European Prison Observatory

ALTERNATIVES TO PRISON IN EUROPE

France

Marie Crétenot

European Prison Observatory. Alternatives to detention

With financial support from the Criminal Justice Programme of the European Union

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THE EUROPEAN PRISON OBSERVATORY

The European Prison Observatory is a project coordinated by the Italian Ngo Antigone, and developed with financial support from the Criminal Justice Programme of the European Union. The partner organizations are:

Università degli Studi di Padova - Italy
Observatoire international des prisons - section française - France
Special Account of Democritus University of Thrace Department of Social Administration (EL DUTH) - Greece
Latvian Centre for Human Rights - Latvia
Helsinki Foundation for Human Rights - Poland
ISCTE - Instituto Universitário de Lisboa - Portugal
Observatory of the Penal System and Human Rights - Universidad de Barcelona - Spain
Centre for Crime and Justice Studies – United Kingdom

The European Prison Observatory studies, through quantitative and qualitative analysis, the condition of the national prison systems and the related systems of alternatives to detention, comparing these conditions to the international norms and standards relevant for the protections of detainees' fundamental rights.
The European Prison Observatory highlights to European experts and practitioners 'good practices' existing in the different countries, both for prison management and for the protection of prisoners' fundamental rights.
Finally it promotes the adoption of the CPT standards and of the other international legal instruments on detention as a fundamental reference for the activities of the available national monitoring bodies.
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ALTERNATIVES TO DETENTION IN EUROPE

Various international recommendations on community sanctions and measures promote the use of alternatives to imprisonment in order to reduce recidivism and the prison population. At the same time, legislators, academics and public administration members within the EU know that imprisonment is not the only way to balance security needs and social justice, and every Member State has implemented alternatives to imprisonment systems, with their own rules, organisational set-up and procedures.

The “European Observatory on Alternatives to Imprisonment” project aims to create a functional network of partner countries, in order to reduce the disharmony and gaps among the systems.

The main goal of the project is to provide, in a comparative way, a comprehensive picture of alternatives to detention in force within each partner country. These pictures would enable us to identify those alternative measures to detention that have led to:

- a decrease in detention rates
- the application of rehabilitative programs

To do so, starting from historical analysis, the project’s objective is to compare the legal framework of the systems, their goals, the contents of the measures and their impact on the penitentiary system as a whole.

PART ONE. GENERAL DATA

Imprisonment and alternatives to custody: an overview

Political climate regarding prison numbers since 2000

The new government and the nomination of Christiane Taubira as Minister of Justice in 2012 have led to a rupture in criminal policy, in a context of continually increasing prison population and a large programme of construction of new prisons. The policy of consistently more harsh repression mechanisms in case of recidivism and less access to penalty arrangements for repeat offenders has been called into question. And, rare event, the Ministry of Justice wanted to make an assessment of the policies implemented previously. A consensus conference on recidivism prevention, bringing together national and foreign researchers, judges, probation officers, experts, associations, elected officials, etc. was organized in February 2013 in order to take stock of the situation and prepare a reform.

The jury of the conference chaired by Françoise Tulkens, ex vice-president of the European Court of Human Rights, made several recommendations, including :

- limitation of offences punishable by a prison sentence
- a halt to the increasing number of prison places
- suppression of mechanisms harshening repression in case of recidivism and reducing access to early release
- establishment of a system of automatic conditional release
- establishment of a probation sentence encompassing all other alternative sentences

However, these recommendations and the reform project that followed have been severely criticised by the opposition, accusing the government of being soft on crime. And, not wishing to be seen as being soft on crime, the Prime Minister opposed wide-ranging reform. Five presidential arbitrages were held. And, finally, a disappointing reform was adopted in August 2014. Moreover, since the terrorists attacks in January 2015, the political climate has definitely changed : time for such reform is finished.

Nevertheless, the consensus conference has created an awareness among rehabilitation and probation services and some magistrates of the necessity to change practices and to take European probation rules into account.

