Prison : 122 détenus se sont suicidés en 2021, selon le ministère de la Justice. *Leparisien.fr* [online] 1 mars. Available at:

<https://www.leparisien.fr/societe/prison-122-detenus-se-sont-suicides-en-2021-selon-le-ministere-de-la-justice-01-03-2022-WN4SBWR7HJG7XONSJX7X2I7J6U.php> [Accessed March 5th 2023].

⁵² Observatoire international des prisons (N.D.). Décès en détention et suicides. *Oip.fr* [online] Available at: <https://oip.org/decrypter/thematiques/deces-en-detention-et-suicides/#:~:text=En%20prison%2C%20on%20compte%20en,incarc%C3%A9r%C3%A9es%20sont%20d%C3%A9c%C3%A9d%C3%A9es%20par%20suicide> [Accessed March 5th 2023].

⁵³ Observatoire international des prisons (N.D.). Décès en détention et suicides. *Oip.fr* [online] Available at: <https://oip.org/decrypter/thematiques/deces-en-detention-et-suicides/> [Accessed October 21th 2023]

⁵⁴ PACAUD V. (2018). Pourquoi se suicide-t-on autant dans les prisons françaises ? *Lesinrocks.com* [online] 10 août. Available at: <https://www.lesinrocks.com/actu/pourquoi-se-suicide-t-autant-dans-les-prisons-francaises-168625-10-08-2018/> [Accessed March 5th 2023]

⁵⁵ LOISY F. (2018). Morts en série à la prison de Fleury-Mérogis, *Leparisien.fr*. [online] 18 avr. Available at: <https://www.leparisien.fr/faits-divers/morts-en-serie-a-la-prison-de-fleury-merogis-18-04-2018-7671453.php> [Accessed Feb 16th 2023].

⁵⁶ *Ibid.*

were counted within the establishment, and in 2016, there had been six⁵⁷. Following these redundant events, the PAD and the Regional Agency of Health jointly launched an internal investigation into the causes of these incidents. However, the Ministry of Justice stressed that *“this report is not intended to be public”*, so it was impossible to find out what conclusions had been drawn about potential causes⁵⁸. In August of the same year, even when the Controller General of Places of Deprivation of Liberty (CGLPL) - which is nevertheless an independent administrative authority, a body acting on behalf of the French state and therefore having a certain amount of power- requested information on the investigations, their conclusions and the accompanying measures, the management at Fleury-Mérogis remained silent⁵⁹. This has given rise to the feeling among prisoners and visitors that the prison administration is hiding something from them.

Even so, by the end of 2018, no fewer than 13 suicides, including of a warder, were recorded. The PAD said at the time that it *“could not understand what was causing this spike”*⁶⁰, and sought the answer to their question mainly in the suicide prevention measures, which, according to them, had no flaws. Adeline Hazan, CGLPL from 2014 to 2020, asked the PAD to improve suicide prevention measures, in particular the isolation of detainees considered to be suicidal, who are woken up four times a night to be monitored⁶¹. These practices place them in situations of greater distress and vulnerability, as *“people with sleep problems are 2.6 times more likely to attempt suicide”*⁶².

How can this “dark wave” be explained? Hazan sees it as *“the consequence of an absolutely considerable scourge that has been affecting French prisons for decades, that of prison overcrowding [...] added to a lack of funding, particularly for maintenance”*⁶³. At the time, Fleury-Mérogis prison was 142% overcrowded, although it was already a massive prison (covering 180 hectares) and the largest in Europe⁶⁴. While Fleury-Mérogis is already an intimidating and anxiety-provoking prison because of its size, it is also because of the size of its population, increasing the risk of prison shock on entry (and

⁵⁷ LOISY F. (2018). Douzième suicide de l’année à la prison de Fleury-Mérogis, *Leparisien.fr*. [online] 10 sept. Available at: <https://www.leparisien.fr/essonne-91/douzieme-suicide-de-l-annee-a-la-prison-de-fleury-merogis-10-09-2018-7883259.php> [Accessed Feb 16th 2023].

⁵⁸ BES F. & MARCEL C. (2018). Prison de Fleury-Mérogis, quinze morts en neuf mois. *Blogs.mediapart.fr*. [online] 30 oct. Available at: <https://blogs.mediapart.fr/observatoire-international-des-prisons-section-francaise/blog/301018/prison-de-fleury-merogis-quinze-morts-en-neuf-mois> [Accessed Feb 16th 2023]

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

⁶¹ PERIN C. (2018). Suicide en milieu carcéral : un taux sept fois plus élevé en détention. *Journal spécial des sociétés* [online] Available at: https://www.jss.fr/Suicide_en_milieu_carceral_un_taux_sept_fois_plus_eleve_en_detention_-1378.awp [Accessed Feb 16th 2023].

⁶² N.D. (2009). Le manque de sommeil favoriserait le suicide. *Lesechos.fr* [online] 10 avr. Available at : <https://www.lesechos.fr/2009/04/le-manque-de-sommeil-favoriserait-le-suicide-453505> [Accessed on Feb 16th 2023].

⁶³ PERIN C. (2018). Suicide en milieu carcéral : un taux sept fois plus élevé en détention. *Journal spécial des sociétés* [online] Available at: https://www.jss.fr/Suicide_en_milieu_carceral_un_taux_sept_fois_plus_eleve_en_detention_-1378.awp [Accessed Feb 16th 2023].

⁶⁴ BES F. & MARCEL C. (2018). Prison de Fleury-Mérogis, quinze morts en neuf mois. *Blogs.mediapart.fr*. [online] 30 oct. Available at: <https://blogs.mediapart.fr/observatoire-international-des-prisons-section-francaise/blog/301018/prison-de-fleury-merogis-quinze-morts-en-neuf-mois> [Accessed Feb 16th 2023]

therefore also increasing the risk of suicide). The growing prison overcrowding from which it suffers systematically makes this prison an even more hostile environment for the inmates it accommodates. In January 2018, France had just been singled out by the UN Human Rights Council as part of its Universal Periodic Review (an individual analysis of human rights developments in each UN member country, renewed every four to five years), whose members⁶⁵ considered that “*the problems associated with overcrowded prisons appear to require urgent measures*”⁶⁶. Hazan also highlights the fact that the prison maintenance budgets are failing, and as a result, it is not possible to address the appalling conditions of detention in some prisons, which also accentuates the potential for prison shock.

In addition, this overcrowding and the conditions of detention it creates lead to burnout among prison officers. They work in an environment described as violent, which complicates their task of monitoring prisoners and identifying potential vulnerabilities that could lead to suicide. As a result, there is a high rate of absenteeism, but also many staff departures. To remedy the situation, the Fleury-Mérogis administration calls on a large number of trainees, who alone represent 65% of the workforce. This can have serious consequences for the supervision of prisoners, particularly those in distress, and also for the general atmosphere within the prison. As one detainee puts it, “*we’re no anglers, but they put us with guys that aren’t trained to manage detention, so things get out of hand every day*”⁶⁷. Finally, it is equally important to highlight the role played by the lack of access to the care required to treat vulnerabilities or psychological disorders that place the detainee in a situation where he or she is likely to take his or her own life. The medical team is also suffering from exhaustion, particularly as it is understaffed, reducing the quality of care it is able to provide.

In September 2018, the PAD announced the extension of the CDS system to deal with this “dark series”. According to the DAP, this enables them to “*ensure in practice, by doubling up in the cells or simple verbal exchanges, that they are able to identify, support, and protect detainees who are suffering psychologically, at risk of suicide or in a state of suicidal crisis*”⁶⁸. Their main means of intervention is therefore cell doubling, i.e. the practice of placing a suicidal inmate in the cell of a CDS so that the CDS can provide follow-up and thus reduce the risk of suicide. However, in practice, this system is not always implemented correctly, as this prisoner told OIP: “*When I signed up to become a CDS, we agreed with the management that we could have a second suicidal prisoner in my cell, but only exceptionally and for a maximum of two days*”. However, he ended up taking in a fellow inmate suffering from suicidal disorders for seven months.⁶⁹ The psychological consequences that this mission, especially when carried

⁶⁵ Among the member countries calling on the French government to take action on detention conditions are Germany, the Netherlands, South Korea, Georgia, Iran, Venezuela, Norway, Ghana, Denmark and Sweden. The recommendations are available at the following link: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/102/50/PDF/G1810250.pdf?OpenElement> [Accessed Feb 16th 2023].

⁶⁶ N.D. (2018). La France épinglée à l’ONU pour sa mauvaise gestion des prisons. *Ouest-france.fr*. [online] 19 janv. Available at: <https://www.ouest-france.fr/societe/prison/la-france-epinglee-l-onu-pour-sa-mauvaise-gestion-des-prisons-5510948> [Accessed Feb 16th 2023]

⁶⁷ BES F. & MARCEL C. (2018). Prison de Fleury-Mérogis, quinze morts en neuf mois. *Blogs.médiapart.fr*. [online] 30 oct. Available at: <https://blogs.mediapart.fr/observatoire-international-des-prisons-section-francaise/blog/301018/prison-de-fleury-merogis-quinze-morts-en-neuf-mois> [Accessed Feb 16th 2023].

⁶⁸ ANELLI L. (2018) Les codétenus de soutien, la fausse bonne idée. *Oip.org*. [online] 12 nov. Available at : <https://oip.org/analyse/les-codetenus-de-soutien-la-fausse-bonne-idee/> [Accessed Feb 16th 2023].

⁶⁹ *Ibid.*

out in such conditions, can have on volunteer CDSs are imposing and should not be ignored, as they could lead to psychological exhaustion, as is the case for prison staff, and even drive them to suicide. This potential feeling of fatigue may be reinforced by the fact that CDSs sometimes have to intervene at night, as some wardens prefer to turn to them rather than to the medical units⁷⁰. So, although it could be a good way of preventing prison suicide, the CDS system ultimately places the responsibility for this task on prisoners rather than on qualified and specialised prison staff. What's more, both the workload and the emotional burden are too great to be imposed on prisoners, even if they are volunteers, as they call into question not only their personal health but also their chances of reintegration, which should be the ultimate objective of imprisonment and on which they are obviously much less focused.

⁷⁰ *Ibid.*

NATURAL DEATHS

General portrait of natural deaths in prison

The issue of the natural end of life in prison is a controversial and delicate one to tackle since it requires us to approach both death and the deprivation of freedom, thus raising a whole range of issues: medical, social, legal, political, and so on. It is made all the more special by the fact that it is intrinsically linked to the issues of ageing and illness in detention, both of which present specific challenges for all parties involved, including prison officers, caregivers, and magistrates.

What do we mean when we talk about “natural deaths”? The PAD categorises as such: deaths caused by diseases, pathologies, and other health conditions, including infectious diseases, cancers, cardiovascular diseases of the circulatory system, and diseases of the respiratory system⁷¹. The majority of these deaths are highly predictable, as medical check-ups are supposed to be able to identify medical histories, mental disorders, or risky behaviours that could lead to the imminent onset of a potentially fatal pathology. When this one can be detected, as with any patient suffering from such an illness, the inmates in question have to find ways of obtaining treatment. The latter are usually provided in hospitals and are therefore not always compatible with incarceration.

