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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Eighth periodic report submitted by France under article 19 of the Convention pursuant to the optional reporting procedure, due in 2020*, **

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* The present document is being issued without formal editing.
** The annexes to the present report may be accessed from the web page of the Committee.

I. Introduction

1. The Government of France hereby submits to the Committee against Torture the eighth periodic report of France under article 19 (1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In accordance with paragraph 43 of the Committee's concluding observations on the seventh periodic report of France, adopted on 4 May 2016 (CAT/C/FRA/CO/7), the present report was drafted in response to the list of issues prior to reporting (CAT/C/FRA/QPR/8) addressed by the Committee to the Government under the simplified reporting procedure.

II. Replies to the issues raised in the list of issues prior to reporting

A. Reply to the issue raised in paragraph 2

2. There are no plans to amend article 222-1 of the Criminal Code. The Government refers to the explanations provided on this matter in the seventh periodic report (CAT/C/FRA/7, paras. 40–45). According to French case law, acts of torture or barbarity require the demonstration of a material element, involving the commission of one or more acts of exceptional seriousness that amount to more than mere violence and cause severe pain or suffering to the victim, and a moral element, involving the desire to deny the human dignity of the victim. While article 222-1 does not contain a definition of torture, the courts consistently require proof of the aforementioned elements in order for the offence to be established.

3. Under French law, the statute of limitations applies to all offences, even the most serious, with only two exceptions: crimes against humanity and crimes of genocide, which may both entail acts of torture. The statute of limitations is a key principle of French criminal procedure, meaning that offences are only made imprescriptible under very limited circumstances.

B. Reply to the issues raised in paragraph 3

Paragraph 3 (a) and (b)

4. Article 63-1 of the Code of Criminal Procedure provides that any person taken into police custody must be immediately informed by a criminal investigation officer of the nature of the offence that is the subject of the investigation and of his or her rights, including the right to be assisted by a lawyer and to notify a family member. Article 63-2 specifies that the person taken into custody may make a telephone call to inform a person with whom he or she habitually resides or a lineal relative or sibling, in addition to his or her employer and, if applicable, the consular authorities of his or her country. Articles 63-3 and 63-4 stipulate the conditions of the medical examination and the interview with a lawyer, whose assistance may be requested from the outset of custody and who may be selected by the person in custody or appointed by the State.

5. The maximum custody period of 48 hours under ordinary law (Code of Criminal Procedure, art. 63) may exceptionally be extended to 96 hours (four days) in cases involving organized crime or terrorism, for perpetrators of or accomplices to the offence (Code of Criminal Procedure, art. 706-88). If there is a serious risk of an imminent terrorist attack in France or abroad or if it is essential for the purpose of international cooperation, police custody may exceptionally be extended to 144 hours (six days) (Code of Criminal Procedure, art. 706-88-1).

6. The procedures for police custody in cases involving organized crime or terrorism are subject to rigorous oversight by the judiciary: following the first 48 hours of custody, the liberties and custody judge or the investigating judge may decide to extend custody in a written and substantiated decision after the person in police custody has been brought before him or her.

7. If custody is extended beyond 48 hours, article 706-88 of the Code of Criminal Procedure provides for a compulsory medical examination. The public prosecutor, the investigating judge or the criminal investigation officer appoints a doctor, who issues a medical certificate, including an opinion on the person's fitness to be kept in custody, which is added to the case file. The person in custody is also informed by the criminal investigation officer that he or she is entitled to a further medical examination upon request. Although there is no avenue of appeal against a decision to extend custody, the lawyer of the person in custody may submit his or her comments at any time to the competent judge with a view to having the measure revoked.

8. Since the adoption of Act No. 94-43 of 18 January 1994 on Public Health and Social Protection and the related implementing decree, No. 98-1099 of 8 December 1998, the public hospital service, rather than the prison service, has been responsible for providing health care to incarcerated persons. The hospital service endeavours to ensure that these persons enjoy the same quality and continuity of health care as the general population, while also establishing specific, tailored and independent health-care provision. Every penal institution (except semi-custodial centres) has a medical unit attached to the local hospital. There is also a national public health-care facility based in Fresnes, eight interregional secure hospitals and nine specially adapted units in ordinary hospitals, where prisoners can be accommodated.

9. Under article R.57-8-1 of the Code of Criminal Procedure and article R.6112-23 of the Public Health Code, an initial medical examination must be performed on every person who arrives at a penal institution having previously been at liberty. This examination must take place as quickly as possible, subject to the consent of the prisoner, who is thus free to refuse it. The purpose of the examination is: to identify any infectious or progressive diseases; to put in place any appropriate therapeutic measure, including for persons engaged in addictive behaviours; to ensure continuity of care for persons already receiving treatment; and to reduce the risk of suicide. Although the initial examination is not a requirement when a prisoner is transferred between penal institutions, every effort must be made to ensure continuity of care based on the information provided by the medical team that previously treated the person.

10. A certification process for the care and support provided to prisoners during the induction phase was launched on the initiative of the prison service in 2008 in order to obtain an independent assessment of the quality of the related procedures and professional practices. The procedures assessed include the medical examination. To date, the induction process at 167 penal institutions has been certified as consistent with the European Prison Rules; certificates are awarded for three years with intermediate annual inspections.

11. Doctors are responsible for taking the appropriate steps to comply with the confidentiality rules for the medical records of patients in detention. Article 45 of Act No. 2009-1436 of 24 November 2009 states that "the prison authorities shall respect prisoners' right to medical privacy and the confidential nature of examinations in accordance with the third and fourth paragraphs of article L.6141-5 of the Public Health Code". Only the prisoner concerned is informed by the staff of the prison medical unit of the reason for an examination (for example, through an appointment confirmation letter or when medicines are distributed).

12. Pursuant to article 6-2 of the Ordinance of 2 February 1945, any minor suspect may be accompanied during hearings or interviews by the persons exercising parental authority over him or her or, if necessary, any other appropriate adult accepted by the competent authority. These provisions are reiterated in article L.311-1 of the Ordinance of 11 September 2019 on the legislative part of the Juvenile Criminal Justice Code.

Paragraph 3 (c)

13. The possibility of automatic reporting of injuries found by doctors to the competent prosecution authorities is limited by the need to maintain medical confidentiality, one of the pillars of medical practice and a fundamental patient right. Disclosure of confidential information is an offence under article 226-13 of the Criminal Code.

14. However, under article 226-14 of the Code, the doctor may inform the public prosecutor of signs of deprivation or abuse observed in a patient and indicating that physical, sexual or psychological violence of any kind has been committed. The prior consent of the

patient is required for such disclosure, unless the patient is a minor or deemed to be vulnerable. Extending the possibility of waiving medical confidentiality to all cases of violence and all victims, with or without their consent, would violate the principle of patient privacy and is not under consideration.

15. In accordance with article R.4127-10 of the Public Health Code, "a doctor who has to examine or treat a person deprived of liberty shall not, directly or indirectly, encourage or condone, even if only by his or her presence, the infringement of that person's physical or mental integrity or dignity. If the doctor notices that the person has been subjected to abuse or ill-treatment, he or she shall report it to the judicial authorities, subject to the consent of the person concerned". On principle, health care is provided with no prison staff present. Nonetheless, if a medical professional's safety is in danger and treatment cannot be postponed, he or she may request prison staff to be present.

16. The doctor must inform the prisoner of the steps taken and provide him or her with a copy of the documents drawn up. The director of the institution is notified, subject to the prisoner's consent. The injury certificates issued in detention are of the same type as those issued under ordinary law. The annexes to article R.4127-76 of the Public Health Code provide that medical certificates in cases of non-intentional violence or intentional assault and battery must specify the duration of total incapacity to work, which is used to determine the court competent to hear the case and before which the perpetrator will appear. Such certificates may be drawn up at the request of the person concerned or, if he or she is a minor, the persons with parental authority; the certificates are provided to those individuals personally.

Paragraph 3 (d)

17. Any breach of ethics or violation detrimental to the image of the internal security forces is addressed decisively. The perpetrators of such breaches are liable to disciplinary measures and, if applicable, criminal prosecution. The French authorities recall that members of the police and gendarmerie services are liable to disciplinary measures for any excessive use of force or racist or homophobic acts, independently of any criminal penalties. Individual cases of misconduct, which are rare and are harshly punished, should not distract from the impeccable conduct of the vast majority of police officers and gendarmes in the performance of their day-to-day duties (see annex I for the number of disciplinary measures taken against police officers in the period 2016–2019).

18. The Code of Ethics for the National Police and National Gendarmerie, which came into force on 1 January 2014 and has been incorporated into the Internal Security Code, specifies the rules to be obeyed. The provisions very clearly define the role of superiors in ensuring respect for physical integrity and personal dignity (Code of Ethics, arts. R.434-6 and R.434-25). The Code of Ethics clearly sets out the applicable rules for relations with the public (art. R.434-14), identity checks (art. R.434-16) and the use of force (art. R.434-18).

19. All the laws and regulations governing the actions of law enforcement agencies are covered in the initial training and the various in-service training courses for police officers and gendarmes and in frequent reminders issued locally.

20. In the execution of their judicial functions, the National Police and the National Gendarmerie are overseen by the judiciary, in accordance with the Code of Criminal Procedure.

21. In addition, particularly when they are performing duties not subject to judicial authority, law enforcement agencies are overseen by higher administrative authorities and the police and gendarmerie inspection units. Supervision by superiors may result in disciplinary action and therefore in sanctions against any officer who does not respect basic safeguards. The police and gendarmerie services are also monitored by the competent inspectorates, namely, the Inspectorate General of the National Police, the Inspectorate General of the National Gendarmerie and the Inspectorate General of Administration. The police and gendarmerie inspectorates carry out judicial investigations referred to them by judges and also perform audits and administrative or disciplinary investigations.

22. Of the 270 administrative investigations initiated and reported on by the Inspectorate General of the National Police, 195 resulted in a finding of professional or ethical violations by officers, while 75 were closed because no professional or ethical violation was found. Of the 25 investigations opened by the Inspectorate General of the National Gendarmerie in 2018, 16 were related to either bullying at work or discrimination. Many of these investigations were initiated on the basis of a report to the Inspectorate's "Stop-Discri" platform. The allegations were confirmed in only three of the total number of closed cases relating to harassment or discrimination. Seven investigations were conducted at the request of higher authorities following incidents involving gendarmes, some of which received widespread media coverage, such as the case involving a demonstrator injured at Notre-Dame-des-Landes. The investigations that concluded in 2018 with a finding of misconduct (including eight opened in 2017) resulted in recommendations for disciplinary measures and, in some circumstances, a report to the judicial authorities under article 40 of the Code of Criminal Procedure.

23. Moreover, article R.434-26 of the Code of Ethics for the National Police and National Gendarmerie sets out the principle of peer supervision: "The police officers and gendarmes of all ranks to whom this Code of Ethics applies shall be its custodians. They shall uphold it, individually and collectively."

24. Regarding protection for whistle-blowers, police officers and gendarmes may not be punished or subjected to discriminatory treatment for reporting or recounting, in good faith, acts constituting a criminal offence or conflict of interest of which they become aware in the performance of their duties, including if their testimony is addressed to the media.

25. Individuals may report breaches of ethical standards directly to the Inspectorate General of the National Police and the Inspectorate General of the National Gendarmerie by email or post; reports may also be made using the online platforms put in place by those organizations for that purpose.

26. The National Police and the National Gendarmerie are also monitored by the Defender of Rights in accordance with the role conferred on him or her by article 71-1 of the Constitution. The Defender of Rights may refer any incidents of which he or she is made aware and which appear to warrant punishment to the authority responsible for disciplinary action. He or she may also decide to appear independently before the authority handling the case, including before the criminal court if applicable, and present a summary and the findings of his or her investigation, either orally or in writing.

C. Reply to the issues raised in paragraph 4

Paragraph 4 (a)

27. Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection has been transferred into national law, which thus contains the relevant safeguards. Although the Act of 29 July 2015 transferring the 2013 Directive has not been referred to the Constitutional Council, the Council has validated the principle of prioritizing or fast-tracking the examination of applications made by nationals of safe countries of origin, in its Decision No. 2003-485 DC. The guarantees relating to the individual examination of applications handled using the fast-track procedure are reiterated in Decision No. 2018-770 DC.

28. In accordance with article 723-4 of the Code on the Entry and Residence of Aliens and the Right of Asylum, the French Office for the Protection of Refugees and Stateless Persons conducts an in-depth examination of each asylum application it receives, taking into account the situation prevailing in the country of origin at the time of its decision, the personal situation and statements of the asylum seeker and the evidence and information he or she submits.