Reforms to alternatives to detention since 2000

Law of 15 June 2000 : stricter legal framework of pre-trial detention (principle that it should be pronounced only exceptionally, decision to be made by a specific judge not in charge of investigations, limitation of the duration of pre-trial detention, creation of a Monitoring Commission for pre-trial detention, principle of full and mandatory compensation for damage sustained in case of dismissal or acquittal, etc.), reform of conditional release (widening of the criteria for access to conditional release, removing the jurisdiction of the Minister of Justice for

sentences of more than 5 years, jurisdictionalization of the decision of the judge in charge of sentence enforcement : contradictory debate, right of appeal).

Law of 24 November 2009 : assertion of the principle that in correctional issues prison sentence shall only be pronounced as a last resort (except in case of recidivism); assertion of the principle that all persons sentenced to imprisonment shall, wherever possible, benefit from sentence adjustments to promote rehabilitation; widening of the criteria for access to sentence adjustments before and during the execution of prison sentence (quantum of penalty up to two years (except recidivism), instead of one year)

And, finally, the **law of 15 August 2014** (the results are disappointing compared to the initial ambitions but the reform includes improvements nonetheless) : suppression of minimum sentences in case of recidivism, suppression of other mechanisms harshening repression in case of recidivism (automatic revocation of suspended sentence in case of new offence for example), widening of the criteria for access to sentence adjustments ("libération sous contrainte"), same criteria for access to conditional release for repeat offenders and non repeat offenders, establishment of a new probation sentence ("contrainte pénale"), etc.

Total prison population: daily rate between 2000-2014

In France, the prison population is defined as all persons listed on the prison register**.** But all these persons are not inmates in the strict sense. Among them some have a sentence adjustment (day release, placement in society, electronic monitoring) : they are listed on the prison register but can live and sleep outside prison. In the data of the Ministry of Justice are thus distinguished those housed in prisons and the others (since March 2004).

	Prison population housed (inmates)	Prison population non housed	Prison population (total)
31/12/14	66 270	11 021	77 291
31/12/13	67 075	10 808	77 883
31/12/12	66 572	10 226	76 798
31/12/11	64 787	8 993	73 780
31/12/10	60 544	6 433	66 977
31/12/09	60 978	5 111	66 089
31/12/08	62 252	3 926	66 178
31/12/07	61 076	2 927	64 003
31/12/06	58 402	2 001	60 403
31/12/05	58 344	1 178	59 522
31/12/04	58 231	966	59 197
31/12/03	59 246		
31/12/02	55 407		
31/12/01	48 594		
31/12/00	47 837		

Prison population rate per 100,000 population (based on the daily rate prison population 2000 – 2014)

	General population	Prison population rate per 100 000 population	Inmates rate per 100 000 population
31/12/14	66 317 994	116,5	99,9
31/12/13	66 020 994	118,0	101,6
31/12/12	65 525 420	117,2	101,6
31/12/11	65 241 241	114,8	100,8
31/12/10	64 933 400	103,1	93,2
31/12/09	64 612 939	102,3	94,4
31/12/08	64 304 500	102,9	96,8
31/12/07	63 961 859	100,1	95,5
31/12/06	63 600 690	95	91,8
31/12/05	63 186 117	94,2	92,3
31/12/04	62 730 537	94,4	92,8
31/12/03	62 251 062	95,2	95,2
31/12/02	61 824 030	89,6	89,6
31/12/01	61 385 070	79,2	79,2
31/12/00	60 941 410	78,5	78,5

	Number of incarcerations
2014	86 683
2013	89 290
2012	90 962
2011	88 058
2010	82 725
2009	84 355
2008	89 054
2007	90 270
2006	86 594
2005	85 542
2004	84 710
2003	81 905
2002	81 533
2001	67 308
2000	65 251

Number of pre-trial detainees 2000-2014

Among the pre-trial population are those awaiting their first court appearance those whose judgment is under appeal and those who have been condemned during summary trial but whose conviction is not yet final (non expiration of the appeal period, 10 days).