Indeed, according to the Law of September 18, 1994, as soon as inmates are taken into custody, they are subject to the general health law: all health services must therefore be offered to them by the DAP. According to the protocol, in the week following their admission to prison, all inmates undergo a physical medical check-up, to establish a picture of their general state of health. Then, for the rest of their stay in prison, they have access to care provided by doctors and nurses working in the Prison Sanitary Units (USMP)⁷². As such, why do prisoners die of natural causes at a lower rate than the rest of the French population? The mortality rate from natural causes is indeed estimated to be twice as low in prisons⁷³. The first reason is, of course, the excess mortality due to suicide, which means that fewer prisoners reach an age at which they are likely to suffer from a pathology that could cause natural death. A second justification may also be the multiplication and facilitation of access to release measures for medical reasons over the years, especially with the Kouchner Law, which guarantees a large part of these possibilities. The release of a significant proportion of inmates with worsening health conditions thus helps to reduce the number of natural deaths within the walls of French prisons. As such, the under-mortality of natural deaths in prison cannot be explained by adequate protection, nor by the assurance of ongoing care during detention.

On the contrary, today, natural causes of death are a growing threat in the prison environment. The population is definitely getting older: in 1990, there were 449 inmates aged over 60 out of a total of 45,419 incarcerated in France, a figure that has grown exponentially since then, as in 2015, there were

⁷¹ DESESQUELLES A., KENSEY A. et MESLE F. (2018). Circonstances et causes des décès des personnes écrouées en France : le poids écrasant des morts violentes. *Population* 2018/4. Page 757 à 786. [online] Available at: <https://www.cairn.info/revue-population-2018-4-page-757.htm> [Accessed Feb 16th 2023]

⁷² *Ibid.*

⁷³ *Ibid.*

3,021 out of 77,291⁷⁴. This growth is reinforcing the emergence of chronic diseases and pathologies causing loss of autonomy. The increasing number of natural deaths in prison can be explained by the obvious ageing of the prison population serving their sentences, but other explanations include the hardening and increasing length of many sentences, as well as the growing criminalization of certain offences, especially sexual ones⁷⁵.

Natural deaths occur less frequently in remand prisons, where inmates have a sentence or residual sentence of less than two years. This highlights the correlation between the length of sentence and the possibility of dying in prison, as the longer the sentence, the more likely the inmate is to die while incarcerated⁷⁶. As a result, prisoners committing serious offences, especially felonies, are more likely to die a natural death while in prison, as they are the ones who receive the harshest and therefore longest sentences. In addition, as noted above, age is also a discriminating factor when it comes to death in prison. For instance, in 2011, the average age of male prisoners who died a natural death was 52.5, and six out of ten natural deaths involved prisoners over the age of 50⁷⁷, clearly demonstrating that old age is a factor that increases prisoners' chances of dying in custody. This also raises the question of the impact of incarceration on prisoners' health. Indeed, people dying in prison are younger than those dying in the general population, even though they are older than the majority of the prison population: life expectancy for men in the general French population is 79.3 years, which means that from the moment he is incarcerated, a male prisoner is likely to die almost 30 years before the majority of his peers. This raises the question of whether prison and its conditions of detention cause the body to tire more quickly than living conditions outside prison.

However, it is undeniable that some deaths cannot be attributed to any shortcomings in the prison system: there is a real correlation between the pathology developed, and the lifestyle held prior to incarceration. Other explanations for natural deaths in prison include the ageing of the prison population, which leads to a greater proportion of the incarcerated population being prone to life-threatening illness. Yet it is important to emphasise that, while this process is natural, it is partly created by the tightening of incarceration measures. In addition, in a ruling handed down in 2014, the French Court of Audit highlighted several factors that worsen prisoners' health, including promiscuity, isolation, lack of hygiene facilities, and penitentiary overcrowding⁷⁸, which is now reaching new heights⁷⁹.

⁷⁴ RIDEL L. et TOURAUT C. (2016). Personnes détenues en fin de vie : expériences individuelle et modalités de prise en charge. *Cahiers d'études pénitentiaires et criminologiques* n°41. [online] Available at: http://www.justice.gouv.fr/art_pix/cahiers_etudes_41_Personnes_detenues_en_fin_de_vie.PDF [Accessed Feb 16th 2023]

⁷⁵ *Ibid.*

⁷⁶ DESESQUELLES A., KENSEY A. et MESLE F. (2018). Circonstances et causes des décès des personnes écrouées en France : le poids écrasant des morts violentes. *Population* 2018/4. Page 757 à 786. [online] Available at: <https://www.cairn.info/revue-population-2018-4-page-757.htm> [Accessed Feb 16th 2023]

⁷⁷ *Ibid.*

⁷⁸ *Ibid.*

⁷⁹ See our Instagram publication « Focus: Penitentiary overcrowding in France » of December 29, 2022 : https://www.instagram.com/p/CmwLPZHIApk/?utm_source=ig_web_copy_link

The fear of dying in custody

How do prisoners feel about the prospect of their death? Even more, how do they feel about the prospect of potentially dying in prison? “*The scary thing is that I’m 75 and we’re all dying. I wouldn’t want to die in there*”, said one prisoner during an interview on this subject⁸⁰. Indeed, the majority of inmates are terrorised by the prospect of dying in prison. What is the root of this fear of death in prison? Firstly, although death is more common in prison than most people think, it remains a taboo for a large part of the prison population. It is always mentioned in hushed tones, using euphemisms such as “almost died” or “going out feet first”⁸¹, which reinforces the mystique surrounding death in prison, about which prisoners have no information. This silence surrounding the death of prisoners surrounds both the moments preceding the death and those following it. There are many concerns in particular regarding the care offered in a prison setting at the end of life, but also the treatment of the bodies of deceased inmates by the prison administration⁸².

In addition, many suffer from anxiety simply about dying as a prisoner: to die in custody would be to keep the label of the inmate, a label that is a source of a great deal of stigma⁸³. This is then perceived as an additional sentence, as if the sentence served would never end. It is therefore possible to identify the importance attached by inmates to dying as free individuals with full rights. This special relationship with the concept of freedom can also be linked to the importance of dying alongside one’s family. Indeed, inmates usually want to be able to die at home, so that they can be accompanied by their loved ones, as this inmate points out when he says: “*For me, if I die here, well, I’m dead, I’m dead. But it’s for the family...*”⁸⁴. This is not always easy, as incarceration tends to damage family ties, and many find themselves distanced not only geographically, but also emotionally from their loved ones. The weight of this estrangement is all the heavier at the end of life, a time when people often want to close all the chapters of their lives and resolve any issues they may have had, such as family estrangement. This once again brings into play the importance of dying outside of prison, as prison does not provide the proximity necessary to hope for a dignified end to one’s existence. On the contrary, regaining one’s freedom can undo the dishonour that imprisonment may have caused to the prisoner’s loved ones. With these fears, every death that takes place within the walls of a prison triggers very strong reactions among the inmate population, because, as this Prison Hospital Unit (UHMP) caregiver in a detention centre explains, “it

⁸⁰ « *Ce qui fait peur, c’est que j’ai 75 ans et qu’on est tous mourants. Je ne voudrais pas crever là-dedans* » (free translation) RIDEL L. et TOURAUT C. (2016). Personnes détenues en fin de vie : expériences individuelles et modalités de prise en charge. *Cahiers d’études pénitentiaires et criminologiques* n°41. [online] Available at: http://www.justice.gouv.fr/art_pix/cahiers_etudes_41_Personnes_detenues_en_fin_de_vie.PDF [Accessed Feb 16th 2023]

⁸¹ CHASSAGNE A., GODARD-MARCEAU A. et REGIS A. (2017). La fin de vie des patients détenus: des temporalités incertaines dans un espace contrôlé. *Anthropologie & Santé*, 2017/15. [online] Available at: <https://journals.openedition.org/anthropologiesante/2441> [Accessed Feb 16th 2023]

⁸² RIDEL L. et TOURAUT C. (2016). Personnes détenues en fin de vie : expériences individuelles et modalités de prise en charge. *Cahiers d’études pénitentiaires et criminologiques* n°41. [online] Available at: http://www.justice.gouv.fr/art_pix/cahiers_etudes_41_Personnes_detenues_en_fin_de_vie.PDF [Accessed Feb 16th 2023]

⁸³ CHASSAGNE A., GODARD-MARCEAU A. et REGIS A. (2017). La fin de vie des patients détenus: des temporalités incertaines dans un espace contrôlé. *Anthropologie & Santé*, 2017/15. [online] Available at: <https://journals.openedition.org/anthropologiesante/2441> [Accessed Feb 16th 2023]

⁸⁴ « *Moi, si je meurs ici, pour moi, bon bah, je suis mort, je suis mort. Mais c’est pour la famille...* » (free translation) RIDEL L. et TOURAUT C. (2016). Personnes détenues en fin de vie : expériences individuelles et modalités de prise en charge. *Cahiers d’études pénitentiaires et criminologiques* n°41. [online] Available at: http://www.justice.gouv.fr/art_pix/cahiers_etudes_41_Personnes_detenues_en_fin_de_vie.PDF [Accessed Feb 16th 2023]

reminds them of the image of death and the idea that we could die in prison, and it's still a haunting thing"⁸⁵.

Adaptation measures: restoring a sense of dignity?

In light of this general concern among inmates at the end of their lives, albeit for different reasons, it is essential to put in place measures to alleviate these worries and make the end of their lives more dignified and humane. Indeed, as stated in Article 22 of the November 24, 2009, Penitentiary Act - later replaced by Article L6 of the Penitentiary Code - the constraints of detention must be adapted to the age, state of health, disability, and personality of each inmate⁸⁶. What measures have been adopted by the government and the prison administration to make detention more compatible with the end of life, or even simply to give prisoners a sense of dignity on their deathbeds? Are there any limits to the effectiveness of these measures?

Inter-regional secure hospital units: access to care and challenges

Since 1994, medical care for French prisoners has been under the responsibility of the Ministry of Health⁸⁷. However, a study conducted by medical researchers and practitioners in 2013 concludes that detention is, by its very nature, incompatible with the end of life of some inmates requiring palliative care⁸⁸. Indeed, the latters represent *“an approach for improving the quality of life of patients and their families, faced with the challenges associated with life-threatening illnesses. They prevent and alleviate suffering through the early recognition, correct assessment and treatment of pain and other issues, whether physical, psychosocial or spiritual”*⁸⁹. Yet, prison conditions are characterised by many security constraints, which are exacerbated by chronic and exponential prison overcrowding. In response to this,

⁸⁵ « ça les renvoie à l'image de la mort et l'idée qu'on puisse mourir en prison, et c'est quand même une hantise » (free translation)

RIDEL L. et TOURAUT C. (2016). Personnes détenues en fin de vie : expériences individuelles et modalités de prise en charge. *Cahiers d'études pénitentiaires et criminologiques* n°41. [online] Available at: http://www.justice.gouv.fr/art_pix/cahiers_etudes_41_Personnes_detenues_en_fin_de_vie.PDF [Accessed Feb 16th 2023].

⁸⁶ Code pénitentiaire, Partie Législative, Livre III : Droits et Obligations des personnes détenues, Article L6. [online] Available at:

https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000045476241/LEGISCTA000045478147/2022-05-01?dateVersion=01%2F05%2F2022&nomCode=at3QJA%3D%3D&page=1&query=%C3%A2ge&searchField=ALL&tab_selection=code&typeRecherche=date&anchor=LEGIARTI000045480624#LEGIARTI000045480624 [Accessed Feb 16th 2023].