29. Article L.723-2 of the Code specifies the cases in which a fast-track procedure may be used (40 per cent on average in recent years) and requires the Office to conduct an individual examination of each application handled under this procedure in accordance with the procedural safeguards afforded all asylum seekers. The same article provides that the

Office may decide not to use the fast-track procedure if that seems necessary for an appropriate examination of the application.

30. In principle, appeals before the National Court on the Right of Asylum against rejections issued by the Office have suspensive effect. The asylum seekers concerned therefore have the right to stay in the country until the Court hands down its final decision. Asylum seekers who have lodged an appeal against a decision of the Office may not be required to leave the territory of France or be removed while this appeal remains pending.

31. Some asylum seekers (those from safe countries of origin, those submitting a request for re-examination and those who constitute a threat to public order) who are not entitled to appeal to the Court with automatic suspensive effect and who may be subject to a removal measure as soon as their application is rejected by the Office (procedure allowed by the Court of Justice of the European Union in its judgment of 19 June 2018 in case C-181/16 (*Gnandi*)) have the option to lodge with the administrative court a request to suspend execution of the removal measure until the National Court on the Right of Asylum hands down its decision, as part of a suspensive appeal against the obligation to leave the territory of France. They continue to enjoy the same material conditions of reception while their appeal is pending.

Paragraph 4 (b)

32. Pursuant to the Act of 10 September 2018, the deadline for asylum seekers to submit their application was reduced from 120 to 90 days, counting from their entry into the country, to allow for examination as quickly as possible after arrival. The only consequence for an asylum seeker of missing the deadline is that the application is examined under the fast-track procedure, which provides asylum seekers with the same procedural guarantees as all other asylum procedures. Asylum seekers are not required to meet the deadline if they can show that they were not able to submit their application on time for legitimate reasons.

33. The deadlines for asylum seekers in holding areas or in detention remain unchanged. These deadlines are determined by the limited period for which asylum seekers may be kept in holding areas or in detention and the need to organize, within this period, the examination of the application, the consideration of the appeal and the return in the event that the application is rejected.

34. The deadlines for appealing against decisions of the French Office for the Protection of Refugees and Stateless Persons remain the same under the Act of 10 September 2018. Only the deadline for requesting legal aid for proceedings before the National Court on the Right of Asylum has been reduced, to 15 days. Such a request suspends the period allowed for appeals and a new end date is set for the remaining portion of this period, calculated from the date of the decision to provide legal aid.

35. With respect to asylum applications examined at the border (1,444 in 2018), article L.213-8-1 of the Code on the Entry and Residence of Aliens and the Right of Asylum specifies the cases in which the administrative authority may refuse entry to France for the purpose of claiming asylum. The administrative authority makes the decision on the basis of a recommendation from the French Office for the Protection of Refugees and Stateless Persons and may refuse entry only if the asylum claim is manifestly unfounded. The asylum seekers concerned are provided with linguistic and legal assistance in the holding area, enabling them to appeal against the decision with fully suspensive effect (Code on the Entry and Residence of Aliens and the Right of Asylum, arts. R.213-2 et seq.).

36. Foreign nationals who are subject to a removal measure and have been placed in detention are provided with the linguistic and legal assistance they need to appeal against the decision to reject their asylum claim; such assistance is part of the support system put in place in administrative detention centres. In cases where foreign nationals are kept in detention, the French Office for the Protection of Refugees and Stateless Persons makes a decision on their asylum claim and, if protection is granted, they are released from detention. Lastly, foreign nationals may file a request with the presiding judge of the administrative court to be allowed to stay in France until the National Court on the Right of Asylum rules on their appeal (Code of Administrative Justice, art. L.777-2).

Paragraph 4 (c)

37. At every stage of proceedings (registration of the application, examination by the French Office for the Protection of Refugees and Stateless Persons and appeal to the National Court on the Right of Asylum), asylum seekers are kept fully informed in a language they understand.

38. They have access to an interpreter for proceedings before the Office and the Court, including for the individual examination of their application and the Court hearing. Under the national accommodation scheme for asylum seekers, they also receive legal support to prepare their asylum application and assert their rights before the Office.

39. They may receive legal aid for proceedings before the Court under the conditions set out in Act No. 91-647 of 10 July 1991 on Legal Aid and are assumed to pass the related means test.

40. Finally, as regards holding areas, national regulations expressly provide that asylum seekers must receive information in a language they understand (Code on the Entry and Residence of Aliens and the Right of Asylum, art. R.213-2); furthermore, any foreign national detained in a holding area is entitled to the services of an interpreter free of charge for the purposes of the refusal-of-entry or removal proceedings against him or her (Code on the Entry and Residence of Aliens and the Right of Asylum, art. R.221-3). The asylum seeker may also be accompanied by an interpreter and accredited counsel during the personal interview conducted by the French Office for the Protection of Refugees and Stateless Persons (pursuant to article R.213-6 of the Code on the Entry and Residence of Aliens and the Right of Asylum, articles R.723-5 to R.723-9 are applicable to holding areas).

Paragraph 4 (d)

41. Article L.221-1 of the Code on the Entry and Residence of Aliens and the Right of Asylum provides that foreign nationals arriving in France by rail, sea or air who are not permitted to enter the country may be detained in holding areas for the time strictly necessary for their departure. The same article provides that the foreign nationals in question may ask to enter France to claim asylum. When this occurs, the French Office for the Protection of Refugees and Stateless Persons examines their claim to determine whether it is inadmissible or manifestly unfounded. However, these provisions apply only if the foreign national has been placed in a holding area.

42. In any case, the right to asylum is not violated, given the guarantee that the persons concerned will have their asylum claim examined by Italy, which complies with all the principles governing the right to asylum arising from the 1951 Convention relating to the Status of Refugees and European Union asylum law. The right to seek asylum should not be interpreted as the right to seek asylum in the country of one's choice, but rather as the right to obtain protection under the conditions provided for by constitutional law (Constitution, art. 53-1) and the relevant European Union regulations (Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013, known as the Dublin Regulation).

43. Article 20.4 of the Dublin Regulation applies in such situations:

> "4. Where an application for international protection is lodged with the competent authorities of a Member State by an applicant who is on the territory of another Member State, the determination of the Member State responsible shall be made by the Member State in whose territory the applicant is present. The latter Member State shall be informed without delay by the Member State which received the application and shall then, for the purposes of this Regulation, be regarded as the Member State with which the application for international protection was lodged."

44. This article may be applied in respect of a foreign national detained pending handover, provided that such detention does not exceed four hours. The foreign national is supposed to be in the territory of Italy. In this situation, the Italian police authorities must be informed, in the formal document concerning handover by the French authorities, of the foreign national's intention to claim asylum.

Paragraph 4 (e)

45. In this matter, France complies with the case law of the European Court of Justice, which has ruled that European Union law precludes the transfer of an asylum seeker to a member State where systemic deficiencies in the asylum procedure and in the conditions of asylum give rise to a substantial risk that the asylum seeker would be subjected to inhuman or degrading treatment (judgment of 21 December 2011 in cases C-411/10 (*N.S.*) and C-493/10 (*M.E. and Others*)). Asylum seekers in respect of whom a transfer request has already been accepted may invoke such deficiencies before the French court to block the execution of the transfer order (judgment of 10 December 2013 in case C-394/12 (*Abdullahi*)).

46. In any event, apart from cases in which there are deemed to be systemic deficiencies in a member State, asylum seekers may always invoke before the court a violation of article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which gives rise to an individual evaluation of the risks that the person would face in the event of transfer followed by return to his or her country of origin.

47. In all cases, the asylum seeker may appeal with fully suspensive effect against the transfer decision within a period of either 15 days or 48 hours, depending on the situation, and is provided for this purpose with an interpreter, legal support and counsel (Code on the Entry and Residence of Aliens and the Right of Asylum, art. L.742-4).

D. Reply to the issue raised in paragraph 5

48. The French Immigration and Integration Office is responsible for assessing the vulnerability of asylum seekers at the time when their applications are registered, notably with a view to identifying minors, unaccompanied minors, persons with disabilities and victims of trafficking in persons and adjusting the support offered to take account of their specific needs (Code on the Entry and Residence of Aliens and the Right of Asylum, art. L.744-6). Throughout the procedure, the Office may identify such vulnerable persons, especially victims of trafficking, determine specific arrangements for examining their applications and prioritize decisions on applications from persons identified in this way (Code on the Entry and Residence of Aliens and the Right of Asylum, art. L.723-3). If a possible situation of exploitation is detected, protection officers from the French Office for the Protection of Refugees and Stateless Persons, officials of the French Immigration and Integration Office and all other public officials are required to file a report with the public prosecutor (in accordance with article 40 of the Code of Criminal Procedure) and inform the asylum seeker of organizations that could provide assistance.

49. In 2018, the Ministry of the Interior began developing a plan to improve the identification of vulnerable persons and the support provided to them; the plan was produced together with non-governmental organizations, the French Immigration and Integration Office, the French Office for the Protection of Refugees and Stateless Persons and the Ministry of Solidarity and Health. Soon to be finalized, it provides in particular for increased detection of all categories of vulnerability through training and through earlier identification of victims of violence and trafficking in persons, among others, and for the establishment of dedicated accommodation for victims of trafficking, victims of violence and lesbian, gay, bisexual, transgender and intersex persons (the latter action was carried out in 2019).

50. In its examination of applications submitted by unaccompanied minors, France applies the rules arising from article 8 of the Dublin Regulation, always considering the best interests of the child. The Regulation provides that the member State responsible for an application lodged by an unaccompanied minor is the State in which a family member of the child resides, as long as that is in the child’s interests. In this case, the responsible member State may take steps to unite the family member legally present in its territory with the minor. In the absence of family members present in another member State, the member State responsible is that in which the unaccompanied minor has lodged his or her application. France may always, as provided for by article 17 of the Dublin Regulation, decide to examine an application for international protection lodged by an unaccompanied minor, even if such examination is not its responsibility under the rules on the division of competences stipulated by the Regulation.

51. Lastly, article L.743-3 of the Code on the Entry and Residence of Aliens and the Right of Asylum provides that the public prosecutor must appoint an ad hoc administrator to assist any unaccompanied minor who has lodged an application for asylum and represent the minor in administrative and court proceedings related to the claim. When they first arrive, unaccompanied minors are placed under an educational assistance procedure, which allows them to be provided with shelter and have their needs met under the supervision of a judge. In the weeks following their arrival, their case is referred to the guardianship judge, who appoints as guardian the president of the departmental council for the relevant location.

E. Reply to the issues raised in paragraph 6

Paragraph 6 (a)

52. According to the 2019 report on the activities of the French Office for the Protection of Refugees and Stateless Persons, 123,625 asylum applications (33.2 per cent from women) were registered in 2018, compared to 100,755 in 2017 and 85,696 in 2016. A breakdown of all the figures in the report is available at https://ofpra.gouv.fr/sites/default/files/atoms/files/rapport_dactivite_2018.pdf.pdf.

Paragraph 6 (b)

53. In 2018, the Office made 93,598 decisions, including 24,613 decisions to grant refugee status or subsidiary protection, which amounts to a protection rate of 26.6 per cent.

Paragraph 6 (c)

54. Apart from the residence permits issued to refugees and beneficiaries of subsidiary protection, who may be receiving such protection because they were tortured or at risk of being tortured in their country of origin, French law provides for the issuance of residence permits to victims of trafficking in persons. On this basis, 113 permits were issued in 2017 (50 per cent more than in 2016) and 87 in 2018.

Paragraph 6 (d)

55. The number of forced removals, defined as removal on the basis of a decision enforced through coercive measures, stood at 14,270 in 2017 and 15,677 in 2018.

Paragraph 6 (e)

56. This information is not available.

F. Reply to the issue raised in paragraph 7

57. Research carried out by the Ministry of Justice did not bring to light any refusals of requests for the extradition of individuals suspected of having committed acts of torture. By contrast, the French authorities have handed over several such persons to third countries, including one person transferred to the Argentine authorities on 15 December 2019 under an extradition request based on the Convention, for acts of torture.

G. Reply to the issues raised in paragraph 8

Paragraph 8 (a)

58. Initial and in-service training for police officers of all ranks includes the study of acts of torture or barbarity as offences in their own right and as aggravating circumstances for related offences.

59. Trainee constables spend 17 hours studying the basic aspects of police ethics, including the general principles of civil liberties, all the situations in which persons may be detained on police premises and the associated actions (particularly searches), and the

procedures for the inspections to which the National Police are subject. A two-hour session is conducted by the national training officer of the Defender of Rights.