	Pre-trial population awaiting the first instance	Pre-trial population whose conviction is not yet final (non expiration of the appeal period)	Pre-trial population whose judgment are under appeal	People in pre-trial detention
31/12/14	14 759		1 790	16 549
31/10/14	13 112	1732	1 786	17 090
31/12/13	13 104	1 900	1 703	16 622
31/12/12	12 851	1 813	1 606	16 454
31/12/11	12 860	1 869	1 480	16 279
31/12/10	12 353	1 656	1 584	15 702
31/12/09	12 155	1 686	1 591	15 395
31/12/08	12 656	2 125	1 673	15 933
31/12/07	12 999	2 001	1 779	16 797
31/12/06	14 703	1 861	1 482	18 483
31/12/05	16 389	1 711	1 528	19 732
31/12/04	16 895	1 617	1 583	20 134
31/12/03	18 549	1 490	1 743	21 749
31/12/02	17 619	921	1 393	20 582
31/12/01	13 810	811	1 447	16 124
31/12/00	13 849	550	1 661	18 100

Rate of pre-trial detainees / prison population 2000-2014

	% of population awaiting the first instance / inmates	% of population awaiting the first instance / prison population	% of pre-trial population / inmates	% of pre-trial population / prison population
31/12/14	22,3	19,1	25	24,1
31/12/13	19,5	16,8	24,8	21,3
31/12/12	19,3	16,7	24,7	21,4
31/12/11	19,8	17,4	25,1	22,1
31/12/10	20,4	18,4	25,9	23,4
31/12/09	19,9	18,4	25,2	23,3
31/12/08	20,3	19,1	25,6	24,1
31/12/07	21,3	20,3	27,5	26,2
31/12/06	25,2	24,3	31,6	30,6
31/12/05	28,1	27,5	33,8	33,2
31/12/04	29	28,5	34,6	34
31/12/03	31,3	31,3	36,7	36,7
31/12/02	31,8	31,8	37,1	37,1
31/12/01	28,4	28,4	33,2	33,2
31/12/00	29	29	37,8	37,8

Number and proportion of the total prison population (based on the daily rate prison population 2000 – 2014) by length of sentence (e.g. less than 6 months; 6 months to less than 12 months; 12 months to less than four years; 4 years plus; other)

The data of the Ministry of Justice do not distinguish as category "12 months to less than four years" but "12 months to less than three years", "three years to less than five years" and "five years and plus". These are the categories that will be reproduced here, due to the impossibility to isolate the proportion of the total prison population serving sentences of 12 months to less than four years.

	Less than 6 months		6 months to less than 1 year		1 year to less than 3 years		3 years to less than 5 years		5 years and plus		Total
	nb	%	nb	%	nb	%	nb	%	nb	%	
31/12/14	10 429	17,2	11 649	19,2	17 583	28,9	7 122	11,7	13 959	23	60 742
31/12/13	10 644	17,4	11 569	18,9	18 288	29,9	6 858	11,2	13 902	22,7	61 261
31/12/12	10 800	17,9	11 161	18,5	18 169	30,1	6 647	11	13 563	22,5	60 340
31/12/11	10 222	17,8	10 419	18,1	17 226	30	6 202	10,8	13 428	23,4	57 497
31/12/10	8 726	17	8 809	17,2	14 780	28,8	5 709	11,1	13 248	25,8	51 272
31/12/09	8 882	17,5	8 563	16,9	14 174	28	5 628	11,1	13 442	26,5	50 689
31/12/08	9 086	18,3	8 336	16,8	13 176	26,5	5 103	10,3	14 002	28,2	50 243
31/12/07	8 767	18,6	8 604	18,2	11 025	23,4	4 644	9,8	14 161	30	47 201
31/12/06	7 746	18,5	7 395	17,6	8 445	20,1	4 295	10,2	14 035	33,5	41 916
31/12/05	5 470	13,7	6 676	16,8	8 810	22,1	4 486	11,3	14 342	36	39 784
31/12/04	5 066	13	6 438	16,5	8 929	22,9	4 569	11,7	14 039	36	39 041
31/12/03	4 565	12,2	6 389	17	8 835	23,6	4 357	11,6	13 333	35,6	37 479
31/12/02	4 223	12,2	5 652	16,4	7 936	23	3 468	10	13 250	38,4	34 529
31/12/01	4 202	13	5 099	15,7	6 599	20,3	3 300	10,2	13 244	40,8	32 444
31/12/00	3 465	11	4 274	13,5	6 128	29	3 562	11,3	14 202	44,9	31 631

Probation practices

Do alternatives to detention develop skills and social inclusion of the offenders?