⁸⁷ RIDEL L. et TOURAUT C. (2016). Personnes détenues en fin de vie : expériences individuelles et modalités de prise en charge. *Cahiers d'études pénitentiaires et criminologiques* n°41. [online] Available at: http://www.justice.gouv.fr/art_pix/cahiers_etudes_41_Personnes_detenues_en_fin_de_vie.PDF [Accessed Feb 16th 2023].

⁸⁸ Etude PARME (2013) « évaluation de la situation des personnes détenues relevant d'une démarche palliative dans les établissements pénitentiaires français » dirigée par le professeur Régis Aubry, CHRU de Besançon.

⁸⁹ « une approche pour améliorer la qualité de vie des patients et de leur famille, confrontés aux problèmes liés à des maladies potentiellement mortelles. Ils préviennent et soulagent les souffrances grâce à la reconnaissance précoce, l'évaluation correcte et le traitement de la douleur et des autres problèmes, qu'ils soient d'ordre physique, psychosocial ou spirituel » (free translation)

Organisation mondiale de la Santé (2020). Soins palliatifs. *Who.int/fr* [online] Available at: <https://www.who.int/fr/news-room/fact-sheets/detail/palliative-care> [Accessed Feb 16th 2023].

the prison administration could highlight the eight Interregional Secure Hospital Units⁹⁰ (UHSI), created following the Order of October 24, 2000, as an extension of the Law of January 18, 1994, to eliminate the discrimination suffered by inmates in terms of access to healthcare. These are “*hospital structures located in a [university hospital centre] and aimed at receiving [inmates] whose state of health justifies hospitalisation, in conditions suited to this specific population*”⁹¹. However, the 2013 study also points to the fact that care is unsatisfactory and not aligned with the principles of palliative care, notably because UHSIs only take care of short hospital stays, those of less than 48 hours, and therefore do not offer support for the serious chronic illnesses that frequently affect people in prison at the end of their lives. On top of that, caregivers assigned to the UHSI are not trained and/or specialised in palliative care, since this is not the unit’s initial mission.

Indeed, although UHSIs are located in hospitals, they are administratively linked to both the administration of the hospital in which they are located and the administration of the detention centre to which they are attached. They are therefore very distinct from hospitals, with their own rules and regulations. To enter, you generally have to pass through a number of security gates, as you would in a prison, then go through a security airlock and a metal detector to check your identity and obtain permission to visit. In addition, the patients’ rooms are all locked, turning them more into cells, and the prison staff operating in the UHSI are the only ones with the keys, meaning that carers always have to ask them in order to be able to access the patients⁹². This has direct consequences on the quality of the care provided, as care staff cannot quickly access patients in the event of an emergency. Secondly, it also limits the relational and psychosocial work that caregivers can undertake, even though this is an integral part of palliative care practice since they only have access to inmates for technical and physical care. As one UHSI nurse testifies: “*Palliative care doesn’t happen like that. There are no locked doors. When patients feel like going out for a walk in the corridor, or to see the nursing team, they have the right to do so, and it’s the same for us: as soon as we have a free moment, we go*”⁹³. To overcome this, carers try to bypass the rules and negotiate open or simply unlocked doors for some patients, a practice which must be justified by a medical certificate attesting to the frequency of care. Yet these agreements are constantly being renegotiated, especially when teams change, meaning that doors can be closed again without the care team even being informed. This is a major source of tension and conflict between care and prison staff⁹⁴.

⁹⁰ These are located at the University Hospitals of Bordeaux (33), Lille (59), Nancy (54), Rennes (35) and Toulouse (31), as well as at the Centre Hospitalier Sud-Francilien (91), the Hospices Civils of Lyon (69) and the Hospitals of Marseille (13) and Paris (75).

⁹¹ « *structure[s] hospitalière[s] implantée[s] dans un [centre hospitalier universitaire] et qui vise[nt] à accueillir des [détenu.e.s] dont l’état de santé justifie une hospitalisation, dans des conditions adaptées à ce public spécifique* » (free translation)

CHU Lille (2004). Une unité très hospitalière s’installe au CHRU de Lille. *reseau-chu.org* [online]. Available at: <https://www.reseau-chu.org/article/une-unite-tres-hospitaliere-sinstalle-au-chru-de-lille/> [Accessed Feb 16th 2023].

⁹² CHASSAGNE A., GODARD-MARCEAU A. et REGIS A. (2017). La fin de vie des patients détenus: des temporalités incertaines dans un espace contrôlé. *Anthropologie & Santé*, 2017/15. [online] Available at: <https://journals.openedition.org/anthropologiesante/2441> [Accessed Feb 16th 2023].

⁹³ « *un soin palliatif, ça ne se passe pas comme ça. Il n’y a pas de portes fermées et verrouillées. Le patient, quand il a envie de sortir faire un tour dans le couloir, ou venir voir l’équipe soignante, il a le droit de le faire, et nous c’est pareil, dès qu’on a un moment de libre, on y va* » (free translation)

Ibid.

⁹⁴ *Ibid.*

On top of this, the very presence of the prison guards, as well as their control over the room doors, reminds patients of their dual status as inmates and patients, giving them a feeling of over-enclosure, as well as over-isolation. Indeed, in the UHSI, they no longer have any co-detainees, the wardens, who were originally the main interlocutors of those under detention within the prison walls, are limited to being doorkeepers, and the caregivers, although they are a category of people seeking interaction, can only have access to the patients when carrying out their care. As such, the nature of palliative care, as described in article L1B of the Law of June 9, 1999, is aiming to “*relieve pain, alleviate physical suffering, protect the dignity of the sick person and support those around them*”⁹⁵, is clearly called into question. Indeed, in the UHSI, it seems impossible to offer care that includes a supportive approach to the patient and their relatives faced with the prospect of the end of life. Nevertheless, it is important to emphasise that, for many, the UHSI constitutes an improvement in the conditions of detention, and offers sick inmates great relief, since they can finally have access to continuous and appropriate care. As this inmate in the UHSI explains, “*In the hospital, I swear, there’s already some fear that’s receding. Why? Because I’m not alone at night. I could see myself leaving, dying, or whatever... I’m afraid of dying alone*”⁹⁶; from this point of view, the UHSI seems to alleviate some of the worries that prisoners at the end of their lives may face.

Still, not only are UHSIs unable to provide good palliative care, but they are also unable to offer prisoners a “good death”, which, however defined, always implies that the patient, as well as their relatives and care team, are aware of the imminent death and its proximity in order to be able to understand what is at stake and the reality of it⁹⁷. This is why doctors want to prioritise the release of inmates at the end of their lives, which fortunately seems to be being implemented by the prison administration. However, for those who remain in prison at the end of their lives, it is difficult to be prepared for the eventuality of their own death, since their primary objective is to be released from detention. In addition, in the context of the UHSI, relatives and caregivers are not properly involved in the process of accepting the death, especially for the family. Indeed, to visit a patient in the UHSI, one must first acquire a visiting permit, then come within the framework of predefined schedules, for visits limited to a maximum of 45 minutes and monitored either by camera or by the physical presence of a supervisor. On top of this, the family is also excluded from participating in all the patient’s medical appointments⁹⁸. Consequently, relatives have little access to information, and those they do have often are obtained belatedly, which means they are easily distrusted and suspicious of caregivers. They cannot develop a relationship of trust with the latter, as might traditionally prevail between the relatives of a patient who is not in prison and their care team, when this relationship is based essentially on phone exchanges. Despite this, it should be emphasised that the UHSI is able to make accommodations for the

⁹⁵ « *soulager la douleur, à apaiser la souffrance physique, à sauvegarder la dignité de la personne malade et à soutenir son entourage* » (free translation)

Loi n° 99-477 du 9 juin 1999 visant à garantir le droit à l’accès aux soins palliatifs, NOR: MESX9903552L, Article L. 1er B. [online] Available at:

<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT00000212121/#:~:text=%C2%AB%20Art.-,L.,et%20%C3%A0%20soutenir%20son%20entourage.>

⁹⁶ « *moi, à l’hôpital, je vous jure, il y a déjà une crainte qui se retire. Pourquoi ? Parce que, la nuit, je ne suis pas seul. Je me verrais partir, mourir, ou n’importe... moi j’ai peur de mourir seul* » (free translation)

CHASSAGNE A., GODARD-MARCEAU A. et REGIS A. (2017). La fin de vie des patients détenus: des temporalités incertaines dans un espace contrôlé. *Anthropologie & Santé*, 2017/15. [online] Available at: <https://journals.openedition.org/anthropologiesante/2441> [Accessed Feb 16th 2023]

⁹⁷ *Ibid.*

⁹⁸ *Ibid.*

benefit of family and friends that would not have been possible in prisons. For instance, if the patient is bedridden, the visit can take place in their room, in which case a medical certificate must be provided to the prison administration office within the UHSI, along with authorization from the head of the UHSI. In this regard, the UHSI definitely represents a clear improvement, offering the opportunity for a more dignified death in a custodial setting, even though there remains room for improvement.

The 2009 prison law and access to assistance in detention

The Penitentiary Act of November 24, 2009, which was subsequently replaced by article L322-11 of the Penitentiary Code, opens up the possibility for inmates to be supported daily in detention by a caregiver⁹⁹. Most of them are home care assistants, i.e. people who work in the home to provide services for the elderly, frail or disabled people, or those who are losing their independence¹⁰⁰. If this law offers a new right to prisoners, the reality of applying this right is very different, as it is proving difficult to implement.

Indeed, the application requires the composition of a very heavy administrative and financial file, a task that is all the more complicated for the prisoners concerned. The file must be compiled with the assistance of a Penitentiary Integration and Probation Counsellor (CPIP), who is responsible for following prisoners during their incarceration, and who frequently takes charge of managing the administrative procedures of the prisoners they follow. Nevertheless, it is difficult for a prisoner with reduced mobility or a serious medical condition to travel to meet a CPIP at one of the organised meetings, which makes the process all the more time-consuming. In addition, part of the cost of this assistance may be placed on the inmate, even though they often have few resources at the time of their imprisonment, thus shifting the burden onto their families. In addition, the CPIPs underline the difficulties they generally encounter in finding associations or organisations willing to help people in prison¹⁰¹. Indeed, given that the intervention requires working in close proximity with a convict, many professionals are afraid of the mission, due to the stigmatising myths surrounding prisons and inmates. The difficulty is exacerbated by the fact that prisons are often located far away from cities, but also that the majority of auxiliaries are women, while the majority of needs come from male inmates, with whom they are sometimes uncomfortable working.