60. Content relating to deprivation of liberty (the right to arrest, questioning, handcuffing and custody) and the relevant laws and provisions of the Convention is studied by volunteer deputy gendarme-assistant criminal investigation officers, trainee gendarmes and commissioned gendarmes throughout their basic training. Professional development and advanced training courses conducted at academies and specialized training centres (the National Training Centre for Criminal Investigation, the National Gendarmerie Training Centre and the National Public Safety Training Centre) or locally include theoretical classes, practical exercises and role-playing activities that explore the different ways in which respect for the human person may be ensured in situations of deprivation of liberty.

61. Annex II to the present report contains information on training related to the Convention for police officers and gendarmes.

62. The programme of basic and in-service training provided to French judges and prosecutors at the Legal Service Training College addresses issues related to torture and other cruel, inhuman or degrading treatment or punishment (see annex III).

63. Prison staff of all ranks receive basic theoretical training on mechanisms for the protection of human rights in prisons. Such staff study the Convention, various regional protection mechanisms (the Convention for the Protection of Human Rights and Fundamental Freedoms, the case law of the European Court of Human Rights and the recommendations of the Council of Europe and the Commissioner for Human Rights) and national protection mechanisms (administrative case law and the opinions, recommendations and reports of the Inspector General of Places of Deprivation of Liberty). In addition, the National Prison Service College has established an agreement with the Inspector General of Places of Deprivation of Liberty with a view to strengthening collaboration and information-sharing between the two institutions.

Paragraph 8 (b)

64. Police officers learn about female genital mutilation as part of their training on domestic violence, including during courses on child victims, marital violence and sexual and gender-based violence. The training deals with specific aspects of the police response, such as the collection of testimonies, psychological and forensic matters, and support and guidance. Excision, infibulation and the definitions of these offences are discussed in the training courses.

65. Gendarmes who take the course to become criminal investigation officers also learn about female genital mutilation, which is addressed in a special course on violence in criminal law. Gendarmes tackle the subject as part of their training on techniques for interviewing child victims of sexual offences.

66. The education packs for professionals produced by the Interministerial Task Force to Protect Women against Violence and to Combat Human Trafficking, including the “Bilakoro” pack on female genital mutilation, have been distributed to instructors at the central recruitment and training department of the National Police.

H. Reply to the issues raised in paragraph 9

67. There are no tools for assessing the effectiveness and impact of training and educational programmes for the reduction of cases of torture, violence and ill-treatment.

I. Reply to the issues raised in paragraph 10

Paragraph 10 (a)

68. Since 2016, the prison population has risen by between 1,000 and 1,500 prisoners every year. Owing to the rise in the number of short sentences, the rate of use of pretrial detention has also increased in the last three years (from 27 per cent of cases in 2015 to 30

per cent in 2019). Remand prisons had an occupancy rate of 138 per cent in 2019 compared to 142 per cent in 2018 (see annex IV).

Paragraph 10 (b)

69. The Government prioritizes efforts to tackle prison overcrowding in order to ensure that detention conditions are consistent with the dignity of prisoners and that prisons can fulfil their primary mission of preventing recidivism and promoting reintegration.

70. The Act on Planning for 2018–2022 and Judicial Reform helps to ensure that this goal is realized. In that regard, the Act stipulates that 80 per cent of prisoners in remand prisons should be housed in individual cells and provides for house arrest with electronic monitoring as a penalty in its own right and for probationary sentences. The Act prohibits the imposition of prison sentences of 1 month or less and establishes the principle that sentences of between 1 and 6 months should not be served in prison (alternative sentences include house arrest with electronic monitoring, day release and placement in the community). It also establishes that sentences of between 6 months and 1 year should be adjusted. As a result, the number of prisoners is estimated to have fallen by around 8,000 (excluding prisoners subject to day release or placement in the community). The annual number of sentences handed down is expected to include around 7,000 sentences of house arrest with electronic monitoring and 4,000 sentences of community service. This is mainly due to the benefits anticipated from the establishment of the Community Service Agency and the handing down of 70,000 probationary sentences.

71. In order to ensure that practices change, 11 areas, including 2 overseas (Saint-Denis in Reunion and Pointe-à-Pitre in Guadeloupe), have been selected on the basis of various criteria, including their level of prison overcrowding, to trial prison population control strategies and be supported in their efforts to implement the above-mentioned Act.

72. The prison construction programme provides for the creation of 15,000 prison places with a view to increasing total capacity from 60,000 to 75,000 places in 10 years. The scale of the programme sets it apart from previous programmes; it has been allocated a total of €1.1 billion for 2018–2022, including €175.7 million for 2020, to finance the construction of the first 7,000 places and begin feasibility studies for the creation of the remaining 8,000 places by 2027.

73. Generally speaking, the state of overseas prisons has been a public policy priority and has warranted greater effort for many years, given the dilapidated state of certain establishments, climate-related constraints and overcrowding, all of which cause the structures to age prematurely and increase the need for places. In order to control prison overcrowding in these establishments, a dynamic placement policy is being pursued, under which convicted prisoners, including those serving long sentences, are voluntarily transferred to establishments in metropolitan France in order to facilitate their access to work and training. However, the feasibility of this policy is limited by concerns over its impact on prisoners' family ties and the overcrowded nature of many facilities in metropolitan France. Annex V sets out the measures taken to improve the situation in overseas prisons.

Paragraph 10 (c)

74. The prison estate consists of 188 facilities occupying a surface area of 3.3 million m². The huge resources required to maintain them have been significantly reassessed in accordance with the Act of 23 March 2019 on Planning for 2018–2022 and Judicial Reform, resulting in the earmarking of around €110 million per year for that purpose (following internal redistribution, €136 million was allocated to the maintenance of prisons in 2017, while €133 million was allocated in 2018).

75. The following measures have been taken to improve the material conditions in the Fresnes and Nîmes remand prisons (see annex VI for details):

- In Fresnes, in 2017, for a total cost of €2.2 million, the shower blocks throughout the detention centre were renovated, the gratings on the windows of the cell blocks were replaced, the cells in the punishment wing were brought up to standard and a very ambitious plan to combat pests was implemented. In 2018, major works costing more

than €2 million were carried out on the heating system, the electrical installations, the general alarm system and the fire detection system. Work to conserve the roofs of the men's remand prison was also carried out.

- Major construction work scheduled to last 8 to 10 years was initiated in 2019 with a view to renovating the facility, including the cells.
- In Nîmes, work to increase capacity by 150 places (120 for men, 30 for women) will begin in 2021 and be completed in 2023. The total cost will be €35.1 million. In addition, a study of the feasibility of overhauling the visiting rooms and the cell intercom system is being conducted.

76. The conditions in police premises are an issue for both persons in custody and staff. The significant shortfalls in this area are reflected in a number of requirements included in the planning framework for police stations of September 2014, which defines the building standards for the construction of police stations.

77. The costs involved are substantial. As recommended by the Inspector General of Places of Deprivation of Liberty, work on the renovation of detention facilities has been carried out and action has been taken to deal with urgent situations. All facilities are gradually being brought up to standard. Between 2016 and the first half of 2019 (see annex VII), the National Police allocated €2.2 million for work on bringing police custody facilities up to standard and renovating them as part of a policy to humanize detention conditions. Particular attention is paid to maintaining facilities. Significant efforts have been made to ensure that blankets and mattresses are available in holding facilities and regularly mended. Despite the budgetary constraints on regional services, hygiene kits can be provided to persons deprived of their liberty.

Paragraph 10 (d)

78. As at 1 October 2019, there were 59,848 places in the prison system and 82,708 persons on prison registers, of whom 70,818 were in detention. On that date, the prison occupancy rate averaged 115.9 per cent, although more than 39,241 persons were being held in facilities with an occupancy rate of over 120 per cent.

79. The problem of prison overcrowding is particularly acute in remand prisons, which have an occupancy rate of 138 per cent as compared with 87 per cent in prisons where sentences are served. The particularly critical situation in remand prisons is caused by the current rise in the number of remand prisoners (20,959 as at 1 October 2019) and by the application since 1975 of a de facto limit on the number of inmates in prisons where sentences are served.

80. Although 28,000 new places have been created through various construction programmes since 1988, this has not reduced the excessively high occupancy rate in remand prisons. As mentioned above, the Act on Planning for 2018–2022 and Judicial Reform sets an ambitious target of 80 per cent for the percentage of prisoners housed in individual cells in remand prisons by 2022. This will be achieved by expanding the prison estate (building 7,000 additional prison places by the end of 2022 and up to 15,000 places by 2027) and bringing about a sustainable increase in the use of alternative penalties for persons who are given short sentences.

81. Order No. 2020-303 of 25 March 2020, which provides for the adaptation of the rules of criminal procedure pursuant to Emergency Act No. 2020-290 of 23 March 2020 on Combating the Coronavirus Disease (COVID-19) Pandemic allows or facilitates the early release of convicted prisoners. As at 23 April 2020, the number of prisoners had fallen by 11,764 to 60,811, resulting in a prison occupancy rate of 100 per cent for all facilities and 112 per cent for remand prisons.

Paragraph 10 (e)

82. The Government understands the rationale for the recommendation to end the practice of handcuffing persons to stationary objects in police stations. However, this is a precautionary security measure, taken when moving detained persons out of holding areas. In common with protective devices for windows and stairwells, it is intended to protect

persons in custody. The practice is applied with discernment and in a manner that ensures respect for the dignity of persons in custody.

83. It is therefore difficult to envisage the removal of fixed attachment points (fixed rings, bars, etc.) from police stations as this would require a level of staffing that is incompatible with the human resources available, taking into account the need to prioritize the deployment of staff on operational missions (policing the public highway, conducting investigations, etc.).

Paragraph 10 (f)

84. Access to psychiatric care for prisoners must be improved. In this regard, steps are being taken to promote the development of outpatient services in prisons, including part-time, drop-in treatment centres, and to develop health units that can provide hospital day care when a need is identified. In addition, the launch of a second group of specially equipped hospital units should increase access to full, free-of-charge hospitalization.

85. The 2019–2022 health road map for persons in the justice system includes a number of national-level actions for improving the mental health pathways for prisoners, including the establishment of a working group on the topic. This group is examining the suitability of all the mechanisms by which psychiatric care is provided to prisoners, taking into account the key issue of preparation for release in order to avoid breaks in care and improve prisoners' chances of being sustainably reintegrated.

86. In view of the observed prevalence of mental illness, expectations in the field of mental health are high among the general public and prisoners. For this reason, major reforms in the areas of funding and authorization are being initiated and will benefit persons in the justice system.

87. The measures set out below are being taken in the following institutions:

- Condé-sur-Sarthe prison. The psychiatric referral establishment (the Orne psychotherapy centre in Alençon) is working to improve its health-care provision, including by:
    - Updating the framework protocol established between the prison and referral hospitals;
    - Improving the quality and safety of care;
    - Strengthening the cohesion of the team;
    - Increasing the time during which a psychiatrist is available;
    - Implementing effectively the plan for the part-time, drop-in treatment centre;
    - Enhancing prisoners' access to full hospital care by making use of the specially designed hospital unit in Rennes and promoting interregional cooperation;
    - The revised version of the framework protocol for the provision of care and the coordination of preventive measures in prisons, established between the Alençon-Condé-sur-Sarthe prison, the Alençon Mamers intercommunal hospital centre and the Orne psychotherapy centre, will be formalized from the first half of 2020. This version will incorporate the criteria governing the organization and operation of psychiatric care and the procedure to be followed when a prisoner is committed to a psychiatric unit;
    - In general terms, staffing levels are affected by the lack of medical and paramedical staff in the area, particularly in the field of psychiatry, for which reason the regional health agency of Normandy is endeavouring to put in place various measures to improve access to care for the whole population. Steps are also being taken to promote the use of telemedicine, particularly at the establishment in Rouvray, to increase the time during which a psychologist may be consulted and to introduce advanced practice nurses.
- Nîmes remand prison. The psychiatric care system of this prison health unit includes the following:

- 1.2 full-time psychiatrists;
- 1 general practitioner able to treat addiction and a trainee general practitioner;
- 0.1 full-time equivalent doctors specialized in treating addiction;
- 2 part-time psychologists, making 1 full-time equivalent psychologist;
- 1 State-registered nurse specializing in day-to-day mental health, making 2.5 full-time equivalent staff (7 in total);
- 2 State-registered nurses responsible for treating addiction, devoting half a day per week to providing such treatment;
- The National Association for the Prevention of Alcoholism and Addiction organizes preventive actions every Monday morning with a psychologist from this association and a State-registered nurse trained to treat addiction. An addiction team also provides support every Friday morning. With regard to suicide prevention, the health unit attends the suicide prevention meeting with the prison authorities on Monday mornings. In addition, a relaxation session co-led by a psychologist and a State-registered nurse practising in the psychiatric wing takes place every Wednesday morning and an emotion-management session led by a psychologist is being developed within the unit;
- Lastly, the unit is gradually changing its operating procedures to enable it to manage semi-emergencies.