Probation officers are increasingly trained in motivational interviewing. However, the rehabilitation and probation services do not provide programmes to strengthen social skills (management of emotions, communication habilities, techniques to avoid conflicts or to solve problems, etc). Nor do they provide educational or skills-related training, or budget management training. In fact, there are few structured interventions. Rehabilitation and probation services are expected to build partnerships with training organisations, job placement support services and insertion structures.

Relationships are established with such organisations or structures in many rehabilitation and probation services, and partnerships may be concluded, but supply remains well below requirements. Overworked, probation officers have less and less time to nurture and develop relationships or to search for new partners. Moreover, liaison and coordination with social services is not sufficiently ensured (social rights, medical cover, accommodation, etc.). This reduces the impact of measures in terms of integration and prevention of recidivism. (consensus conference on the prevention of recidivism, 2013; S. Dindo, May 2011, study on probation for the direction of the prison administration).

Are alternative measures free of stigmatizing features?

Those measures are generally not perceived as stigmatizing by probationers, except when the person is obliged to wear an electronic bracelet, especially if it has a GPS. Because the bracelet can be seen, they feel stigmatized. And there is also a lot of dysfunction. Where there is a failure of connection to the network (in a bus, public service, cinema, etc.), an alarm may sound, and an electronic voice orders the person to leave this zone. Some people who have been regulary confronted with such dysfunctions have preferred to remove the bracelet and be imprisoned accordingly rather than endure this any longer.

Are probation programmes individualised?

Supervision is supposed to be individualised. According to a circular of 2008, the management must be adapted to the needs of probationers and recidivism. But the circular does not define these two criteria. And no training based on the results of the research has been conducted. Probation agents have for some years an interview grid they can use (elements relating to civil status, social and family situation, employment status, health, drug/alcohol addiction, position with regard to the law, etc.). But this grid does not establish correlations between certain facts and factors favoring recidivism. And, in practice, the supervision takes less into account the overall situation of the person than the nature of the disposal and the obligations/prohibitions imposed. Yet these obligations are pronounced by the courts almost automatically, without much information on the situation of the person. For example, an obligation of treatment is almost systematically pronounced for an offense related to violence or for a traffic offense. An obligation to work (or to seek employment) is generally pronounced in case of property damage. Based on obligations imposed without precise analysis of the situation and problematics of the person, supervision is therefore very little individualised. And it may be counter-productive, if obligations/prohibitions are not adapted to the circumstances. The 2014 penal reform could, however, slightly change the situation as it introduced two provisions that allow better individualisation. The reform has extended the possibilities for deferment of sentence. Now, in correctional procedures, the court may decide on guilt and choose to defer sentencing in order to have further information on the situation of the person. Moreover, a new probation sentence has been created, the “contrainte pénale”, in which the obligations/prohibitions are intended to be fixed not by the court but by the judge in charge of sentence enforcement, after an assessment of the material, social and family situation of the probationer by the rehabilitation and probation service. (consensus conference on the prevention of recidivism, 2013; S. Dindo, May 2011, study on probation for the direction of the prison administration)

Is the progress of the offender evaluated in the course of the implementation of the sentence? Is the plan of work reviewed according to this evaluation ? Are there possibilities to change its content in the process of implementation ?