Auxiliaries who agree to work in a prison environment, however, complain about the conditions under which care is provided. Indeed, they are first critical of the short time they can devote to caring for inmates, due to the length of time it takes to access their cells, which is extended by heavy security protocols. This obviously encroaches on the time devoted to care; but more than that, it limits the remuneration that auxiliaries can receive for their work in prison. Indeed, they are usually paid on a fee-for-service basis, which excludes the time taken to reach the inmate's cell, even though their journey

⁹⁹ Ordonnance n° 2022-478 du 30 mars 2022 portant partie législative du code pénitentiaire, NOR: JUSK2200873R, Article L322-11. [online] Available at: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000045480122/2022-05-01 [Accessed Feb 16th 2023]

¹⁰⁰ Ministère de l'Économie (2021). Auxiliaire de vie sociale. *Servicealapersonne.gouv* [online] Available at: <https://www.servicealapersonne.gouv.fr/travailler-dans-sap/metiers-des-sap/auxiliaire-de-vie-sociale-avs#:~:text=L'auxiliaire%20de%20vie%20sociale,l'aide%20%C3%A0%20la%20toilette>. [Accessed Feb 16th 2023]

¹⁰¹ RIDEL L. et TOURAUT C. (2016). Personnes détenues en fin de vie : expériences individuelles et modalités de prise en charge. *Cahiers d'études pénitentiaires et criminologiques* n°41. [online] Available at: http://www.justice.gouv.fr/art_pix/cahiers_etudes_41_Personnes_detenues_en_fin_de_vie.PDF [Accessed Feb 16th 2023].

to the cell is an integral part of their intervention. Auxiliaries also point out the difficulty of carrying out their work in the confined spaces of cells, as well as the lack of appropriate equipment provided by prisons. Finally, the stigmatising myths that surround prisons are such that few care assistants are willing to work in the prison setting. As a result, those who are willing to intervene are not always able to ensure the continuity of care, as this detention centre officer points out when he says, “*This is not enough. They spend 20 minutes on a prisoner in the morning. So it’s very short*”¹⁰².

This means that prisoners losing their autonomy have to be helped by their fellow inmates. The existence of this practice demonstrates the failure of the French government and prison administration to provide dignified end-of-life care for inmates. The care provided by co-détenues, who are not paid for this work, cannot be qualified as quality care, since they are not trained professionals. As a result, the care they provide may be painful or even undignified. Additionally, this creates a relationship of dependency between the inmates concerned, which is not healthy, as caregivers, not receiving financial compensation, are likely to turn to blackmail and racketeering practices to obtain the compensation they deserve for their work¹⁰³. This initiative, while extending the range of care available and thus improving the state of health and end-of-life of some prisoners, bears witness to the failure of the prison administration. Even though this practice offers volunteers an opportunity for reintegration (in a sector with high recruitment needs), it fails to fulfil its mission of guaranteeing continuous and dignified care.

Conditional release, suspension of sentence, release... Dying free and with dignity?

There are several ways in which prisoners can shorten and/or divide their remaining sentence, some of which can be obtained for medical reasons, especially if the person concerned is nearing the end of their life. These include conditional release, semi-liberty, and placement under electronic surveillance, all of which are options available only to convicts with a remaining sentence of two years or less. However, this does not apply to conditional release, which can be requested by any inmate who has served at least half of their sentence or, since the 2009 Penitentiary Act, by any inmate over the age of 70, without the need to have already served a certain length of the initial sentence¹⁰⁴.

These measures, and conditional release especially, are frequently granted for health reasons, and more specifically to ensure the continuation of treatment that cannot be provided within the prison environment. However, inmates rarely request such measures, as they are often unaware of the conditions under which they can be granted, and are therefore unlikely to know that they are available on medical grounds. This is exacerbated by the fact that the same ignorance can be found within the ranks of the prison staff, who have a very precise idea of the measures and conditions to be fulfilled, based on their moral idea of the criteria to be fulfilled to be released, but which unfortunately does not represent the reality of the legal texts¹⁰⁵. This perception is then passed on to inmates since wardens are the first

¹⁰² « *ce n’est pas suffisant. Iels sont 20 minutes sur un détenu le matin. Donc c’est très court* » (free translation)
Ibid.

¹⁰³ *Ibid.*

¹⁰⁴ Observatoire international des prisons (2020). Dispositifs de mise en liberté pour raisons médicales. *Oip.org* [online] Available at: <https://oip.org/fiche-droits/dispositifs-de-mise-en-liberte-pour-raisons-medicales/> [Accessed on Feb 16th 2023].

¹⁰⁵ RIDEL L. et TOURAUT C. (2016). Personnes détenues en fin de vie : expériences individuelles et modalités de prise en charge. *Cahiers d’études pénitentiaires et criminologiques* n°41. [online] Available at: http://www.justice.gouv.fr/art_pix/cahiers_etudes_41_Personnes_detenues_en_fin_de_vie.PDF [Accessed Feb 16th 2023].

point of contact for those imprisoned¹⁰⁶. A second option is to split or suspend a sentence. This allows prisoners with less than two years' remaining sentence to suspend their sentence for a limited period, or to serve their sentence intermittently, with fractions of time that must exceed two days, over a maximum period of four years. These measures are usually allowed for prisoners in need of major surgery requiring rehabilitation that cannot be carried out within the prison environment¹⁰⁷.

Nevertheless, these measures are all subject to strict conditions, which means that they are not available to all people in need, especially those at the end of their lives, who have just returned to prison, for instance. Neither are they open to remand prisoners. To address this situation, the Kouchner Act of March 4, 2002, introduced the Suspension of Sentences on Medical Grounds (SPRM), a measure open to any inmate with “*a life-threatening pathology or whose state of health is permanently incompatible with maintaining detention*”¹⁰⁸. It allows all convicts (although it is more difficult to obtain for those who have committed serious crimes) to apply for an indefinite suspension of their sentence, without first having to meet any conditions relating to the offence committed or the amount of time remaining on their sentence. To do this, they must undergo two medical examinations. This system was completed by the Law of August 15, 2014, which made it more flexible and broader. Indeed, in order to obtain an SPRM, inmates now only have to undergo a single medical examination, and, in urgent cases, it can even be requested on the basis of a simple prescription from their doctor. Finally, this law offers prisoners at the end of their lives the possibility of being released on medical grounds: the Release on medical grounds (RLRM). The latter is even broader in scope than the SPRM since it does not require the individual's state of health to be “permanently” incompatible with detention, but simply incompatible¹⁰⁹.

Even though they both constitute major advances in the field of end-of-life management for prisoners, these measures are still limited by their understanding of what constitutes incompatibility with detention. Indeed, the majority of jurisdictions still perceive this matter through the narrow prism of care provision, and not through the prism of human dignity and quality of life in detention. An inter-ministerial health/justice working group looking into the matter in 2013 even determined that some experts take into account the existence and proximity of UHSIs to determine compatibility with detention, even though their sole purpose is to accommodate short hospitalizations¹¹⁰. These practices are not compliant with the jurisprudence of the European Court of Human Rights. The latter requires prison authorities to ensure that inmates are not subjected to inhuman or degrading treatment that may violate human rights and that the detention regime does not subject sick or disabled inmates to “*distress*

¹⁰⁶ *Ibid.*

¹⁰⁷ Observatoire international des prisons (2020). Dispositifs de mise en liberté pour raisons médicales. *Oip.org* [online] Available at: <https://oip.org/fiche-droits/dispositifs-de-mise-en-liberte-pour-raisons-medicales/> [Accessed on Feb 16th 2023].

¹⁰⁸ Loi n°2002-303 du 4 mars 2002 relative aux droits des malades et à la qualité du système de santé, NOR: MESX0100092L, Article 10. [online] Available at: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000000227015/> [Accessed Feb 16th 2023]. « une pathologie engageant le pronostic vital ou que leur état de santé est durablement incompatible avec le maintien en détention » (free translation)

¹⁰⁹ Observatoire international des prisons (2020). Dispositifs de mise en liberté pour raisons médicales. *Oip.org* [online] Available at: <https://oip.org/fiche-droits/dispositifs-de-mise-en-liberte-pour-raisons-medicales/> [Accessed on Feb 16th 2023]

¹¹⁰ Groupe de travail Santé-Justice (2013). Aménagements et suspensions de peines pour raisons médicales. *Justice.gouv.fr* [online] Available at: http://www.justice.gouv.fr/art_pix/rapport_aménagement_suspensions_peine_raison_med.pdf [Accessed on Feb 16th 2023]

or hardship of an intensity exceeding the level of suffering inherent in detention”¹¹¹. Additionally, they also contradict the jurisprudence of the French Supreme Court, which, in its ruling of January 7, 2009, called for compatibility to be examined based on “the actual conditions of detention”. These conditions refer to the state of the cell, the assistance available for essential daily tasks, and circulation within the establishment to access essential infrastructures¹¹².

The question remains: how do one obtain an SPRM or RLRM? The procedure depends on which system the inmate wishes to benefit from.

In the case of an SPRM, the request must be sent to the clerk’s office of the sentence enforcement judge (SEJ), either by registered letter or by a written declaration to the prison director, who will then be responsible for forwarding it to the clerk’s office. The request will be considered by the SEJ only if the remaining sentence is less than or equal to three years, in which case they will have four months to reach a decision. If not, the case will be taken up by the Tribunal for the Enforcement of Sentences, made up of three magistrates, who will have six months to reach a decision. As part of this request, both the sentence enforcement judge and the Tribunal for the Enforcement of Sentences can carry out various investigations and request different examinations to study the case and the situation. The prosecutor's submissions must be heard, as well as the inmate’s observations, or those of their lawyer if their state of health makes it impossible for them to travel. However, with the agreement of all the parties involved, the SEJ can grant an SPRM without any adversarial debate between the prosecutor and the inmate or their defence.

As for the RLRM, the recipient of the request will depend on the progress of the case: it should be addressed to the examining magistrate if the investigation is not closed, otherwise, it should be directed to the court hearing the initial case. The inmate should send their request by registered mail if they are not geographically located within the jurisdiction of the court concerned. Otherwise, they must file a declaration directly with the court clerk’s office, or, in the case of a person in pre-trial detention, with the prison director. The time taken to reply depends on the court involved, but it usually takes around ten days, though it can be longer, especially in the case of a judgement before the examining magistrate. The latter may grant an RLRM on their own, but cannot refuse it independently. Indeed, the request will then have to be forwarded to the liberty and custody judge, with a motivated opinion concerning the judgement that has been handed down, who will have to give a ruling within three working days. If the judge does not take up the case in time, the inmate can then appeal to the “Chambre de l’Instruction”, which will have 20 days to reach a decision, otherwise the inmate will automatically be released. Regardless of the decision reached, both the public prosecutor and the detainee have the right to appeal to the same court that handed down the first decision¹¹³.

As such, the SPRM/RLRM application procedures are complex, with many exceptions and specificities, which can discourage some prisoners even though they are in need. Centralising and generalising the

¹¹¹ « une détresse ou une épreuve d’intensité excédant le niveau de souffrance inhérent à la détention » (free translation) CEDH, Cour (Première Section), 14 nov. 2002, n° 67263/01. [online] Available at: <https://www.doctrine.fr/d/CEDH/HFJUD/CHAMBER/2002/CEDH001-65289> [Accessed on Feb 16th 2023]

¹¹² Cour de Cassation, civile, Chambre civile 3, 7 janv. 2009, n° de pourvoi 07-20.783, publié au bulletin 2009 III n°5. [online] Available at: <https://www.legifrance.gouv.fr/juri/id/JURITEXT000020065713/> [Accessed on Feb 16th 2023]

¹¹³ Observatoire international des prisons (2020). Dispositifs de mise en liberté pour raisons médicales. *Oip.org* [online] Available at: <https://oip.org/fiche-droits/dispositifs-de-mise-en-liberte-pour-raisons-medicales/> [Accessed on Feb 16th 2023]

procedure could help open it up to a larger number of people, since it would be simpler to explain and therefore easier for everyone to follow. A further problem, especially when it comes to the SPRM application process, is the length of time it can take for the courts to reach a decision, even though the convicted person's vital prognosis must be engaged in the short term before they can apply. This results in situations where applicants may die in prison while waiting for a discharge order to be issued, as testified by a care worker in a detention centre, who states: "*there is a lot of inertia in these cases, and sometimes people die in the meantime*"¹¹⁴.