- Villepinte remand prison
  - Since the last observations were made in 2015, the team responsible for psychiatric care has been expanded, facilitating the development of psychiatric care provision. Current staffing levels are as follows: 1.7 full-time equivalent psychiatrists (3 part-time practitioners), 5 full-time equivalent psychologists and 0.2 full-time equivalent psychomotor therapists;
  - The health unit has developed additional therapeutic activities (discussion groups and psychomotor workshops);
  - With regard to suicide prevention measures, the decision to place what is known as the “Respect” module on a permanent footing in 2017 has led to positive developments in detention management and professional practices. Health professionals are involved in some of the activities offered within the module, which ultimately helps to improve the atmosphere in prison and reduce behavioural problems, thus contributing to the prevention of prison suicides;
  - In 2010, the Villepinte remand prison was a national pilot site for the “Supportive Fellow Prisoners” operation, which has since been extended and introduced in other prisons. It involves designating prisoners who are trained to act as a go-between and contact point for the administration and the medical service in the identification of prisoners in distress. The Red Cross also plays a key role in this system;
  - The development of a wing for fragile prisoners, where the staff of the prison health unit provide support and plan activity groups, is also helping to prevent prisoners from taking their own lives. Lastly, the health-care team takes part in the suicide prevention committee, which meets every two weeks;
  - The policy for preventing and combating drug addiction has also been strengthened and developed. The staff of the prison health unit includes 0.5 full-time equivalent specialists in treating addiction. Support is also provided by Narcotiques anonymes and by an addiction treatment, support and prevention centre.

Paragraph 10 (g)

88. In 2015, the Inspectorate General of Legal Services and the Inspectorate General of Social Affairs carried out a joint audit of the National Action Plan to Prevent Suicide in Prisons. The Ministry of Justice has set out to implement the 22 audit recommendations, which include:

- Preparing new terms of reference for in-service suicide prevention training for prison staff
- Publishing a memorandum on improving information-sharing among the Ministry's departments
- Publishing a "postvention"[1] memorandum (entitled "What to do after a suicide") for prison directors and functional managers of the prison service's integration and probation units

89. In 2018, a working group (health-care and justice sectors) was convened to tailor the measures set out in the suicide prevention strategy for the country as a whole to the situation in prisons and to consider information-sharing between prison and health-care staff and individualized support for prisoners who pose a suicide risk.

90. Prison guards are being provided with ligature cutters so that they can act effectively in critical situations requiring a swift response. These are tools that can be used in the event of an attempted suicide by hanging without posing a risk to prison security.

91. The prison service also helps maintain a system for the epidemiological surveillance of suicides among prisoners, which was set up by the national public health agency in 2017 to improve the identification of statistically significant suicide risk factors.

92. An assessment of the policy in place to prevent suicide in prisons will be launched in 2020.

Paragraph 10 (h)

93. The medical staffing challenges currently facing the country as a whole may be having an even greater impact on prisons and in certain regions.

94. In this context, as part of efforts to improve staff retention and recruitment, which include the development of an initial training programme, there are plans to increase the number of training placements offered in prisons by building on the initiatives introduced by some regional health agencies and to expand the action plan to make the practice of medicine in public hospitals more attractive by adjusting it to include the practice of medicine in prisons.

95. In addition, the National Health Strategy set out in the Priority Prevention Plan provides for the establishment of a practical service requirement for health-care students, which will introduce all future health professionals to the challenges of primary prevention and health promotion and develop their skills in working with all population groups, including, potentially, in places of deprivation of liberty.

96. Juvenile detention centres and juvenile legal protection agencies have also been identified as sites at which health promotion actions could be carried out.

97. The Ministry of Solidarity and Health and the Ministry of Justice are jointly considering how to have actors in different fields learn about one another's tasks with a view to putting an end to misunderstandings, which are a source of tension and instability within teams. For example, several training initiatives are being rolled out to improve the identification of prisoners in need of psychiatric care and the support provided to them, including a training course on mental health first aid for prison staff planned for 2020.

[1] "Action taken to reduce the psychological impact of a suicide on all those affected or concerned by the event, in particular families, fellow prisoners and prison staff."

Paragraph 10 (i)

98. All prisoners are guaranteed real human contact, which takes the form of daily interactions with prison guards and other prisoners. This also applies to prisoners subject to special detention regimes, not all of whom are placed in solitary confinement. Those whose names have been added to the list of prisoners who pose a high risk of escape or particularly violent behaviour are often placed in ordinary detention.

99. Prisoners may apply to participate in activities or perform work while incarcerated. They must undergo a specific procedure known as "assignment" for both work and vocational training. Prisoners must meet certain conditions to be able to participate in these activities, and their applications are considered very carefully.

100. Prisoners whose names have been added to the special list are also allowed to take exercise in the yard. When they do so, the guards on yard duty and the guard posted to the watchtower ensure an increased level of supervision, as reflected in the logbook. In general, vigilance is exercised when prisoners on the special list take part in any activity.

101. All prisoners subject to a special regime retain their right to written correspondence and use of the telephone (Code of Criminal Procedure, art. R.57-7-62). They may also receive standard visits and have access to family visit apartments and family visit rooms. In addition, they have contact with the outside world through regular medical care, which is always available, and interactions with other visitors (ministers of faith and private tutors).

J. Reply to the issues raised in paragraph 11

Paragraph 11 (a)

102. Between 2017 and 2018, there was a marked increase in the number of suicides among prisoners. As at 1 October 2019, the number of deaths had decreased significantly, from 139 to 83 (see annex VIII). This decrease is due to the suicide prevention policy implemented by the prison service.

103. Statistics are not collected on the penalties imposed on perpetrators of torture, ill-treatment or negligence causing death or injury or the reparation provided to victims. In addition, it is possible to disaggregate by type of act of violence but not by type of injury.

Paragraph 11 (b)

104. The plan to combat violence in prisons launched in 2014 and the units for violent prisoners established in the spring of 2019 have the following aims:

- To create a new prison regime specifically to support perpetrators of violence; units for violent prisoners provide the conditions in which prisoners exhibiting challenging behaviour, either because they are likely to commit an act of violence or because they have already done so, can be safely managed
- To improve support for such prisoners by basing the regime on the principle that the support provided should be individualized and progressive, in terms of both security measures and the content of the programme for those inmates, with the aim of helping to reduce violent behaviour

105. Seven units for violent prisoners have been opened, at the following facilities: Lille-Sequedin (10 places), Strasbourg (8 places), Marseille (7 places), Châteaudun (11 places), Fleury (10 places), Rennes (5 places) and Toulouse (9 places). Further units will soon be opened.

106. Prisoners may be placed in these units for a limited period of three to six or nine months. In addition to placement in a unit for violent prisoners, disciplinary penalties may be imposed for violence in prison. The causes of violence are also being studied. Since September 2019, it has been necessary to identify the cause of any act of violence that gives rise to disciplinary proceedings.

107. Special attention is paid to ill-treatment by prison staff. The duties of prison staff in their relations with prisoners are set out in the Code of Ethics of the Public Prison Service.[2] Article 15 of the Code, of which staff are regularly reminded, provides that: "Staff members of the prison service must show absolute respect for the persons entrusted to their custody by the judiciary and for the rights of those persons. They must refrain from all forms of violence and intimidation against such persons. They must not discriminate in any way. They must not use offensive names, undue familiarity, or coarse or vulgar language. They must treat the relatives of prisoners in the same way."

108. Victims of ill-treatment by prison staff may lodge a complaint with the public prosecutor or refer the matter to the Inspector General of Places of Deprivation of Liberty or the Defender of Rights. They may also contact, inter alia, all the administrative and judicial authorities referred to in article D.262 of the Code of Criminal Procedure, their lawyer, the management of the facility, the interregional prison authority, the integration and probation unit and the judge responsible for the enforcement of sentences.[3]

109. To help prisoners to exercise their rights, prisons have legal access points that provide guidance to prisoners who allege that they have experienced ill-treatment.

110. The prison service is alert to reports of abuse by staff. The interregional prison authorities escalate incidents reported in the context of disciplinary proceedings to the central administration.

111. Whenever acts of violence are perpetrated against prisoners, either by other prisoners or by staff, measures are taken to protect the victim (move to another building, separation from other prisoners, transfer for security reasons, assistance in lodging a complaint, examination by a doctor, etc.) and to ensure that criminal and disciplinary proceedings can be instituted against the perpetrator as soon as possible.

K. Reply to the issues raised in paragraph 12

112. Not all disciplinary infractions may be punished by placement in a disciplinary cell for the 30 days provided for by law, since there is a sliding scale of penalties for such infractions. Disciplinary seclusion for a maximum of 30 days is a penalty that may be imposed only for the commission or attempted commission of an act of physical violence against a member of staff, a person on a mission or visit to the facility or another prisoner (Code of Criminal Procedure, arts. R.57-7-1 and R.57-7-47).

113. Juvenile prisoners may be placed in a disciplinary cell only in exceptional circumstances. The penalty may be imposed only for the most serious infractions and only on minors aged 16 years or over (Code of Criminal Procedure, art. R.57-7-36). The maximum duration is five or seven days, depending on the seriousness of the infraction (Code of Criminal Procedure, art. R.57-7-38). The penalty is thus imposed for a very short period, on prisoners who are nearly adults and in only the most serious situations, including those involving violence.

L. Reply to the issues raised in paragraph 13

114. Following recommendations by several oversight authorities, including the Inspector General of Places of Deprivation of Liberty, regarding the considerable variation identified in the application of national guidelines on carrying out peephole checks with the lights turned on, the prison service clarified working practices in a memorandum of 30 October 2018 harmonizing the procedures for such checks. The memorandum ensures a balance between security requirements and respect for the conditions of detention, including the quality of sleep of persons subject to such checks (when the situation is normal, nothing

[2] https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000023333257&dateTexte=20191216.

[3] https://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000033543415&cidTexte=LEGITEXT000006071154&dateTexte=20170101.

suspicious is identified and visibility is adequate, there is no need to turn the lights on during these checks).

115. The changes introduced to the rules governing searches of prisoners under the Act of 23 March 2019 are intended to enable prison directors to combat the smuggling and possession by prisoners of prohibited objects or substances. The new rules are in compliance with the case law of the administrative courts and the European Court of Human Rights, which is based on the principles of necessity and proportionality in search-related decision-making and on respect for the dignity of prisoners in the proper implementation of these decisions.

116. It is thus emphasized in the new article 57 of the 2009 Prisons Act that prison staff have a scale of measures at their disposal to maintain security and public order ("Strip searches may be performed only if frisk searches or searches with electronic scanning devices are insufficient") and to prevent the commission of criminal offences by ensuring that prisoners are not carrying prohibited objects or substances about their person.[4]

M. Reply to the issues raised in paragraph 14

Paragraph 14 (a)

117. Some hospitals authorized to provide psychiatric care have been designated by regional health agencies to admit patients on an involuntary basis. Treatment administered on an involuntary basis accounts for a small minority of all hospital treatment performed in French health-care facilities.

118. Improving conditions for persons admitted to psychiatric hospitals is a key component of the work carried out by the psychiatry steering committee in relation to the technical operating conditions of authorized facilities. The question of architecture in psychiatry will also be taken into account in the context of the work begun in November 2019 to reform the process for granting authorizations to provide psychiatric care. The need for living conditions that respect the rights of patients, particularly with regard to surface area, light, access to water and lavatories, communication with care providers, access for families and so forth, is already taken into account in every new construction and renovation project.

119. Psychiatry is not immune to the increasing pressures of demand, recruitment problems and often challenging material conditions. In the face of this crisis, emergency measures have been taken to restore flexibility to hospitals. Maintaining the budget for psychiatric services and helping regions that were previously underfunded to catch up are a priority (an additional long-term appropriation of €80 million was allocated in the first budget circular for 2019 to support psychiatric facilities in the development of care provision at the local level). The new financing arrangements are also intended to encourage mental health facilities to join quality assurance schemes and to promote the introduction and wider adoption of innovative treatments and methods of care. Further research will also be promoted.

120. Annex IX sets out the measures that have been taken to improve conditions for persons subject to involuntary hospitalization.