As part of the new probation sentence, the “contrainte pénale”, the principle of regular reassessment (at least once a year) is explicitly provided. The law adds that, after each revaluation, the judge in charge of sentence enforcement may, after having heard the comments of the offender and those of his lawyer (if applicable), modify or add obligations/prohibitions to which the probationer is subject, or remove some of them. The content of supervision is supposed to evolve according to the progress made. And if the probationer has satisfied the measures, obligations/prohibitions imposed for at least a year, if his rehabilitation seems to be established and no further supervision seems necessary, the judge may decide to end the sentence prematurely. But these provisions relate only to this new sentence. For all other alternatives with probation, no regular assessment is explicitly provided for. It is only established that the obligations/prohibitions can be modified in the course of the measure's implementation. However, these modifications are not the result of an evaluation. They generally occur at the request of the probationer because they hamper employment opportunities, the maintenance of family links, etc. In the case of a suspended sentence with probation, there is a provision similar to that of the new probation sentence : if the probationer has satisfied the measures, obligations/prohibitions imposed for at least a year and if his rehabilitation seems to be established, the judge may declare the sentence void. However, this provision is rarely used because judges are not often solicited in this sense, and if they are, some of them prefer not to take the responsibility. As for the content of the supervision, there is no provision for a progressive reduction of the control measures. But, in practice, the probation agents may decide, with notification to the judge, to increase the interval between interviews, to move from intensive supervision to normal, or from normal to administrative supervision. However, even when socio-educational monitoring appears no longer necessary, some agents are reluctant to seize the judge in charge of sentence enforcement in order to end the measure or to switch to administrative supervision, considering that it denatures the court decision. (S. Dindo, May 2011, study on probation for the direction of the prison administration)

Is a final evaluation carried out at the end of the supervision period?

According to the law, an 'end of measure' report must be systematically addressed to the judge. This report reviews the compliance with obligations/prohibitions during the implementation of the measure, the steps taken by the probationer, etc. But, it is not, strictly speaking, an evaluation of progress made, as defined by the Council of Europe. It is not a full review and evaluation of what has been achieved, what has been less successfully managed and what might have been done differently, whether by supervisors or offenders, to have enhanced the value of the period of supervision.

Do workers in alternatives to detention have the same rights and safeguards as other workers?

Apart from the case of community service which is unpaid, work in the context of an alternative to detention takes place in normal circumstances. Probationers who work have the same rights and safeguards as all workers.

Supervision model adopted in alternative measures (e.g. control-oriented, assistance-oriented…)

There is not yet a standardised supervision model. The definition of the level of supervision (including the frequency of convocations) relates to the empirical practice of each probation agent or a protocol for each probation and rehabilitation service. And it appears from the observed practices that the predominant criteria are the nature of the offence and the nature of the disposal: supervision is more important when the offence is serious and when it is an alternative during execution, rather than an alternative to detention. Overall, we can distinguish three levels of monitoring : supervision described as reinforced or intensive (at least one interview per month); the "normal" supervision (periodicity of one to four months) and the "administrative" supervision which may, in some services, be tantamount to an interruption of monitoring or limited to sending receipts attesting compliance with obligations, sometimes with an interview every six months. As to the supervision content, it focuses mainly on compliance with obligations, because of lack of time (agents are understaffed in relation to the measures imposed), lack of training in mentoring, but also because probation is still essentially seen as a control measure. Convocations for interviews are in fact considered in law as measures of control. Thus, the first interview is so centered on the evocation of the facts and the sentence pronounced, the criminal record, the re-iteration of obligations/prohibitions and the penalties incurred in case of non compliance However, for some time, especially since the consensus conference on the prevention of recidivism, practices have evolved. More and more agents are trying to analyse the needs of probationers, drawing on the What Works and desistance research results, and also to focus on the life path of the probationer, his social and family environment, his vocational aspirations, his needs, the circumstance of acting out, the ways to avoid it, etc. Morevover, since 2007, parole groups described as recidivism prevention programmes were also set up in probation and rehabilitation services. Targeted on specific topics (domestic violence, sexual agression, traffic offences etc.), these groups are intended to stimulate reflection on perceptions, the acts committed, the circumstances in which they were committed, their consequences, the ways to avoid them, etc. But they concern only a limited number of probationers : about 190 programs carried out, with up to 12 participants, so about about 2,280 people concerned. (consensus conference on the prevention of recidivism, 2013; S. Dindo, May 2011, study on probation for the direction of the prison administration)

Does the probation system offer aftercare services ?