If the person succeeds in obtaining an SPRM/RLRM, this measure may be granted on condition that they comply with certain rules regarding the execution of the measure, notably obligations and measures of judicial control. These may include a ban on visiting certain locations, house arrest within a defined perimeter or at the hospital itself, the surrender of identity papers to the authorities and forces of law and order, or compliance with summonses relating to judicial monitoring. These control measures may be changed, if not withdrawn, at any time by the judge involved, because they no longer appear to be necessary, or because the person concerned has requested it. However, if the released inmate refuses to abide by the conditions of execution of the measure, or refuses the modification of one of these conditions, the SPRM or RLRM measure may be revoked at any time by the court that granted it. These measures can also be revoked if the inmate's state of health improves, or if they pose a societal risk of recidivism, requiring a return to custody or the introduction of pre-trial detention. Following revocation, the prisoner must return to prison. In the case of an SPRM, they can resume serving their sentence where they left off. However, if they decide not to return to prison, they could be sought and convicted of escaping from prison, which could add up to three years to their sentence - a luxury that many prisoners at the end of their lives cannot afford¹¹⁵. If all goes well with the SPRM, intending to encourage the release of inmates at the end of their lives, the Law of August 15, 2014, establishes the fact that a conditional release measure can be granted without the condition of remaining sentence if the inmate has already been subject to an SPRM for three years. To do so, they must agree to undergo a new medical examination, which must establish that their state of health is still incompatible with detention¹¹⁶.

Even though the SPRM acceptance rate has risen since its creation, increasing from 55% in 2003 to over 80% in 2011¹¹⁷, it is still possible for an SPRM or RLRM request to be refused. The main reason for refusal is that the medical expertise has determined that the inmate's state of health is compatible with detention, although 5% of refusals are due to the applicant's dangerousness¹¹⁸. Indeed, the court in question reserves the right to refuse a request for SPRM or RLRM, especially if the individual poses a "serious risk of recidivism". However, this is limited to the offence committed: in its ruling of March 15, 2006, the French Supreme Court ruled that "*judges are not required to investigate whether the sentence*

¹¹⁴ « *il y a énormément d'inertie dans ces dossiers, il arrive quelquefois que les gens décèdent entre temps* » (free translation) RIDEL L. et TOURAUT C. (2016). Personnes détenues en fin de vie : expériences individuelles et modalités de prise en charge. *Cahiers d'études pénitentiaires et criminologiques* n°41. [online] Available at: http://www.justice.gouv.fr/art_pix/cahiers_etudes_41_Personnes_detenues_en_fin_de_vie.PDF [Accessed Feb 16th 2023]

¹¹⁵ Observatoire international des prisons (2020). Dispositifs de mise en liberté pour raisons médicales. *Oip.org* [online] Available at: <https://oip.org/fiche-droits/dispositifs-de-mise-en-liberte-pour-raisons-medicales/> [Accessed on Feb 16th 2023]

¹¹⁶ RIDEL L. et TOURAUT C. (2016). Personnes détenues en fin de vie : expériences individuelles et modalités de prise en charge. *Cahiers d'études pénitentiaires et criminologiques* n°41. [online] Available at: http://www.justice.gouv.fr/art_pix/cahiers_etudes_41_Personnes_detenues_en_fin_de_vie.PDF [Accessed Feb 16th 2023]

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*

*suspension measure poses a risk to security and public order*¹¹⁹ in a more general sense. Yet the example of Patrick Henry, known for his trial at which Robert Badinter made a lengthy plea against the death penalty, helping to abolish it, proves that it is still possible, even for the most dangerous inmates, to die with dignity outside prison walls. Henry had been sentenced to life imprisonment for the homicide of a child but managed to obtain conditional release which he only enjoyed for a year, before being arrested in possession of cannabis. He was still granted an SPRM on September 15, 2017, because although he had “*already demonstrated in the past his capacity to commit new offences while on conditional release, his state of health, which can only deteriorate, makes it reasonable to exclude a serious risk of repeating the offence*”¹²⁰. Thus, it is clear that the applicant’s state of health must be taken into account in the decision to grant an SPRM, as it represents in itself a mitigating circumstance limiting the risk of recidivism.

Another obstacle to obtaining an SPRM is the difficulty of finding accommodation for an inmate at the end of their life who has no stable outside care, as structures for people at the end of their life are usually very reluctant to receive former inmates. As a result, in some cases, it is more humane to maintain detention, even if it is incompatible with the state of health, precisely because this state of health is all the more incompatible with the street, and detention enables social ties to be maintained in the last moments of life. However, a lack of suitable accommodation is not an automatic refusal: some courts grant SPRM/RLRM on condition of acceptance of care by a specialised structure. This is an encouraging practice for reception structures, which will be approached with the assurance that the place they have reserved for the individual in question will be occupied. Nevertheless, this does not alleviate their anxieties about the potential disturbances that the reception of an inmate could cause. To address this issue, Isabelle Gorce, Director of the DAP between 2013 and 2016, teamed up with Patrick Dallem, then Director of Social Action for the French Red Cross, to work on a guide to facilitate the reception of inmates in Red Cross facilities. This guide, published in 2015, answers questions that facilities might have, such as those about reception procedures, the deconstruction of prison leavers, or even simply about caring for people at the end of their lives¹²¹. This ensures that prisoners in need receive optimum care, but also a larger number of places, since the guide works towards deconstructing the stigmatising myths that surround inmates and limit the assistance they can receive.

¹¹⁹ « *les juges ne sont pas tenus de rechercher si la mesure de suspension de peine présente un risque pour la sécurité et l'ordre public* » (free translation)

Cour de Cassation, Chambre criminelle, du 15 mars 2006, n° de pourvoi 05-83.329, publié au bulletin criminel 2006 n° 80 p. 297. [online] Available at: <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007070065/> [Accessed Feb 16th 2023]

¹²⁰ « *déjà démontré par le passé sa capacité à commettre de nouvelles infractions durant une liberté conditionnelle, son état de santé qui ne peut aller qu'en se dégradant permet raisonnablement d'exclure un risque grave de renouvellement de l'infraction* » (free translation)

GOETZ D. (2017). Focus sur la suspension de peine de pour motif médical. *Dalloz-actualite.fr*. [online] 21 sept. Available at: <https://www.dalloz-actualite.fr/flash/focus-sur-suspension-de-peine-pour-motif-medical#.ZAoiCT3MLrf> [Accessed Feb 16th 2023]

¹²¹ RIDEL L. et TOURAUT C. (2016). Personnes détenues en fin de vie : expériences individuelles et modalités de prise en charge. *Cahiers d'études pénitentiaires et criminologiques* n°41. [online] Available at: http://www.justice.gouv.fr/art_pix/cahiers_etudes_41_Personnes_detenues_en_fin_de_vie.PDF [Accessed Feb 16th 2023]

BODY MANAGEMENT PROTOCOL

When a prisoner dies, the prison administration is required to respect a series of legal and regulatory procedures to preserve the dignity of the deceased inmate, as well as links with family and friends to facilitate the funeral and mourning process.

The case of Toufik Belrithri tragically reveals the shortcomings of the French prison system. Toufik Belrithri died on October 18, 2020, at the age of 40, officially choking due to a “false route” at mealtime¹²². The prison administration took 24 days to notify the family of his death. Yet the Penitentiary Code sets out all the provisions in the event of the death of a prisoner or remand prisoner. Article D.427 of the Code of Penal Procedure and the PAD circular of May 12 1981¹²³ stipulate that inmates must appoint the people to be notified in the event of their death, and that the head of the establishment must notify their relatives as quickly as possible to meet “basic humanitarian requirements”.

In accordance with article D280 of the Code of Criminal Procedure, the head of the prison must alert the prefect and the public prosecutor, as well as the inter-regional director of prison services and the Minister of Justice, of any serious incident. Also informed is the magistrate in charge of the case if it involves a defendant, or the sentence enforcement judge if it is a convicted offender. If the detainee belongs to the armed forces, the military authority must be informed.

In the case of a suicide or a violent death, or if the cause of death is unknown or suspicious, an investigation must be launched by the public prosecutor, and a judicial police officer must go to the death scene without delay to make initial observations. The public prosecutor or an officer of their choice may visit the scene if they deem it necessary to establish the circumstances of the death. They may then initiate an investigation to establish proof of an offence, or to determine the cause of death¹²⁴.

It is customary for all deaths in custody to be the subject of an autopsy report, at the request of the public prosecutor’s office. In practice, this is not always the case, and serious shortcomings are often reported by relatives. For example, Alassane Sangaré died in an individual cell on November 24, 2022, at the Fleury-Mérogis prison. He had been in pre-trial detention since November 19, 2022, i.e. five days before his death, while awaiting his appearance before the Evry criminal court. According to the Évry-Courcouronnes public prosecutor’s office, this was scheduled for January 9 on a charge of “acts of violence in a group followed by a temporary incapacity to work not exceeding eight days”, in the context of long-standing neighbour conflicts¹²⁵. His family was informed of his death within a reasonable

¹²² DUBAULT F. (2021). Mort à la prison de Perpignan : une autopsie va être pratiquée sur le corps de Toufik décédé dans sa cellule en octobre. *France3-régions.francetvinfo.fr*. [online] Available at: <https://france3-regions.francetvinfo.fr/occitanie/pyrenees-orientales/perpignan/mort-a-la-prison-de-perpignan-une-autopsie-va-etre-pratiquée-sur-le-corps-de-toufik-decède-dans-sa-cellule-en-octobre-2038414.html> [Accessed 12 Apr. 2023].

¹²³ ZAKINE I. (1981), *Amélioration des relations entre l'administration et les proches d'un détenu malade ou décédé*. Note à destination des Directeurs Régionaux des Services Pénitentiaires et des Directeurs et Chefs d'établissements pénitentiaires. [online] Available at: https://juridique.defenseurdesdroits.fr/doc_num.php?explnum_id=6127 [Accessed Feb 26th 2023]

¹²⁴ Code de procédure pénale, Partie réglementaire, Livre V : Des procédures d'exécution, Article D282. [online] Available at: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000006515984 [Accessed Feb 26th 2023]

¹²⁵ FAUSSABRY T. (2023) Essonne : la famille d'Alassane, décédé à la prison de Fleury-Mérogis, réclame la vérité. *Actu.fr*. 17 Fév. [online] Available at: https://actu.fr/ile-de-france/fleury-merogis_91235/essonne-la-famille-d-alassane-decède-a-la-prison-de-fleury-merogis-recla-me-la-verite_57473936.html [Accessed Feb 26th 2023]

timeframe, but the cause of his death is disputed: the authorities speak of a suicide by hanging over a telephone wire, while the family, on viewing the body six days later, found no marks on his neck. A copy of the autopsy was not made available to the Sangaré family at their lawyer's request, as the public prosecutor invoked the principle of confidentiality of the investigation until its conclusion. The Sangaré family has filed a complaint against X for "violence resulting in death without intent to kill" to obtain answers.