Paragraph 14 (b)

121. There is a system in place to track serious adverse events experienced by anyone admitted to a health-care facility in France, which might include acts of abuse and/or violence. Such events and incidents are dealt with by regional health agencies, which, if necessary, launch inspections of the services and facilities concerned. This process might lead to administrative or criminal proceedings, particularly in the event of proven ill-treatment.

[4] https://www.legifrance.gouv.fr/affichTexteArticle.do;jsessionid=F47B610558F725AB0C9FF6A22D869C8D.tplgfr36s_1?idArticle=LEGIARTI000038314011&cidTexte=JORFTEXT000021312171&categorieLien=id&dateTexte=.

Paragraph 14 (c)

122. Psychiatric facilities pursue a policy of providing staff with ongoing training on managing aggression and violence and preventing and managing crisis situations. This policy was developed in accordance with the national guidelines set out in the ministerial road map for mental health and psychiatry of June 2018, which is intended to improve the identification of mental health problems and provide better and earlier treatment for such problems, particularly among children and adolescents, through more accessible care provision across the country. It is also a question of strengthening partnership work with all actors involved in prevention, identification and care pathways, including in outpatient settings, strengthening cooperation with social and sociomedical actors and contributing to the social integration and rehabilitation of the persons concerned.

Paragraph 14 (d)

123. The road map for mental health and psychiatry of June 2018 made reducing the use of restraint, seclusion and involuntary care a key part of national policy on mental health and psychiatry, which must be implemented at the local level. The action plan to reduce the use of these practices has led to:

- A directive of 29 March 2017 on the policy of reducing seclusion and restraint in health-care facilities authorized to provide psychiatric care
- Efforts to improve and consolidate data collection, which were launched in 2019 and continued into 2020
- A campaign to mobilize, during regional seminars, actors who work most closely with care providers on the ground with a view to bringing about a change in practices

124. There are plans to establish a national observatory of professional practices in psychiatry and the rights of psychiatric patients in order to:

- Identify and promote local-level providers of prevention, care and sociomedical services that can help to reduce recourse to involuntary care and promote individual rights
- Have more accurate information on the provision of involuntary care and the use of seclusion and restraint
- Identify and disseminate good practices in crisis prevention and management in order to significantly reduce the use of seclusion and restraint and the forms of involuntary care most harmful to patient freedoms
- Develop mechanisms to improve the realization of patient rights

Paragraph 14 (e)

125. From 3 to 13 June 2019, the Inspector General of Places of Deprivation of Liberty conducted another visit to the Ain psychotherapeutic centre and found that patient care had been dramatically improved: the care framework, which had previously been based on security considerations, is now organized around respect for the dignity and fundamental rights of patients, including their freedom of movement. The visit also revealed that the use of seclusion and restraint had been completely reconsidered. The facility's plan for the period 2018–2022 has been redrafted with profound changes for all staff members and is now focused on ethical considerations and the interests of patients and families. In this context, special attention has been paid to strengthening the therapeutic activities provided for patients, both at the units and elsewhere, so that as many of them as possible are able to benefit.

126. These efforts have led to a significant reduction in the frequency and duration of application of seclusion and restraint measures, which are implemented in material conditions that respect dignity and well-being. Such measures are now applied as a last resort and are considered as such by care providers.

127. Despite a challenging staffing situation, high-quality psychiatric and physical health care is provided, and care providers, nurses, auxiliaries and psychologists are closely involved in providing psychiatric care to patients on a day-to-day basis. The patients benefit

from an individualized approach in all areas: treatment, rights, activities and day-to-day life. The medical presence in all units has been strengthened through a proactive approach on the part of the facility and the ongoing support provided by the regional health agency. Nevertheless, the situation at the facility remains fragile, given the major challenges of recruiting psychiatrists, and the regional health agency will continue to carefully monitor the situation at the facility.

N. Reply to the issues raised in paragraph 15

128. Foreign nationals intercepted by the border police at the Franco-Italian border are placed in shelters – and not in detention facilities as indicated in the list of issues – pending their transfer to the Italian authorities.

129. In 2019, following the visit of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to Menton in December 2018, work was carried out to improve reception conditions for such persons, at a cost of €19,000 (chemical toilet maintenance, installation of a heating unit and metal benches, etc.).

130. The arrangements for persons stopped at the two tunnels (Fréjus Road Tunnel and Mont Cenis Tunnel) pose real challenges, particularly between 11 p.m. and 7 a.m. At the Fréjus Road Tunnel, migrants are invited to wait in a room at the adjacent national control posts on the Italian platform of the tunnel. There is a heated room in which they can eat and rest. Special attention is paid to vulnerable persons, including unaccompanied minors, some of whom may be placed in a holding area, including at Modane station.

131. With regard to alternatives to the detention of migrants, French law states that detention is a supplementary measure that is imposed only when house arrest, which was introduced as an ordinary law measure under the Act of 7 March 2016, is not likely to ensure the proper enforcement of a removal order. House arrest is a measure whereby a foreign national in an irregular situation who is subject to a removal order with a reasonable prospect of enforcement and who provides adequate assurance that he or she does not present a risk of absconding is required to reside at a place determined by the administrative authority (his or her home, an accommodation centre, a hotel room, etc.). The duration of house arrest is generally six months, renewable once.

132. The number of house arrests increased from approximately 4,000 in 2015 to 18,000 in 2018.

133. Article L.551-1 of the Code on the Entry and Residence of Aliens and the Right of Asylum contains an exhaustive list of the circumstances in which, as an exception to house arrest, a foreign national may be placed in an administrative detention centre by decision of the prefect.

134. This particularly applies to foreign nationals in an irregular situation who are able neither to leave the country immediately nor to provide adequate assurance against the risk of absconding. Every effort is made to limit the duration of such detention (90 days maximum) and to improve its conditions. Placement in detention is strictly regulated both in law and in practice. A judge oversees such placement and any extensions thereof.

135. Unaccompanied minors must be afforded special attention and their vulnerability taken into account (Code on the Entry and Residence of Aliens and the Right of Asylum, art. L.213-2). As a rule, the removal or expulsion of foreign minors is prohibited under French law (Code on the Entry and Residence of Aliens and the Right of Asylum, arts. L.511-4 and L.521-4). Unaccompanied foreign minors who have been recognized as minors by the departmental councils and the judicial authorities may not be detained. Child protection measures are taken in respect of such minors, who must be placed under guardianship and an ad hoc administrator appointed if necessary.

136. With regard to minors accompanying one or more adults in an irregular situation who have been detained, article L.551-1 III bis of the Code on the Entry and Residence of Aliens and the Right of Asylum provides that the detention of a foreign national accompanied by a minor is authorized in only three circumstances:

- If the adult foreign national has not complied with one of the requirements of a previous house arrest measure
- If he or she absconded or refused to be removed during the enforcement of the removal order
- If, taking into account the interests of the minor, the placement of the foreign national in detention in the 48 hours prior to the scheduled departure frees the person concerned and the minor accompanying him or her from constraints related to transfer requirements

137. In accordance with the case law of the European Court of Human Rights, article L.551-1 of the Code on the Entry and Residence of Aliens and the Right of Asylum establishes all the safeguards necessary to ensure that detention conditions for accompanying minors are not contrary to their best interests. The duration of the detention must be as short as possible, in view of the time "strictly necessary for the organization of the departure". The best interests of the child should be a "paramount consideration" in decisions relating to detention. Accompanying minors may be detained only in an administrative detention centre with separate and suitable rooms and areas specifically for families and where recreational activities can be provided for the minors.

138. If the liberties and custody judge monitoring the detention notes that one or other of these conditions has not been satisfied, it is likely that a decision to release will be issued.

O. Reply to the issues raised in paragraph 16

Paragraph 16 (a)

139. Beyond the provisions of article L.744-9-1 of the Code on the Entry and Residence of Aliens and the Right of Asylum, which transfers into national law Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection, there is no provision of French law that authorizes the detention of asylum seekers whose applications are under consideration, as they have a right to remain in the country pending the decision of the National Court on the Right of Asylum.

Paragraph 16 (b)

140. As noted above, unaccompanied minors may not be placed in detention.

141. In 2017, foreign nationals accompanied by minors accounted for only around 1 per cent of the total number of detention placements. In 2017, the average duration of detention was 16 hours.

142. There are no data available on alternatives to detention, as the application used to manage files on foreign nationals in France (AGDREF, version 2) does not allow officials to link a detention placement and any previous decision to place a person under house arrest.

143. The centres for families have:

- In the family rooms, childcare items (bottle warmer, high chair and folding cot with mattress)
- A nursery (bathtub, changing table, equipment and storage); this room must be maintained at a comfortable temperature and to higher hygiene standards
- A room for storing childcare items (folding beds, childcare equipment and games)
- A playroom with children's tables and chairs, televisions and consoles, where children can use the toys, books and various games provided for them

144. An investment of €5 million has been scheduled to develop the cultural and leisure activities provided for detained persons and their families. Several administrative detention centres have already benefited from this programme: drawing or music lessons may be organized (Marseille); common areas are equipped with games consoles or sports equipment

accessible to children; and the children's areas may be fitted with swings or slides. In the family areas, toys, books and play mats are also provided.

Paragraph 16 (c)

145. The average duration of detention of irregular migrants was 12.4 days in 2017. For the reasons stated above, there are no data available on alternatives to detention.

P. Reply to the issues raised in paragraph 17

146. Respect for professional ethics is central to the values of the National Police and the National Gendarmerie, including within the framework laid down by the Code of Ethics for the National Police and the National Gendarmerie, which stipulates, for example, that police officers and gendarmes must have absolute respect for individuals and that any person arrested is placed under their responsibility and protection; he or she may not be subjected to violence or inhuman or degrading treatment or punishment by public officials or third parties. The Government attaches the utmost importance to respect for professional ethics and expects police officers and gendarmes to behave in an exemplary manner at all times when carrying out their duties.

147. The principle of the strictly necessary and proportionate use of force in particular is central to the work of law enforcement officers. The decision to use handcuffs is the officer's personal responsibility. This power must be exercised with discernment and respect for the dignity of the person, with due regard to the principle of proportionality, the circumstances of the case and the character of the individual detained. There are regular reminders of these rules, which have been integrated into training programmes. Police officers and gendarmes are thus reminded that the use of handcuffs should not be systematic. Any breach of these rules is a criminal offence and renders the perpetrator liable to disciplinary penalties.

148. The general rules governing the use of handcuffs are set out in article 803 of the Code of Criminal Procedure, which provides that "no one may be handcuffed or restrained unless he or she poses either a danger to himself or herself or to others or a flight risk". Within these conditions, if a person is handcuffed during questioning, for sufficiently clear security reasons and not as part of a systematic practice, a justification of the measure must be given (risk of dangerous behaviour or escape). The fact that a person was detained does not in itself justify restraining him or her during questioning. Objective reasons must be given for the restraint, and the conditions must be compatible with the person's dignity and tailored to his or her build. The rules governing the use of handcuffs are set out in Central Directorate for Public Safety memorandum 04-10464 of 13 September 2004, for the police, and in memorandum No. 42-619 of 10 July 2012, for the gendarmerie.

149. From a practical standpoint, the justification for handcuffing must be set out in legal terms in a record of evidence or other document detailing the circumstances of the police operation. The individual's behaviour must therefore be noted in the document (attempting to escape, inciting resistance, making threats, etc.).

150. With the exception of very recent barracks that have a custody area, gendarmerie premises are not organized in such a way as to allow one or several secure rooms to be set aside for questioning persons taken into custody. Consequently, handcuffing remains the most appropriate way of dealing with the risk of escape or violence by persons deprived of their liberty (whether against law enforcement officers or against themselves).

151. The exceptional nature of the use of handcuffs and other restraints under French law must be more pronounced for minors. It is therefore necessary to carry out particularly careful and objective assessment of the actual facts and risk (general circular of the Ministry of Justice of 1 March 1993 and circular of the Ministry of the Interior of 22 February 2006 on the treatment of minors during police operations and while they are placed under the responsibility of the police or the National Gendarmerie).

152. Unless the competent judge decides otherwise, minors aged under 13 years who have not been charged with a crime must not be handcuffed, and there are limitations with regard

to the handcuffing of minors aged over 13 years, which must be done with due discernment, particularly in the case of less serious offences.