Rehabilitation and probation services do not offer aftercare services. The only situation where it is scheduled is on release from prison. According to the law, "in the first six months after release, ex-prisoners may request the assistance of the rehabilitation and probation service in their place of residence. This assistance may be exercised in conjunction with other State services, local authorities and all public and private bodies". However, because social support and connection with others services or organisations are poorly developed, few ex-prisoners contact rehabilitation and probation service after release.

Do foreigners have any limits to serve alternatives to detention? Are there specific provisions for them?

There are two legal limitations. The first is the absence of a legal residence permit. The second is the ban from French territory, which may be imposed for many offenses committed by foreigners

as a primary or additional penalty. In 2013, 82 bans from French territory have been pronounced as primary penalty (for violations of the legislation on residence of foreigners) and 1 773 as additional penalty. There are no specific provisions for foreigners, except for those detained and subject to a prohibition to stay in French territory, an escort to the border, an expulsion, an extradition, or a European arrest warrant : a conditional release, with enforcement of the removal order, can be pronounced without their consent. Outside these limits, foreigners can benefit from alternatives to detention. However, in practice, it can be seen that they are more subject to detention. Foreigners represent 19 % of the prison population while they represent only 5.6 % of the probationers.

Are there any gender-specific programmes?

There are no gender-specific programmes. But, in practice, participants of parole groups called “recidivism prevention programmes” are almost exclusively men. Because the programs are not mixed, the themes of the programmes are more concerned with male delinquency (domestic violence for example) and the number of female probationers followed by the service is too small to form a group.

Are the victims of crime involved in the alternatives to detention programmes? If yes, which is their role in these programmes?

The victims are not directly involved. However, in the context of recidivism prevention programs, probation officers can present to probationers written, audio or video testimony of victims of the offence. And, in some cases, probationers can be asked to write a fictional letter to the victim. This letter can be read by the probationers front of the group. And, if it is too difficult for them, they can say only what this exercise has meant to them.

Do probation services offer, directly or indirectly, support counselling or information to families of offenders ?

Providing support counselling or information to families of offenders is not formally part of the mission of the rehabilitation and probation services during the implementation of the measures. And, in fact, probation officers don't work a lot in connection with families of offenders, except those that manage to find time for home visits (interview in the home of the offender). In this case, they can provide support counselling and information to the family. (S. Dindo, May 2011, study on probation for the direction of the prison administration)

Are there specific restorative justice programmes?

Since the law of 15 August 2014, it is provided that at all stages of a criminal proceeding, including the execution of the sentence, a measure of restorative justice may be proposed to the victim and the offender (if the facts are recognized). This provision was adopted to provide legislative authority to the experiments initiated in a few prisons and rehabilitation and probation services. These are victim-offender encounters : under the supervision of mediators, a small group of victims (or victims' parents) of a certain offence meet people condemned for the same type of offence (homicide, domestic violence, burglary, etc.). Several sessions of a few hours (two or three) are organized. In the case of the most serious offences, there may be 6 sessions spread over 5 to 6

weeks. All participants are volunteers. All feedbacks are positive. During these encounters, victims can express their suffering, and discover the personal history of the offenders, what led them to commit the offence. And for the offenders, this experience helps them to consider the consequences of their actions, to see things from the perspective of others, etc. By defining restorative justice measures as any measure allowing victims as well as offenders to participate actively in resolving the difficulties resulting from the offence, the law encourages the development of other types of action including harm reparation. But for now, programmes of this type have not yet been developed. Reparation only exists as a sentence.

Does the probation service give a systematic feedback about the effectiveness of the alternatives to prison to the general public? How is the information shared?

The alternatives to detention are poorly understood by the general public because for years the prison administration had not explained the content of these penalties, nor the work of the probation officers, and had not communicated on their effectiveness. The alternatives were discussed only when there was an incident. Things have changed a little since the consensus conference on the prevention of recidivism. There is more communication but there is no increased production of data on the impact of measures in terms of reintegration and prevention of recidivism.