This example sadly illustrates the lack of connection and humanisation of prisoners or remand prisoners and their families on the part of the prison administration. Despite the human tragedy at play here, the prison administration, by refusing to transmit the autopsy report, enters into a conflictual relationship with the relatives, by invoking the law. Yes, it has the right to refuse to transmit the report. But is this morally right? Is the cost/benefit ratio for it really favourable? This position automatically arouses suspicions of concealment of the true cause of death, of negligence, or even of endangerment of those incarcerated. Alassane Sangaré's loved ones are unable to believe this version of a suicide triggered by a possible prison shock, as it does not match the profile of this family man, who had already been incarcerated. The administrative machine, despite the seriousness of the situation, merely follows its protocols and legalistic logic, without showing any significant sign of empathy. At no time do the texts provide psycho-medical support for relatives, prison staff, or inmates close to the deceased. In practice, some establishments set up such arrangements on an *ad hoc* basis. The prison code and doctrine do not go into much detail on these provisions - French law is very detailed on the management of the deceased's personal effects and the cases in which funeral expenses are covered - because death in prison remains a statistically exceptional event that should not occur under the obligation to protect incarcerated people.

It is difficult to obtain the number of deaths occurring in detention since the declaration of death is made to the civil registrar, under the terms of article 84 of the Civil Code, without any mention of incarceration on the death certificate. Only the street and building number are indicated as the place of death. However, the Ministry of Justice publishes the number of suicides annually. In this respect, GROW encourages these measures, which guarantee neutrality in death and the dignity of the individual.

COMMUNATORY DISPOSITIONS AND FRANCE CONDEMNATIONS BY THE ECHR

At the European level, measures already exist to ensure that the care of the deceased prisoner and relations with his or her next of kin run smoothly. Article 49-1 of Recommendation R(87)3 of the Committee of Ministers to Member States on the European Prison Rules states:

“49. 1. Upon the death or serious illness of or serious injury to a prisoner, or removal to an institution for the treatment of mental illnesses or abnormalities, the director shall at once inform the spouse, if the prisoner is married, or the nearest relative and shall, in any event, inform any other person previously designated by the prisoner.

2. A prisoner shall be informed at once of the death or serious illness of any near relative. In these cases and whenever circumstances allow, the prisoner should be authorised to visit this sick relative or see the deceased either under escort or alone.

3. All prisoners shall have the right to inform at once their families of imprisonment or transfer to another institution.”¹²⁶

The European Court of Human Right (ECHR) is an international institution created in 1959 by the Council of Europe. Situated in Strasbourg, its aim is to ensure the respect of the Human Right Charter by the States who signed it. For each member-State, a judge is present within the ECHR¹²⁷.

“Any person, nongovernmental organisation or group of individuals claiming to be the victim of a violation” can refer to the ECHR¹²⁸. For a case to be examined by the Court, it has to be first examined at the national level, which then decides whether all avenues of appeal have been exhausted and whether it is necessary to refer the case to the ECHR. If the Court considers the European Convention on Human Rights has indeed been violated, sanctions or measures will be taken against the State that has not complied with the Convention. It may be asked to pay compensation or to amend its legislation¹²⁹.

To better define what is expected of the contracting State, it is expected of said State to write an action plan. States are indeed committed, according to Article 46 of the European Convention of Human Rights, to respect the Court’s definitive judgement¹³⁰. The action plan includes the measures that the State

¹²⁶ Conseil de l’Europe (1987), Recommandation n° R(87)3 du comité des ministres aux États membres sur les règles pénitentiaires européennes (adoptée par le Comité des Ministres le 12 février 1987, lors de la 404e réunion des Délégués des Ministres) [online] Available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804f757a> [Accessed Feb 26th 2023]

¹²⁷ Représentation de la France auprès du Conseil de l’Europe (2022), La Cour Européenne des Droits de l’Homme. conseil-europe.delegfrance.org [online] 13 déc. Available at: <https://conseil-europe.delegfrance.org/La-Cour-europeenne-des-droits-de-l-Homme-CEDH> [Accessed on 8 Aug. 2023]

¹²⁸ Convention européenne des droits de l’homme, Convention de sauvegarde des droits de l’homme et des libertés fondamentales, Rome, 4.XI.1950. Article 34. [online] Available at: <https://rm.coe.int/1680063776> [Accessed on 6 Sep. 2023]

¹²⁹ CEDH & Conseil de l’Europe (N.D). Le cheminement d’une requête. [online] Available at https://www.echr.coe.int/documents/d/echr/convention_ENG [Accessed on 8 Aug. 2023]

¹³⁰ Convention européenne des droits de l’homme, Convention de sauvegarde des droits de l’homme et des libertés fondamentales, Rome, 4.XI.1950. Article 46. [online] Available at: <https://rm.coe.int/1680063776> [Accessed on 6 Sep. 2023]

committed to in order to implement the ECHR's judgement, as well as an indicative adoption agenda. It can be changed if the authorities consider it necessary¹³¹.

The European Court of Human Rights condemned France various times on the basis of Articles 2 and 3 of the European Convention of Human Rights, respectively relating to the right to life and the prohibition of torture between 2006 and today, due to its failure to handle prisoners with important mental health issues.

RIVIÈRE v. France

The *RIVIÈRE v. France* case denounces the incapacity of the French prison administration to handle mental issues that might lead to suicide. The administration fails then in its mission to prevent potential death causes in its prisons. Jean-Luc Rivière was put in custody in Arras' remand centre, waiting for his trial, which happened on 12 February 1982, following an appeal to the French Supreme Court¹³². The appeal resulted in his being sentenced to life imprisonment with a 15-year security period¹³³ for culpable homicide, complicity in culpable homicide, and theft. While in custody, Rivière was subjected to a psychiatric evaluation within the framework of a parole claim. On August 20, 2002, the psychiatrist concluded the evaluation by saying that *"the psychotic patient, who is regularly monitored, is currently experiencing suicidal behavioural disorders in connection with a penal situation that is difficult to contemplate (refusal of parole, transfer to the Réunion island envisaged and distressing)"*¹³⁴¹³⁵. This opinion was further admitted by three psychiatrists experts to the SEJ on October 29, 2003, who highlighted that a *"psychiatric pathology developed while he was in detention. [...] [The applicant] is now chronically mentally ill [...]. Some of his behaviours (compulsive self-strangulation) are worrying signs"*¹³⁶¹³⁷.

¹³¹ Conseil de l'Europe (N.D). Guide pour la rédaction des plans et bilans d'action pour l'exécution des arrêts de la Cour européenne des Droits de l'Homme [online] Available at <https://rm.coe.int/guide-drafting-action-plans-reports-fr/1680592207> [Accessed on 22 Aug. 2023]

¹³² An appeal to the Court of Cassation is the last possible recourse available to the convicted person to challenge a court decision that is contrary not to the facts, but to due process. An appeal to the Court of Cassation does not suspend enforcement of the sentence. If the Court of Cassation overturns the judgement, the case is brought back before the court whose decision was overturned.

¹³³ Defined by Article 132-23 of the French Criminal Code, the security period is the period during which *"the convicted person may not benefit, during a security period, from the provisions concerning the suspension or splitting of the sentence, work release, temporary leave, semi-liberty or conditional release"*. In other words, the sentence cannot be reduced.

¹³⁴ [Free translation] Original quote in French: *« ce patient psychotique, suivi régulièrement, présente actuellement des troubles du comportement de type suicidaire en relation avec une situation pénale difficile à envisager (refus de libération conditionnelle, transfert à la Réunion envisagé et angoissant). »*

CEDH, Cour (Deuxième Section), 11 juil. 2006, n°33834/03. [online] Available at: <https://hudoc.echr.coe.int/eng/#%7B%22itemid%22:%5B%22001-76287%22%5D%7D> [Accessed on 6 Sep. 2023].

¹³⁵ CEDH, Cour (Deuxième Section), 11 juil. 2006, n° 33834/03. [online] Available at: <https://psychiatrie.crupa.asso.fr/archives/allfiles/jugements/060711CEDHriviere33834-03.htm>

¹³⁶ [Free translation] Original quote in French: *« une pathologie psychiatrique est apparue en détention. [...] [Le requérant] est maintenant un malade mental chronique [...]. Certains de ses comportements (compulsions d'auto-strangulation) constituent des indices inquiétants. »*

CEDH, Cour (Deuxième Section), 11 juil. 2006, n°33834/03. [online] Available at: <https://hudoc.echr.coe.int/eng/#%7B%22itemid%22:%5B%22001-76287%22%5D%7D> [Accessed on 6 Sep. 2023].

¹³⁷ *Ibid.*

Following the exhaustion of domestic remedies (multiple refusals of release), Jean-Luc Rivière referred to the ECHR, arguing that his continued custody was endangering his mental health and could pose a threat to his life. The Court then chose to analyse the case under Article 3 of the European Convention on Human Rights, which states that “*No one shall be subjected to torture or to inhuman or degrading treatment or punishment*”¹³⁸. The French government argued that Rivière’s physical condition allowed him to remain in detention. As for his psychological condition, according to the government, he was receiving regular psychiatric care, had been hospitalised four times, and was taking neuroleptics (to reduce hallucinations and delusions) and anxiolytics. Nevertheless, the ECHR concluded that it is the responsibility of the State to ensure that its conditions of detention do not cause distress to its prisoners and that the State must even ensure an adequate level of psychological as well as physical well-being. Although it admits that the prison administration was not passive when facing his mental troubles, the Court quotes the Recommendation of the Council of Europe’s Committee of Ministers on ethical and organisational aspects of healthcare in prison. It stipulates that any detainee suffering from serious psychological disorders must be placed and cared for in an appropriate hospital unit with qualified staff. It therefore considers that, although France has attempted to meet Rivière’s psychiatric needs, his continued detention has subjected him to more distress than he was capable of withstanding.

Therefore, the ECHR condemned France for violating Article 3 of the European Convention of Human Rights and the government had to pay a €5,000 fine to Jean-Luc Rivière¹³⁹. He has also been offered the possibility of being transferred to the prison of Château-Thierry, which specialises in people with long sentences and suffering from psychiatric issues. Nonetheless, the applicant refused the offer and decided to stay in the prison of Riom where he was detained at the time of the decision. Staying in Riom allowed him to follow professional training while staying geographically close to his relatives - a non-negligible element for his mental health. Following his refusal, Mr. Rivière was allowed a weekly visit from a psychiatric nurse, as well as a monthly visit from the establishment’s psychiatrist. These measures led to a general improvement in the applicant’s mental health condition. In case of a decline in Mr. Rivière’s health situation, specific measures could be taken, such as hospitalisation or transfer to a facility more suited to the patient’s health¹⁴⁰. Although beneficial for the prisoner, this improvement is not generalised and is specific to his case. It is, however, proof that closer monitoring of prisoners’ mental health plays a major role in reducing the suicide rate in prison.

Additionally, the French State was committed to implementing specialised health units, as planned with law n°2002-1138 of 9 September 2002¹⁴¹, the specially adapted hospital units (UHSA) aiming at the hospitalisation of prisoners. The creation of 17 of them was planned for 2008 to 2011, with a capacity of 705 beds¹⁴². About 15 years after their implementation, it is observed that the number of UHSA is still too low to accommodate all prisoners. Moreover, the implementation and creation of UHSA is useless as

¹³⁸ *European Convention on Human Rights and Fundamental Freedoms*, as amended by Protocols 11 and 14, 4 November 1950, ETS 5, available at [European Convention on Human Rights](#)

¹³⁹ CEDH, Cour (Deuxième Section), 11 juil. 2006, n° 33834/03. [online] Available at: <https://psychiatrie.crapa.asso.fr/archives/allfiles/jugements/060711CEDHriviere33834-03.htm> [Accessed 30 Mar. 2023].