Paragraph 17 (a)

153. Any person who considers that he or she is the victim of an offence, including violence committed by law enforcement officers, may lodge a complaint at a police or gendarmerie station or directly with the public prosecutor. Article 15-3 of the Code of Criminal Procedure provides that:

> "Criminal investigation officers and staff are required to receive complaints lodged by victims of criminal offences, including when such complaints are lodged with a police department or unit that lacks jurisdiction over the relevant geographical area. In these cases, the complaint must, where necessary, be referred to the department or unit that has jurisdiction.
>
> Any complaint lodged is recorded, and an acknowledgement of receipt is immediately issued to the victim …"

154. Victims who do not wish to travel to a police or gendarmerie station can also report the incident via the reporting platforms of the Inspectorate General of the National Police and the Inspectorate General of the National Gendarmerie, which are independent of the units responsible for maintaining law and order. Once the incident has been reported, the Inspectorate General of the National Police and the Inspectorate General of the National Gendarmerie must inform the public prosecutor of any offences identified without delay, pursuant to article 40 of the Code of Criminal Procedure.

155. The competent public prosecutor's office may request the Inspectorate General of the National Police and the Inspectorate General of the National Gendarmerie to investigate incidents reported by victims of violence. The investigations are carried out independently and impartially, under judicial supervision. The public prosecutor must "ensure that the investigations uncover the truth, that incriminating and exonerating circumstances are investigated equally and that the rights of the victim, the plaintiff and the suspect are respected" (Code of Criminal Procedure, art. 39-3).

156. Lastly, the victim may refer the matter to the Defender of Rights, an independent administrative body responsible, inter alia, for ensuring compliance with the ethical rules governing the activities of public and private security professionals.

157. In all cases, when registering a complaint, the police officer must pay special attention to the victim and guarantee the confidentiality of his or her statement (Internal Security Code, art. R.434-20). Victims are not required to prove that an offence has taken place when their complaint is registered. In accordance with article 10-2 of the Code of Criminal Procedure, the police officer must inform the victim by any means of his or her right to:

- Obtain redress for the harm that he or she has suffered
- Sue for damages in criminal proceedings and be assisted by a lawyer if he or she wishes to be so assisted
- Be helped by a victim support service or association
- Refer the matter to the Indemnification Commission for Victims of Offences, in the case of an offence under articles 706-3 or 706-14 of the Code of Criminal Procedure
- Be informed about the protective measures available for them
- Have an interpreter and a translation of information essential to the exercise of his or her rights, where necessary
- Be accompanied at all stages of the proceedings by his or her legal representative and by the adult of his or her choice
- Declare a third party's address as his or her place of residence, subject to the third party's express agreement

158. The rights of victims are set out in the acknowledgement of receipt issued when a complaint is lodged.

159. Article 10-5 of the Code of Criminal Procedure provides for all victims to undergo an individualized assessment, which may be followed by an in-depth assessment pursuant to a decision of the prosecutor.

160. Victims can access the services available at public safety police and local gendarmerie stations (84 psychologists at police stations; 271 social workers at police and gendarmerie stations; approximately 200 victim support association clinics at police stations; 22 psychosocial teams at police stations, consisting of a victim support coordinator, a psychologist, a social worker and a victim support association clinic; and 23 psychosocial teams at police stations, consisting of a victim support coordinator, a psychologist and a social worker).

161. The Charter on Contact with the Public and Assistance for Victims governs all police and gendarmerie departments. The principles established in the Charter have been set out in memorandums.

Paragraph 17 (b)

162. The data are set out in annexes I and X (police) and XI (gendarmerie).

Paragraph 17 (c)

163. The build-up of several thousand migrants in the Calais area is unprecedented and without parallel elsewhere in France. In 2016, the Government decided to carry out the largest ever camp dismantlement and has since opposed calls to allow the re-establishment of permanent migrant settlements in the commune of Calais. Every day, law enforcement agencies carry out operations to put an end to the illegal occupation of sites in order to prevent migrants from settling for the long term, which would lead to public order disturbances. Social work teams are tasked with going to talk to the migrants to offer them shelter at a reception and situation assessment centre.

164. The number of deaths among migrants in Calais has been decreasing since 2016. There were 18 deaths in 2015, 14 in 2016, 4 in 2017, 4 in 2018 and 3 since the beginning of 2019 (November figures). Most of these deaths were due to road traffic accidents.

165. In addition, the public prosecutor’s office has overseen the intensification of efforts to combat smuggling networks, resulting in the dismantling of nearly 25 networks a year since 2017. Efforts to combat traffickers (a trafficker is an opportunistic smuggler who acts alone) have led to the apprehension of 1,049 traffickers since the beginning of 2019.

166. According to the information available to public agencies, in 2015 the Defender of Rights received four reports of incidents (three of aggravated violence and one of aggravated theft) involving law enforcement officers in Calais; there were no complainants (in the cases of aggravated violence, the Defender of Rights relied on video recordings submitted). No action was taken in response to the replies received by the Defender of Rights in these four cases.

167. No reports were received in 2016.

168. In 2017, the Defender of Rights requested information regarding the provisions on which identity checks are based, the reasons why access to the premises of Secours Catholique was subject to an identity check and the circumstances in which six young foreign minors had been escorted to the central police station in Calais. The Defender of Rights took no action in response to the reply received.

169. No reports were received in 2018.

170. In 2019, a case of abuse of authority by law enforcement officials was reported to the security forces by the association Auberge des Migrants.

171. With regard to the complaints:

- Two complaints of aggravated violence were registered in 2015 (the Boulogne-sur-Mer public prosecutor's office took no action in respect of one of the complaints, and the other was referred to the Inspectorate General of the National Police)
- In 2016, one complaint of aggravated violence was registered (referred to the Inspectorate General of the National Police)
- In 2017, four complaints of aggravated violence were registered (three were referred to the Inspectorate General of the National Police and one to the public prosecutor's office)
- In 2018 and 2019, one complaint of aggravated violence was registered each year (both of which were referred to the Inspectorate General of the National Police)

172. Concerning measures to protect migrants from violent xenophobic attacks, victims of criminal offences, regardless of their nationality, are treated equally by the National Police.

173. Details of the measures that have been taken to improve conditions are set out in annex XII. Public agencies estimate that there are currently around 450 migrants, most of them young men. Since August 2017, various measures have been taken on the ground to provide the migrant population with access to water and showers and with information, at a financial cost of €2.8 million in 2019.

174. With regard to accommodation and shelter, there are two reception and situation assessment centres with 255 places. They offer accommodation outside Calais to all migrants, including those who do not meet the criteria for vulnerability. They enable migrants to enjoy shelter in dignified conditions (a health evaluation is performed, for example) and to take stock of their administrative situation through an assessment carried out by the departments of the prefecture and the French Immigration and Integration Office, which grants them accelerated access to the "one-stop shop" in Lille. From Monday to Friday, mobile teams and a shuttle are available at dedicated locations and help migrants to access the shelters if they wish to do so. As a systematic practice, migrants are offered space in these shelters whenever operations to dismantle illegal camps are carried out.

175. With regard to medical care, the health-care access point at Calais hospital is open five days a week, and 95 per cent of its patients are migrants.

176. Food is distributed twice a day, seven days a week, in the form of breakfast and a meal consisting of two daily rations, which ensures a balanced and adequate diet.

177. With regard to unaccompanied minors, in 2012, the Pas-de-Calais Departmental Council, in partnership with France Terre d'Asile and the judiciary, created a system to achieve several aims, the first being to provide shelter for minors in the department. The association performs daily rounds in Calais in order to carry out an assessment, make initial contact with the foreign minors there and offer them shelter in the Saint-Omer accommodation centre 45 km away. In 2019, 920 young people were given shelter. As part of the 2018/19 Winter Plan, the Government introduced a specific arrangement for unaccompanied minors whereby 364 overnight stays were provided over the 24 nights for which it was in place. Lastly, in 2018, 22 family reunification cases concerning the United Kingdom and 46 cases under the Dublin procedures were handled by France Terre d'Asile and the Office of the United Nations High Commissioner for Refugees, resulting in 68 actual departures. Since 1 January 2019, there have been 49 actual departures (33 under the Dublin procedures and 16 family reunifications in the United Kingdom), and the cases of 24 minors are still pending.

Q. Reply to the issues raised in paragraph 18

178. The Act of 30 October 2017 strengthening internal security and counter-terrorism, which was adopted in the context of the ongoing terrorist threat in France, is aimed at maintaining the balance between public security and the continued enjoyment of public freedoms. This aim is achieved by developing a strategy to prevent risks of an act of terrorism.

The strategy is based on protecting sensitive events and places and monitoring persons whose conduct constitutes a particularly serious threat to public security and public order and who either regularly interact with persons or organizations inciting, facilitating or participating in acts of terrorism or who support, disseminate, where such dissemination is accompanied by an expression of adherence to the ideology expounded, or adhere to theories that incite the commission of acts of terrorism or seek to vindicate such acts (Internal Security Code, art. 228-1).

179. The Act provides the administrative authority with new and extensive legal tools intended solely to prevent acts of terrorism: protection perimeters (art. 1); closure of places of worship (art. 2); individual administrative monitoring and surveillance measures (art. 3); and home searches and seizures (art. 4).The use of these tools has nevertheless been made subject to strict parliamentary oversight, requiring the submission to Parliament of both a copy of all the decisions taken and a detailed annual report. The legal rules governing these four new measures have in large part been validated by the Constitutional Council (Decisions No. 2017-691 QPC of 18 February 2018 and No. 2017-695 QPC of 29 March 2018).

180. In addition to the standard procedural safeguards applicable to any administrative police measure that restricts the exercise of a freedom, such as a statement of reasons, an adversarial procedure, notification and the right of appeal, the measure must clearly be necessary and proportionate and in particular preserve respect for private, family and professional life. The safeguards surrounding these new measures are more robust than those provided for under the rules governing states of emergency:

- The measure may be applied for no more than 1 month (renewable) for perimeters of protection; 3 months (renewable for up to 12 months) for individual monitoring and surveillance measures; and 6 months for the closure of places of worship.
- The measure may be renewed only if the conditions that gave rise to its initial imposition remain in place (protection perimeters) and, for monitoring and surveillance measures, after 6 months, if there are new and additional factors.
- An adversarial procedure prior to the entry into force of the measure gives the persons concerned the opportunity to put forward their observations (closure of places of worship) and, where appropriate, bring the matter before a judge, which has an exceptional suspensive effect (closure of places of worship, monitoring and surveillance).
- There is the possibility, for individual measures, of an advance judicial review in the form of authorization by the liberties and custody judge of the Paris Court of Major Jurisdiction, for searches and seizures, or a delay in the entry into force of a measure to close a place of worship or to renew an individual monitoring and surveillance measure to ensure that the matter can be brought before the urgent applications judge of the administrative court, who may uphold the measure or, conversely, suspend it, even before its entry into force.
- With the exception of the closure of places of worship, the administrative authority must always provide advance warning to the public prosecutor with jurisdiction over the relevant geographical area and, for surveillance and control measures and searches and seizures, to the Paris public prosecutor.

181. Lastly, the Act stipulates that these measures are valid for a limited period, until 31 December 2020, and will undergo extensive parliamentary scrutiny and an assessment of their results to determine whether their validity should be extended beyond this date.

182. With regard to judicial review, any individual or legal entity (association or company) subject to an administrative police measure imposed under the Act of 30 October 2017 may challenge the decision before an administrative judge after the decision has been taken or even beforehand (see above). The complainant may file an appeal on the merits of the decision that he or she considers prejudicial but may also, whether at the same time or subsequently, challenge it through an urgent procedure. In this case, the judge rules within a very short time frame, which constitutes an additional safeguard for the applicant. Lastly, the applicant always has the possibility of seeking to hold the State responsible for damage resulting from a police measure.

183. Furthermore, express provision is made in the Act for ad hoc mechanisms by which Parliament can monitor measures imposed under articles 1 to 4 for the purposes of oversight and particularly extensive transparency. Information regarding measures adopted in implementation of the Act and their consequences is transmitted to Parliament as needed. The oversight committees of each assembly hear the administrative and judicial authorities involved in the Act's implementation and may carry out on-the-spot checks.

184. With regard to the provisions applicable to counter-terrorism searches, the regime governing night searches is strictly regulated. Article 59 of the Code of Criminal Procedure states that, unless an exception is provided for by law or a call is made to report a situation of imminent danger inside the house, homes may be entered and searched only between 6 a.m. and 9 p.m.

185. With regard to crimes and misdemeanours that constitute acts of terrorism, night searches are permitted under articles 706-89 to 706-91 of the Code of Criminal Procedure if they are warranted by the requirements of an expedited police investigation; or, during the preliminary police investigation, when such searches are necessary to prevent a risk of harm to life and limb; or, during the judicial inquiry, when it is urgent and in the following limited circumstances: when a crime or misdemeanour is uncovered while it is being committed; when there is an immediate risk that evidence or substantive leads might be lost; when there are plausible grounds for suspecting that one or more persons on the premises where the search is to take place are committing crimes and misdemeanours that constitute acts of terrorism; and when it is necessary to prevent a risk of harm to life and limb.