¹⁴⁰ CEDH, Comité des Ministres, 11 juil. 2006, n° 33834/03, Résolution CM/ResDH(2009)2. [online] Available at : <https://hudoc.echr.coe.int/fre#%7B%22itemid%22%5B%22001-91150%22%5D%7D> [Accessed on 4 Sep. 2023]

¹⁴¹ Loi n°2002-1138 du 9 septembre 2002 d’orientation et de programmation pour la justice, NOR : JUSX0200117L, Article 48. [online] Available at: https://www.legifrance.gouv.fr/jorf/article_jo/JORFARTI000001242906 [Accessed on 17 Aug. 2023]

¹⁴² CEDH, Comité des Ministres, 11 juil. 2006, n° 33834/03, Résolution CM/ResDH(2009)2. [online] Available at : <https://hudoc.echr.coe.int/fre#%7B%22itemid%22%5B%22001-91150%22%5D%7D> [Accessed on 4 Sep. 2023]

long as the French Government does not make the effort to give them the resources they need to provide effective care, a problem to which those in charge still refuse to respond.

RENOLDE v. France

The *RENOLDE v. France* case was brought before the ECHR by H el ene Renolde, sister of Joselito Renolde, who had been remanded in custody at the Meaux prison on 12 April 2000, after being charged with intentional violence, intentional destruction, and damages to property, and theft. A few days later, a psychological assessment concluded that Renolde “*showed delays and deficits in the cognitive sphere; neurotic in structure, he possessed immature and infantile defence mechanisms, and some paranoid traits; unable to mentalise, all his violence was expressed on a physical level*”¹⁴³. However, when he was transferred to the Bois-d’Arcy prison on June 30, Renolde was described on his personal file as a person with no psychiatric pathology. However, on July 2, 2000, he attempted suicide for the first time and claimed to hear voices. He was subsequently placed on anxiolytic medication, although there were no checks to ensure that he was taking the prescribed medication. He was also placed in an individual cell, under special surveillance, The next day however, Joselito had an altercation with a female warden, during which he threw a stool at her face, an incident for which he appeared before the Disciplinary Committee. The Committee nevertheless placed him in a disciplinary cell for 45 days. In a letter to his sister, while he was in the disciplinary cell, Renolde wrote “*I don’t know if my life is worth living, with all the troubles I have ... and yet I haven’t hurt anyone. You know, I’m alive, and I don’t even know why. I believe in heaven, maybe it’s better up there. You know, I would like to sleep and never wake up again*”¹⁴⁴.

On July 20, 2000, Joselito was found by a warden hanging from the cell gate with his bedsheets. Following his autopsy, it was concluded that there were no drugs in his system apart from paracetamol, which proved that he had not been taking his anxiety medication. Following this, the civil parties, made up of Joselito’s family and friends, applied for an indictment to be brought against those responsible for involuntary manslaughter due to a breach of their duty of care and safety. However, the judge refused the application, concluding that “*the constituent elements of manslaughter, endangering the person of another or failing to assist a person in danger have not been made out*”¹⁴⁵, and in spite of an appeal, the judgement was not changed. H el ene Renolde would then present a case before the ECHR, involving Article 2 of the European Convention of Human Rights, stating that “*everyone’s right to life shall be protected by law*”¹⁴⁶. H el ene Renolde argues that the French prison authorities have not taken the necessary precautions to protect her brother’s right to life, which is all the more important because of his mental health issues. Moreover, she considers that his placement in a disciplinary cell, despite his state of psychological health, constitutes a violation of Article 2, which prohibits anyone from being subjected to inhumane treatment or punishment. The government argued that it had taken the appropriate decisions based on the information it had at the time of the events, that it had monitored Renolde closely

¹⁴³ CEDH, Cour (Cinqui eme Section), 11 oct. 2008, n o5608/05. [online] Available at: <http://www.bailii.org/eu/cases/ECHR/2008/1085.html> [Accessed 30 Mar. 2023].

¹⁴⁴ CEDH, Cour (Cinqui eme Section), 11 oct. 2008, n o5608/05. [online] Available at: <http://www.bailii.org/eu/cases/ECHR/2008/1085.html> [Accessed 30 Mar. 2023].

¹⁴⁵ CEDH, Cour (Cinqui eme Section), 11 oct. 2008, n o5608/05. [online] Available at: <http://www.bailii.org/eu/cases/ECHR/2008/1085.html> [Accessed 30 Mar. 2023].

¹⁴⁶ European Convention of Human Rights: https://www.echr.coe.int/documents/d/echr/convention_ENG

in use in several prisons at the time the action plan was drawn up, it is to be standardised to enable a better flow of information between the medical, surveillance, and teaching departments. The action plan also highlights the need to standardise the multidisciplinary suicide risk assessment grid system, which is the responsibility of prison staff and makes it possible to report on a prisoner's state of health and limits the related risks.

The action plan focuses on the issue of health in detention and its link with suicide attempts by prisoners. Health monitoring of all prisons in France is mentioned, emphasising the desire to improve conditions of detention, particularly regarding pharmaceutical units in these establishments. The prison administration pays particular attention to the issue of drug treatment in detention and stresses the need to monitor the intake of medication by vulnerable persons. Improvements to the UHSA are also mentioned, with its reorganisation into three levels of care: diversified outpatient care in all prisons, day hospitalisation in some prisons, and full-time hospitalisation. These changes aim to facilitate the care of prisoners who need it. More generally, the French government is stressing the importance of improving prison conditions, particularly in disciplinary wards, to reduce suicide rates in prisons¹⁵¹.

In response to these events, the Ministry of Justice published a strategic action plan concerning the health conditions of individuals in the care of the French justice system. This action plan, which ran from 2010 to 2014, focused on reorganising the mental health care pathway, in particular by using UHSAs to accommodate 440 new inmates and by providing training for prison staff¹⁵². However, the number of 440 beds was not reached until 2017, although it was planned to start in 2012¹⁵³.

RAFFRAY TADDEI v. France

The ECHR once again condemned France for violations of the Convention concerning the treatment of its prisoners in situations that could lead to their death. The *RAFFRAY TADDEI v. France* case revolves around Virginie Raffray Taddei, who had been convicted by multiple courts for multiple offences between 1997 and 2008. At the time, she was suffering from several serious health problems, including a lobectomy of her left lung, a heart attack, cancer of the uterus, and a brain bulb tumour. Yet, on January 22, 2004, the Aix-en-Provence Court of Appeal rejected her application for parole for medical treatment, even though the Nice prison where she was being held at the time was not providing her the appropriate care for her multiple pathologies, particularly her cancer. A doctor at the Montpellier University Hospital went so far as to say that *“failure to follow up leads to a worsening of the condition of a patient whose poor general state precludes any major investigations, and we can only provide comfort improvements. From the various documents provided by my patient, I can only conclude that there is total inconsistency in the treatments that were put in place during her incarceration”*¹⁵⁴. In 2006,

¹⁵¹ *Ibid.*

¹⁵² Ministère de la Justice et Ministère de la Santé (2009). Plan d'actions stratégiques 2010-2014 : Politique de santé pour les personnes placées sous la main de la justice. *Sante.gouv.fr*. [online] 15 juin. Available at: https://sante.gouv.fr/IMG/pdf/Plan_actions_strategiques_detenus.pdf [Accessed on 17 Aug. 2023]

¹⁵³ Sénat (2017). Rapport d'information n°612 fait au nom de la commission des affaires sociales sur les unités hospitalières spécialement aménagées : Construire pour soigner. *Senat.fr* [online] 5 juil. Available at https://www.senat.fr/rap/r16-612/r16-612_mono.html [Accessed on 9 sep. 2023]

¹⁵⁴ « *le non-suivi entraîne une aggravation sur un sujet dont le mauvais état général empêche toutes explorations importantes et nous ne pouvons que pratiquer une amélioration de confort. Aux différentes pièces fournies par ma patiente, je ne peux que constater qu'une incohérence totale des traitements qui ont été mis en place pendant son incarcération* » (free translation)

another doctor was appointed by the SEJ to carry out a medical assessment to establish whether Raffray Taddei was fit to remain in detention. He concluded that “*it has not been established that the applicant suffers from a life-threatening condition and that her state of health is not permanently incompatible with her continued detention*”¹⁵⁵. A SPRM was then rejected by the relevant court in 2007. However, in 2008, the same doctor who had conducted the first medical assessment established that “*due to the deterioration in the applicant's general condition, it is permanently incompatible with her continued detention*”¹⁵⁶. Virginie then repeated her request for SPRM and was hospitalised several times, in particular at the Fresnes health hospital, which prevented her request for suspension of her sentence from being heard, as it was due to take place before the Rennes SEJ. She then applied for a second SPRM in 2009, which was also rejected, as the two mandatory medical examinations did not appear to have identified any incompatibility with detention, followed by an application for conditional release, which was also rejected.

Following these repeated rejections, Virginie Raffray Taddei referred to the ECHR for a violation of Article 3 on inhumane treatment or punishment, arguing that her treatment and state of health were incompatible with her detention. The government based its defence on the applicant's active participation in the deterioration of her health, by refusing to eat, and on her inability to provide the document required to justify her deteriorated state of health, which was exaggerated. A psychological expert had even diagnosed her with Münchhausen syndrome, a pathology characterised by the need to invent an illness in order to attract compassion. The Court concluded, in favour of the French government, that the applicant's continued detention was not incompatible with detention and therefore did not constitute a violation of Article 3, since the various expert reports in the context of the SPRM failed to establish her vital prognosis was at risk. Nevertheless, she emphasised that it was the State's responsibility to provide her with appropriate medical care, which was not properly provided while she was in prison and which could therefore have led to her requesting a review of her sentence, which was repeatedly refused. These refusals and the lack of facilities appropriate to her pathologies could therefore have caused Virginie Raffray Taddei more distress than that inherent in detention, leading to a violation of Article 3 of the Convention¹⁵⁷.

Following this condemnation by the ECHR, the French government drew up an action plan, including notably the applicant's sentence arrangement conditions. Raffray Taddei therefore benefited from an SPRM for twelve months. The action plan also focuses on the necessity to take into account the prisoner's health state during their incarceration time, as reinforced in the memorandum of February 21, 2012¹⁵⁸. The memorandum aims to remind the prison directors that “*health is a criterion to define detention regime*”¹⁵⁹. For prisoners suffering from psychiatric disorders, this is synonymous with placement in an

¹⁵⁵ « *qu'il n'est pas établi que la requérante soit atteinte d'une pathologie engageant le pronostic vital et que son état de santé n'est pas durablement incompatible avec son maintien en détention* » (free translation)

¹⁵⁶ « *qu'en raison de l'altération de l'état général de la requérante, celui-ci est durablement incompatible avec son maintien en détention* » (free translation)

¹⁵⁷ CEDH, Cour (Cinquième Section) 21 déc. 2010, n° 36435/07 [online] Available at: <https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=001-102439&filename=001-102439.pdf&TID=thkbhnilzk> [Accessed 30 Mar. 2023].

¹⁵⁸ Circulaire du 21 février 2012 relative à l'orientation en établissement pénitentiaire des personnes détenues, NOR : JUSK1240006C. [online] Available at: <https://www.legifrance.gouv.fr/circulaire/id/34819?fonds=CIRC> [Accessed on 17 Aug. 2023]

¹⁵⁹ *Ibid.*

establishment that can provide care appropriate to their pathology or that is geographically close to an SPRM. Family distance is also added to the list of criteria, because “*generally speaking, maintaining relationships with family members is sought after in order to preserve the prisoner’s mental balance*”¹⁶⁰, despite the stakes being even higher in cases of unstable mental health. In addition, doctors working in prisons have been assigned specific, mandatory tasks: medical visits to disciplinary and segregation quarters, and medical certificates¹⁶¹. Although the measures taken under this action plan are promising, they are not really effective. In fact, in a way, they only present elements that are supposed to be already taken for granted and obvious in the construction of an incarceration model that aims to respect human rights. Finally, this action plan does not focus on the real problem of determining the compatibility of forms of detention with certain pathologies that can put prisoners in mortal danger.

ISENC v. France

Despite the French government’s attempts to prevent suicide following events such as the Renolde case, other suicides in prisons have been reported. In 2014, a case was referred to the ECHR by Mr Bedretin Isenc, accusing the French government of failing to protect the right to life of his son, Mr Isenc. Isenc was remanded in custody at the Bordeaux-Gradignan prison at the end of November 2008, as part of a judicial investigation into premeditated acts of violence. As soon as he was placed into custody, Isenc was identified as an “at-risk” prisoner as the investigating judge answered “yes” to the question “*does the behaviour of the person under investigation suggest that he may harm his physical integrity*”¹⁶²; he even added, “*to watch out for: first incarceration and seems fragile*”¹⁶³. Every new prisoner is supposed to receive a medical check-up on arrival in prison, to ensure that he or she is in good physical and mental health. No evidence of this visit for Mr. Isenc can be found, apart from letters exchanged by the head of detention and the director of the establishment, in August 2009 (after the date of Isenc’s suicide) stating that “*detainee Isenc was seen by the doctor on 25/11/2008 like all new arrivals*”¹⁶⁴. However, the prisoner’s information sheets contained a number of alarming facts. In particular, the detainee had problems with alcohol, suicidal tendencies dating back to his childhood, as well as pronounced concerns about his partner, who was pregnant at the time of his arrest, and also about the potential lack of contact with his family during his detention. Yet, his assessment form, which format has been recently standardised in all establishments to ensure a more objective analysis, indicates DGO, standing for “does not give an opinion” on the three areas related to suicide, “vulnerability”, “suicide risk” and “potential dangerousness”. Assigned to a cell shared with two other inmates, he committed suicide while they were showering, despite being placed under a reinforced surveillance regime - although on December 6, the day of his suicide, the round log is not clear as to when the guards were present.

¹⁶⁰ *Ibid.*

¹⁶¹ Représentation permanente européenne de la France auprès du Conseil de l’Europe (2012). Bilan d’action du gouvernement français relatif à l’exécution de l’arrêt CEDH Raffray Taddei c. France (Requête n° 36435/07, arrêt du 21 décembre 2010) [online] Available at: [https://hudoc.exec.coe.int/eng/#%7B%22execidentifiant%22:%5B%22DH-DD\(2012\)637F%22%5D%7D](https://hudoc.exec.coe.int/eng/#%7B%22execidentifiant%22:%5B%22DH-DD(2012)637F%22%5D%7D) [Accessed on 21 Aug. 2023]

¹⁶² CEDH, Cour (Cinquième Section), 4 fév. 2016, n° 58828/13 [online] Available at: <https://hudoc.echr.coe.int/fre/#%7B%22languageisocode%22:%5B%22FRE%22%5D,%22appno%22:%5B%2258828/13%22%5D,%22documentcollectionid%22:%5B%22CHAMBER%22%5D,%22itemid%22:%5B%22001-160319%22%5D%7D> [Accessed on 22 Aug. 2023]

¹⁶³ *Ibid.*

¹⁶⁴ *Ibid.*

As early as 2009, Isenc's father demanded €60,000 in compensation from the Minister of Justice which was rejected by the Bordeaux Administrative Court in November 2010, on the basis that the prisoner had shown "no suicidal intent" beforehand, despite the fact that his history indicates otherwise. The applicant naturally appealed against this decision, as the circumstances surrounding the surveillance of his son were unclear and his conditions of detention were difficult and inhumane, having been detained in an 8,5m² cell, shared by three people, one of whom even slept on the floor. He won this appeal, although Bordeaux Administrative Court of Appeal did not admit the role played by prison staff and the conditions of detention, which is why he was prompted to lodge an appeal on points of law. Seeing that the lodge was unsuccessful, Isenc's father ended up resorting to the ECHR.

In the context of this trial, the applicant insisted on a prior knowledge of the detainee's unstable state of mental health, and that no one had acted on this information. The French government replied that they couldn't confirm the suicidal risk, as they could not rely solely on the analysis of the investigation judge, who had judged him to be "at risk". This was justified in particular by the fact that many prisoners would cite suicidal tendencies as a way of avoiding incarceration, even though there was nothing to suggest that they would do so. The fact remains that not subjecting the prisoners to a visit to the regional psychological unit represents, in a way, a bet that the PAD takes with detainees' lives. What's more, the government claims that the prisoner was projecting himself into the future by talking about his pregnant partner and his desire to take up a sporting activity, during an interview in which Isenc also mentioned his history with suicide¹⁶⁵. The ECHR nonetheless concluded that, with the prisoner's known history and the absence of medical examination, the French government had failed in its obligations to protect the prisoner's right to life. By way of compensation, the applicant received €26,588 for the non-material damage caused, as well as for costs and expenses incurred before the domestic jurisdictions and the Court¹⁶⁶.

The French government subsequently drew up an action plan, mentioning the compensation owed to the applicant in terms of individual measures, limited to financial compensation. Regarding general measures, it stated that "*since the violation found was linked to the particular circumstances of the case, the Government consider that the dissemination and publication measures should make it possible to prevent any further violation similar to that found by the Court in this case*"¹⁶⁷. In other terms, no new measures have been taken following the *Isenc* case to prevent suicides in prison. This lack of action is unsatisfactory, as suicides continue to occur in French prisons. For example, 125 people took their own lives in prison in 2022¹⁶⁸.

These difficult life paths reveal the immense difficulty the prison administration has in reconciling all its functions. These convictions highlight the failings of the prison system in the long term and reflect the lack of resources available to the French prison administration.

¹⁶⁵ *Ibid.*

¹⁶⁶ Représentation permanente européenne de la France auprès du Conseil de l'Europe (2016). Bilan d'action du gouvernement français relatif à l'exécution de l'arrêt CEDH Isenc contre France (Requête n° 58828/13, arrêt du 11 novembre 2016) [online] Available at: [https://hudoc.exec.coe.int/ENG#%7B%22execidentifiant%22:%5B%22DH-DD\(2016\)1246F%22%5D%7D](https://hudoc.exec.coe.int/ENG#%7B%22execidentifiant%22:%5B%22DH-DD(2016)1246F%22%5D%7D) [Accessed on 22 Aug. 2023]

¹⁶⁷ *Ibid.*

¹⁶⁸ N.D (N.D). Décès en détention et suicides. *Oip.org* [online] Available at: <https://oip.org/decrypter/thematiques/decès-en-détention-et-suicides/#> [Accessed on 22 Aug. 2023]

CONCLUSION

This report takes a constructive and resolutely moderate approach. The difficulty of accessing exhaustive and up-to-date data has led us to draw up a relatively measured and inevitably partial analysis. Not all prison deaths are the result of shortcomings on the part of the prison administration. However, they would often be avoidable if existing measures for sentence adjustment were more widely used, and if the prison setting were less violent. This opacity feeds inmates' fears of dying in prison without their loved ones, in degrading conditions of care, even in death, as well as suspicions of ill-treatment by their loved ones when the administration delays informing them of this tragedy and/or refuses to let them access documents such as autopsy reports, which would enable them to better understand the circumstances of the death. It is difficult in this context to imagine an inmate confiding their distress to those with whom they feel a conflict. The manliness culture in prison makes it all the more difficult to normalise mental health issues and detect them at an early stage. Efforts still need to be made to ensure that the administration fulfils its role of protecting inmates, first and foremost by reducing prison overcrowding, which mainly affects remand prisons, which house prisoners and remand prisoners serving short sentences. These prisoners represent the population most likely to commit suicide or, in general, to die in prison. GROW therefore formulates a series of recommendations to bring France back into line with its regulatory, legislative, and EU commitments.

RECOMMENDATIONS

- GROW encourages French and international authorities to adopt a legal framework aiming at the implementation, through detention centres, of mental medical dispositions completing physical examination, to determine the aptitude of a detainee to be placed in detention with other detainees, which could reduce the risks of death due to murder or physical aggressions;
- GROW recommends the control of prison returns and visits be reinforced to reduce the illegal introduction of drugs and medicines, thus considerably reducing the risk of drug overdose;
- With regard to the previous point, GROW stresses the importance of addressing corruption in the prison environment and the role played by prison guards and staff in drug trafficking;
- GROW reaffirms the need of more transparency within the prison administration in its practices and results, both towards health workers, human rights activists, journalists but the prisoners' families;
- GROW highlights the need to give the prison workers who are in direct contact with the vulnerable detainees, a more extensive training specific to the prevention and management of suicide;
- GROW pleads for special attention to be given to the “supporting co-detainee” tool (CDS for its French initials) and particularly to the psychological consequences that their mission can have on the voluntaries;
- GROW insists on the importance of extending the CDS system on the entirety of the French territory, especially by increasing the subventions given to the project, as well as to other similar projects;
- Given the psychological impact that a suicide can have, not only on the co-detainees, but also on the prison workers in contact with the victim, GROW asks for the continuous opening of psychological cells in the detention sectors affected by such events;
- GROW encourages the competent authorities, including the Ministry of Justice and the Direction on Prison Administration, to reevaluate the missions of both Specially Adapted Hospital Units (UHSA) and Prison Sanitary Units (USMP) to allow for better efficiency in regard to the treatment of suicidal troubles.
- GROW asks for the installation, in whichever prison cell occupied by detainees asking for care, of an emergency button, directly connected to the medical unit, in order to improve the time response for medical emergencies, erasing the messenger represented by the supervisor in that situation;
- GROW encourages the PAD to work towards the relieving of medical units acting in prison spaces, especially by raising their numbers, to allow a better time reaction when facing emergencies that could pose a threat to detainees' lives;
- GROW asks for the relaxing of detention measures in UHSI of prisoners at the end of their life who cannot benefit from liberation measures, to allow for palliative care to be issued as well as a bigger proximity with their relatives;

- GROW insists on the necessity to take on measures to improve detention conditions in French prisons, especially by addressing prison overcrowding with decriminalisation measures, which would allow for the improvement of the general state of health of the prisoners;
- GROW calls for the procedures for obtaining release on medical grounds to be made more flexible, in particular SPRM and RLRM, and more specifically for the acquisition procedure to be shortened;
- When the death of a person in detention is announced, GROW recommends that the prison administration provide a list of mental health professionals able to receive the family members of the deceased person to help them begin the mourning process;
- GROW encourages the international and European community to think ambitiously about improving conditions of detention at the end of life, an issue that is still too often ignored in EU provisions.

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