186. Home searches may be carried out at night solely on grounds of risk to life and limb and solely in the context of judicial counter-terrorism investigations and inquiries, with due regard to the level of danger posed by the individuals.

187. The rights enshrined in the Convention are safeguarded by the strict conditions surrounding the implementation of this investigative measure. The order of the liberties and custody judge authorizing the measure in question must include a statement of the legal and factual considerations underpinning the decision so as to demonstrate that it is necessary and cannot be carried out during the hours specified in article 59. Failure to provide a statement of reasons for such an invasion of privacy necessarily harms the interests of the person concerned and results in the cancellation of the operation.

188. The judge who authorized the search may also visit the premises to ensure that the legal provisions and the fundamental rights of the person whose home is being searched are respected.

189. These safeguards are intended specifically to protect the persons concerned from the excessive use of force during searches. Such persons may, where appropriate, file a complaint within the conditions described above.

R. Reply to the issues raised in paragraph 19

Paragraph 19 (a)

190. The Ministry of Justice is implementing a general victim support programme that can be adapted to all categories of victim. Through the programme, funding is provided to associations that support victims of all types of offence, including acts of torture or inhuman or degrading treatment. The support provided is multidisciplinary and is tailored to the needs of each individual. It comprises legal advice, as well as psychological and social, support.

191. In order to respond to the specific needs and vulnerabilities of certain victims, including victims of torture or ill-treatment, an in-depth assessment mechanism is implemented from the earliest stages of an investigation with a view to identifying needs and taking protective measures.

Paragraph 19 (b)

192. The issues surrounding the provision of psychological support to victims of violence are of great importance for our society. In November 2017, on the International Day for the

Elimination of Violence against Women, the President of the Republic made a speech in which he announced plans to establish units specialized in that field, in line with the five-year National Strategy to Prevent and Combat Gender-based and Sexual Violence and the interministerial plan on advocacy and action to combat violence against children (2017–2019). Ten specialized units providing comprehensive care for victims of psychological trauma were designated to run on a pilot basis through a national call for projects in 2018.

193. These units, which function as activity and meeting centres, are regional pilot projects the purpose of which is to encourage and support efforts to tackle psychological trauma. However, they are not the only resources established for that purpose in France. The regional health agencies, and regional and local stakeholders in the health system, devote financial and human resources to the provision of such care. Making every possible effort to consider local requirements and the needs of the public, they aim to disseminate good practices and resources for managing psychological trauma and to ensure that all health-care workers coordinate their efforts and work in synergy to provide a diversified and high-quality range of services that help every person who needs the assistance of the health system to develop resilience.

Paragraph 19 (c)

194. The Ministry of Justice has no statistics on redress and compensation measures for victims of torture or ill-treatment and their families.

Paragraph 19 (d)

195. The sums due to applicants, or their beneficiaries, as just satisfaction (non-pecuniary damage, costs and expenses) have been paid when judgments have been handed down by the European Court of Human Rights.

196. Furthermore:

- With regard to case No. 9373/15, *M.A. v. France*, the French authorities are in regular contact with the Algerian authorities to discuss the applicant's situation and conditions of detention.
- With regard to case No. 30059/15, *Boukrourou and Others v. France*, it is now prohibited to use the "*pliage*" technique, whereby prisoners are kept in a sitting position with their heads pressed to their knees, during transport in a van (instruction issued on 4 November 2015).
- With regard to cases No. 33201/11, *R.M. and Others v. France*, No. 24587/12, *A.M. and Others v. France*, No. 11593/12, *A.B. and Others v. France*, and No. 76491/14, *R.C. and V.C. v. France*, the Act of 7 March 2016 provides that families should be detained only as a last resort in centres equipped to receive families and only for such time as is necessary to remove the persons concerned.
- Cases No. 78514/14, *R.V. v. France*, and No. 34648/14, *R.D. v. France*, were closed by the Department for the Execution of Judgments of the European Court of Human Rights. Ms. R.D. has been granted a residence permit. The decision requiring Mr R.V. to leave French territory has been revoked.

S. Reply to the issues raised in paragraph 20

Paragraphs 20 (a), (b) and (c)

197. The preliminary investigation entrusted to the command of the *gendarmerie prévôtale* (military police) based in Bangui, with the support of the investigation department of the Paris gendarmerie, was conducted under the supervision of the Paris public prosecutor's office, which ensured that it was properly conducted in accordance with the Code of Criminal Procedure.

198. The *gendarmerie prévôtale* is a section of the gendarmerie attached to the French armed forces abroad that undertakes general police work and criminal investigations within

the military. When conducting criminal investigations, officers of the *gendarmerie prévôtale* must comply with the Code of Criminal Procedure. They are responsible for recording offences committed by or against the French armed forces, gathering evidence and tracking down perpetrators under the supervision and responsibility of the Paris public prosecutor's office, which guarantees their functional independence. At the time of writing, 12 officers and 71 non-commissioned officers were authorized by the Paris Court of Appeal to conduct criminal investigations in the armed forces and were deployed as military police officers. The *gendarmerie prévôtale* upholds national and international law, faithfully carries out its judicial duties and serves as a valuable tool for justice through its knowledge of how the army works and the areas in which it operates.

199. In the context of these proceedings, the teacher who issued the alert was interviewed by the investigating services while other persons whose testimony could help to determine the truth, including the child complainants, were interviewed on the basis of international letters rogatory during a judicial inquiry conducted by independent investigating judges, who investigated the case for the prosecution and the defence and supervised all investigative acts carried out under their responsibility. The children received the appropriate support during these interviews: the original 11 complainants were interviewed at the Embassy of France in Bangui.

200. The judicial inquiry initiated on 7 May 2015 failed to establish sufficient evidence against the French soldiers accused of committing the reported acts and the investigating judges issued a dismissal order on 11 January 2018. The civil parties appealed this decision before the investigating chamber of the Paris Court of Appeal, which, in a judgment issued on 5 November 2019, upheld the previous decision.

201. The impartiality and independence of the investigation and the final decision to dismiss the case cannot be faulted. As the case was dismissed, the military personnel involved have not been prosecuted.

202. Three other preliminary investigations into allegations of sexual abuse, two of which were initiated on the basis of reports made by the Ministry of the Armed Forces, were also dismissed in 2016 and 2017 because no offence had been committed or because the offences were insufficiently substantiated.

203. The investigation opened in April 2016 into acts committed in the Dekoa region is currently being undertaken by the prosecutor's office of the Paris Judicial Court.

Paragraph 20 (d)

204. The French Government attaches particular importance to training soldiers with a view to preventing such offences. All French soldiers involved in operations, including peacekeeping operations, receive specific training on the legal framework, the code of conduct, the rules of engagement, respect for human rights and criminal responsibility. This training includes a specific module that focuses on standards of integrity, command responsibility and zero tolerance for sexual exploitation and abuse. In 2018, the Ministry of the Armed Forces changed its in-service training materials with a view to raising awareness among military personnel of the fight against sexual exploitation and abuse. Soldiers are regularly reminded of these rules, which are strictly enforced.

205. Before any deployment to a State in crisis, French soldiers undergo training and awareness-raising on their duties as military personnel and are regularly reminded of these duties during the operation. In addition, operational legal advisers deployed within the armed forces receive specific training in international human rights law, international humanitarian law and criminal law, so that they may pass on that knowledge to each member of the force, both before and during a deployment. Military personnel undertaking basic and advanced training subsequently sit an examination.

206. This training mechanism has recently been strengthened. In 2017, a specific train-the-trainers module on the prevention of sexual exploitation and abuse during operations was introduced. Since 2019, the Ministry of the Armed Forces has organized a three-day training course on the mainstreaming of the gender perspective by the armed forces during operations (a course for advisers on the human environment in which operations take place). Within this

framework, several modules, including one prepared in conjunction with the International Committee of the Red Cross, are devoted to preventing and combating sexual exploitation and abuse during operations abroad.

T. Reply to the issues raised in paragraph 21

207. In 2019, the Ministry of Solidarity and Health, with the support of the Ministry of Justice, conducted a series of interviews with stakeholders, including expert doctors from the Referral Centre for Rare Diseases of Genital Development, and representatives of Amnesty International, the association Surrénales, GISS Alter-Corpus and the Collectif Intersexes et Allié.e.s-OII France.

208. Following these meetings, consideration was given to ways of improving health care for affected children while ensuring respect for their personal inviolability and, in November 2019, the French National Consultative Council on Ethics, which had been asked to examine the ethical issues surrounding the measures to be implemented, issued its opinion No. 132 on the ethical issues raised by the situation of persons with differences in sex development. The following recommendations were made in that document:

- Children and their parents should be supported by specialist, experienced multidisciplinary teams that bring together different points of view and forms of expertise at referral centres for rare diseases of genital development.
- Medical and surgical interventions, whether conducted early or later in a child's development, must respond to a medical need by providing a therapeutic benefit. The French National Consultative Council on Ethics ruled out any addition to the Civil Code stipulating that non-urgent, non-essential gender assignment surgery or treatment does not respond to a medical need.
- Clear and comprehensible information should be made available on the situation of persons affected by differences in sex development, with particular attention being paid to the delivery of diagnoses, the need to ensure sufficient time for reflection and the provision of support for children and parents.
- Steps should be taken to establish comprehensive databases and to support international research.

209. In October 2019, during the examination of the bill on bioethics by the French Parliament, an amendment, adopted by a very large majority and supported by the Government, introduced a new article 21 bis providing that children with differences in sex development should receive care, as a matter of course, from specialist multidisciplinary teams at referral centres as part of a concerted approach aimed at establishing a diagnosis and setting out possible therapeutic actions, including the option of taking no action, and their consequences. The article stipulates that the teams at the centres must provide comprehensive information and appropriate psychological and social support to children and their families. It provides that, in accordance with the Civil Code and the Public Health Code, children's consent to treatment must be sought if they are capable of expressing their wishes and participating in the decision. This approach is the best way to ensure that the children concerned, and their families, receive optimum care in accordance with the principles of medical necessity and proportionality.

210. The process of establishing the forms of such care and the rules of good practice may lead to the revision of existing national protocols on diagnosis and care and the development of new protocols within the framework of wide-ranging consultations with stakeholders.

211. Plans are in place to provide training to health-care professionals as part of the ongoing reform of health studies.

212. The approach outlined is fully in line with the spirit of the recommendations made by the French National Consultative Council on Ethics in the opinion cited above. In that regard, article 21 bis does not contain an explicit ban on performing surgery on a child at an early age without good reason, since the existing legislative framework is sufficient to prohibit such procedures.

213. According to a report published in 2017 by Senators Blondin and Bouchoux (*Variations du développement sexuel : lever un tabou, lutter contre les stigmatisations et les exclusions*), intersex conditions are very rare: it is estimated that, out of 800,000 children born each year, 200, or 0.025 per cent, have intersex traits. The most accurate data are those relating to cases of congenital adrenal hyperplasia, which concern about 50 births per year, half of which are girls who display signs of virilization. The above-mentioned legal article provides that the Government must submit to Parliament a report, accompanied by figures, on the activities and operation of centres that provide care for persons with differences in sex development in France.

U. Reply to the issues raised in paragraph 22

214. The Interministerial Delegation to Combat Racism, Antisemitism and Hatred of Lesbian, Gay, Bisexual and Transgender Persons, under the authority of the Prime Minister, manages the National Plan to Combat Racism and Antisemitism (2018–2020) and is responsible for the plan on combating hatred and discrimination directed at lesbian, gay, bisexual and transgender persons (2017–2019).

215. The fight against hateful or intolerant speech and behaviour has been a criminal policy priority for several years, resulting in the dissemination of guidelines to the courts, a high level of ministerial commitment and support for innovative practices aimed at tackling this issue. The increase in racist, antisemitic and xenophobic acts and the development of social media have given rise to new challenges, prompting stakeholders to pursue their efforts in this area to ensure that racist or hate crimes are appropriately punished while strengthening preventive measures.

216. Instructions are regularly sent to public prosecutors to remind them of the need to respond swiftly and firmly to such acts and to invite them to prioritize the holding of immediate summary trials for perpetrators of acts of violence where there are aggravating circumstances linked to the victim's ethnicity, religion, sexual orientation or gender identity. A new circular on combating discrimination and hateful speech and behaviour, issued on 4 April 2019, reminds public prosecutors of the importance of educating law enforcement officers about the need to treat victims appropriately and favour the filing of complaints over the mere recording of offences or the issuance of legal information reports. Particular attention is being paid to training investigators and judges in aspects specific to such cases. The Ministry of Justice and the Ministry of the Interior have conducted a trial aimed at establishing a network of investigators and judges who are familiar with the specific issues surrounding the handling of hate crimes within the Marseilles judicial district.

217. In order to make the process easier for victims, the Act of 23 March 2019 on Planning for 2018–2022 and Judicial Reform provided for the incorporation into the Code of Criminal Procedure of a new article 15-3-1 allowing victims to submit complaints online. The technical work required to implement this process effectively must be completed as a matter of priority for offences involving hate or discrimination. In addition, the same Act of 23 March 2019 provided for the scope of pseudonymous investigations to be extended to include all ordinary and serious offences that are punishable by imprisonment and are committed using communications technology. Lastly, the bill on combating online hate content that is currently under discussion is aimed at making Internet companies criminally responsible if they fail to remove hate content from search engine results when it is reported to them.

218. Statistical data on decisions issued in connection with hate crimes (judgments or decisions to dismiss cases under investigation) are attached (see annex XIII). Nearly 4,000 decisions issued between 2016 and 2019 involved hate crimes; 82.3 per cent of cases resulted in convictions and 14.1 per cent in acquittals. The majority of hate crimes that are the subject of a decision by a criminal court are offences against the laws on the press and publications and offences against personal dignity. Almost 60 per cent of hate crimes that are prosecuted involve:

- Public insult based on origin, ethnicity, nationality, race or religion, in speech, writing or images or in a publicly accessible electronic medium

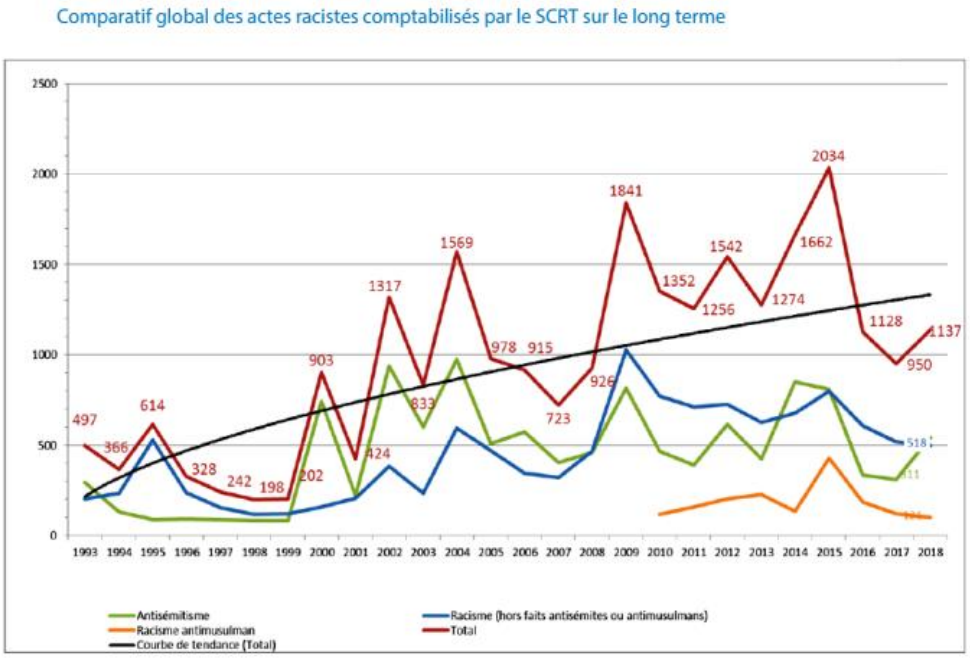
- Non-public insult based on origin, ethnicity, nationality, race or religion
- Public incitement to hatred or violence on the grounds of origin, ethnicity, nationality, race or religion, in speech, writing or images or in a publicly accessible electronic medium
- Public insult based on sexual orientation or gender identity, in speech, writing, images or in a publicly accessible electronic medium

219. Police officers and gendarmes of all ranks receive initial and in-service training on issues relating to racism, antisemitism and xenophobia. Institutional stakeholders, including human rights defenders and associations such as the Ligue Internationale Contre le Racisme et l'Antisémitisme and FLAG!, which are committed to the fight against discrimination, take part in some of these training sessions. Practical guides are also made available. In 2016, for example, 56 trainee police superintendents, 70 trainee lieutenants, 4,715 trainee constables, 4,040 community support officers, more than 30 candidates for posts of police sergeant and 1,548 candidates for criminal investigation officer posts, as well as members of the National Gendarmerie, were trained in combating racism, discrimination and intolerance.

220. With regard to the reception afforded victims in police stations and gendarmerie premises, victim support officers and reception focal points are made aware of how to receive the public and deal with victims and are designated as focal points for addressing racism, antisemitism and discrimination, including that directed at lesbian, gay, bisexual and transgender persons. Depending on the degree of trauma suffered and experienced by the victim, the police officer or gendarme, acting in accordance with article 10-5 of the Code of Criminal Procedure, may conduct a personalized assessment of the victim's level of distress, the results of which will determine his or her need for care and will be forwarded to the public prosecutor, who may decide to have an in-depth assessment carried out by a victim support association. Where the victim is a foreign national, police officers will take steps to put him or her in touch with the diplomatic or consular service of his or her country of origin.

221. Regarding criminal proceedings recorded by law enforcement agencies, there were 5,170 ordinary or serious offences committed on grounds of origin, ethnicity, nationality or perceived race or religion throughout France in 2018. This was the third consecutive year in which this figure declined (it fell by 4 per cent, having fallen by 11 per cent between 2016 and 2017 and by 20 per cent between 2015 and 2016). Annexes XIV and XV contain two studies by the ministerial statistics service for internal security concerning violence against lesbian, gay, bisexual and transgender persons and acts motivated by racism, xenophobia or hatred of a religious group in 2018. These analyses are based on data from the survey on quality of life and security and on complaints recorded by the security forces. The nature of the offences does not allow for the determination of the community to which the victims belong (Jewish, Muslim, Roma, etc.). Victims cannot be connected with perpetrators, and it is therefore not possible to determine whether a perpetrator is a public official.

222. The Central National Intelligence Service of the Central Directorate for Public Security contributes to the fight against racism, antisemitism and xenophobia by closely monitoring developments in this regard and regularly producing statistical and analytical summaries of such incidents (see the graph below).



Report issued by the National Consultative Commission for Human Rights in 2018 on the fight against racism, antisemitism and xenophobia.

223. The Central Office for Combating Crimes against Humanity, Genocide and War Crimes is attached to the gendarmerie. Under the decree on its establishment, No. 2013-987 of 5 November 2013, the Office is authorized to investigate complex ordinary and serious offences committed against any member of a racial, ethnic, national or religious group or on any other arbitrary grounds, including sexual orientation and gender identity. The Office, which is composed of gendarmes and police officers, is attached to the Criminal Investigation Subdirectorate.

224. On several occasions, the Office has been involved in complex and sensitive criminal investigations or has been asked to provide support to National Gendarmerie units dealing with offences motivated by hate and intolerance.

225. On 4 December 2019, the Minister of the Interior announced that a national office for combating hatred would be established within the gendarmerie.

V. Reply to the issues raised in paragraph 23

226. No complaints have been filed by inmates concerning the use of Tasers in prisons. Furthermore, pursuant to a circular issued on 12 December 2012 on the use of force and weapons within the prison system (NOR JUS K 1240045), the use of aerosols containing tear gas (CS gas) is strictly prohibited.

227. The Ministry of the Interior has taken due note of the Committee's recommendations concerning police premises. However, it is not possible to completely ban the use of tear gas in police premises, which may be necessary to prevent risks to third parties, law enforcement officers or the persons against whom it is used. Its use, like any use of force, is governed by the principles of necessity and proportionality. In addition, the instructions issued on 14 June 2004 on the use of incapacitating products, including in a closed environment, set out the conditions in which tear gas may lawfully be used, mainly in self-defence and also to reduce any clear resistance to a lawful action taken by a police officer (Criminal Code, art. L.122-4), thereby obviating the need for the officer to use his or her weapon or another means of incapacitating the person concerned. Every effort is made to mitigate and remedy the temporary discomfort caused by this aerosol.

228. Since 2016, the Inspectorate General of the National Police has conducted the following judicial investigations after tear gas was used against persons subject to a custodial

measure (on police premises, in detention centres or during transport after arrest):[5] no investigations were conducted in 2016 and 2017, and two investigations were conducted in 2018, the findings of which were forwarded to the judicial authority for assessment; it is not yet known what legal action will be taken as a result.

229. The instructions governing the use of Tasers (i.e. the joint instructions issued to the National Police and the National Gendarmerie on 2 August 2017, which provide detailed information on safe and effective use) are particularly strict and comply with the conditions relating to self-defence and the principle of necessity set out in articles 122-5 and 122-7 of the Criminal Code and the provisions governing the use of weapons in cases specific to officers of the National Police (Internal Security Code, art. L.435-1).

230. Since 11 January 2012, measures have been in place to ensure monitoring of the use of Tasers, with officers required to declare any such use by means of computer software designed for monitoring purposes. Officers must describe the circumstances that led them to discharge their weapons. Usage reports (of which several are filed every day) confirm that this intermediate weapon is perfectly suited to police duties and that its proper use avoids harmful consequences.

231. When officers must decide whether to use their Tasers, where circumstances permit, they attempt to resolve the situation through dialogue before, as a last resort, pointing the weapons at the person concerned, administering a shock in contact mode or firing the weapons. They must take into account the person's condition, including his or her vulnerability.

232. The relevant rules cannot prohibit the use of such weapons, including in contact mode, in circumstances where the conditions for self-defence are met or, in general, where their use is necessary and proportionate to the threat faced by law enforcement officers.

233. When staff complete initial training in the use of Tasers, a permit is issued to certify that, in addition to possessing the qualities of discernment and composure, they are fully proficient from both a technical and a legal perspective. The continuing validity of the permit is contingent on the successful completion of mandatory in-service training.

234. Since 2016, the Inspectorate General of the National Police has conducted the following judicial investigations after Tasers were used against persons subject to a custodial measure (on police premises, in detention centres or during transport after arrest): two investigations were conducted in 2016, the findings of which were forwarded to the judicial authority for assessment, although it is not yet known what legal action will be taken as a result; two investigations were conducted in 2017 of which one was forwarded to the judicial authority for assessment, but it is not yet known what legal action will be taken as a result; one police officer was handed a 12-month conditional sentence; and no investigations were conducted in 2018.

235. With regard to the number of deaths or injuries related to the use of Tasers by gendarmes since 2016:

- In 2016, a third party died in a public space and the family filed a complaint. The case was dismissed. A total of 20 third parties were injured (in public spaces), but no third party filed a complaint. One third party was injured while in a cell; he did not file a complaint.
- In 2017, there were no deceased third parties. A total of 19 third parties were injured (in public spaces), but no third party filed a complaint.
- In 2018, there were no deceased third parties. A total of 14 third parties were injured (in public spaces) but no third party filed a complaint.

[5] The investigations concerned the number of injuries or deaths caused by the use of tear gas or Tasers. The mechanism for recording injuries or deaths during police operations was brought into general use on 1 January 2018. In this respect, it should be noted that the figures include only injuries with effects lasting more than eight days. According to the available data, there have been no injuries or deaths caused by tear gas or Tasers.

W. Reply to the issues raised in paragraph 24

236. In order to improve the monitoring and security of persons being temporarily held in gendarmerie cells, of which there are around 7,000, the Directorate General of the National Gendarmerie, following a trial conducted in 2015, decided to bring panic buttons into general use in cells. However, these devices have been affected by technical problems as well as by issues related to improper use. Therefore, on 10 February 2020, after an extensive legal and technical study, the Director General of the National Gendarmerie decided to trial the installation of surveillance cameras in cells, with the images being sent either to mobile devices (smartphones or tablets carried by gendarmes on patrol or on call) or to the gendarmerie's operational centres in each department, which are staffed around the clock by officers responsible for receiving emergency calls. The aim of this measure is to enable cells to be monitored continuously and thus to facilitate the early detection of any incident in order to trigger a response, if necessary. The scope of this trial is currently being considered. In addition, the Director General of the National Gendarmerie has requested the launch of a study with a view to centralizing custody in the units with the highest levels of judicial activity and closing certain cells that are rarely or never used.