Are there systematic research projects concerning the alternatives to imprisonment and, if so, who carries them out ?

There is no systematic research project concerning the alternatives to imprisonment. The only research, a little recurrent, is a statistical analysis of the reconviction rate within five years on the nature of the sentence (alternatives or prison) or execution mode (alternative during the execution or not). These analyses (conducted by the prison administration) establish that the rate is systematically lower in case of alternatives or arrangements for early release. But without analysis of the causes. There is no research of this type. Nor is there research analysing the impact of such and such a type of monitoring, or such and such a professional posture, etc. Outside these statistical analyses, the research conducted is sociological research or field surveys on organisation or on the working methods of the probation service.

Budget

There is no official data available on the budget allocated to alternative measures.
This absence of data was criticised at the time of the consensus conference.
The information delivered to parliament during the examination of the 2015 budget provides information on :

- daily cost of a placement in society : 31, 20€
- daily cost of day-release : 50,36€
- daily cost of electronic monitoring : 12,17€

While the average cost of a day in prison is estimated to 99,49 €

Procedural guarantees

Do probation agencies respect the human rights of offenders without discrimination (sexual, religious, racial, political, etc.)? Do they keep in regard offenders' dignity, health, safety and well-being in their interventions?

Persons benefiting from alternatives to prison tend not to seize organizations like ours to complain about the methods of the rehabilitation and probation services. And there is virtually no external control of these services. So it is difficult to know if the human rights of offenders are always respected. We are not aware of any cases of discrimination concerning the methods of probation officers. But the inadequacy of the obligations/prohibitions or the measures of control in the reintegration process is regularly denounced (hours during which it is possible to be away from home too limited to enable development of a social life or engage in administrative procedures, etc., prohibition from frequenting some localities or designated areas which may limit the opportunities for work...)

Do the probation agencies always seek the offenders' cooperation and obtain their informed consent?

With the release of the European probation rules within the rehabilitation and probation services, after the consensus conference on the prevention of recidivism, and the development of motivational interviews, the practice of seeking the offenders cooperation is beginning to develop. But this practice is far from widespread. Furthermore, generally, the consent of the offenders is only sought for participation in restorative justice measures or parole groups.

If probation agencies carry out interventions before the establishment of the offender's guilt, do they require the offender's informed consent? Are their interventions without prejudice to the presumption of innocence?

No. People under judicial supervision may be subjected for example to an obligation to undergo examination, treatment and care for detoxification purposes, or may submitted to social, psychological or health care measures in case of domestic violence. Their consent is not required beforehand. It is up to the rehabilitation and probation services to encourage people to comply with treatment or measures. In any event, in case of non compliance, a pre-trial detention may be ordered.

Are the tasks and responsibilities of the probation agencies and their relations with the public authorities and other bodies defined by any national law ?

A law defines the relations of rehabilitation and probation services with the public authorities and other bodies. But the missions are defined in a decree and a circular.

How is offenders' privacy guaranteed ? How is the protection of case records guaranteed to the offenders ?

Probations officers are subject to the obligation of professional secrecy. They can communicate information only to the judicial authorities and concerned agencies. The professional secrecy violation is punishable by one year's imprisonment and a fine of 15 000€. At the end of

supervision, case records are supposed to be archived and destroyed after some years. However, recently, a box containing the case records of approximately 200 probationers (who had been subject to monitoring over the years 2008 to 2011) has been found on a pavement, which sparked outrage. The prison administration stressed that it was an accident and an internal investigation was launched. But all probation officers interviewed by the media have highlighted the lack of space and time to care properly for archives. Administrative staff responsible among other tasks for archiving in the rehabilitation and probation service is overwhelmed. Such an incident could therefore happen again.

Are there accessible, impartial and effective complaint procedures regarding probation practice ?

Probationers can seize the judge in charge of sentence enforcement to request a modification of obligations or elimination of some of them. But the decision is taken usually without hearing the probationer (no contradictory debate) and if there is no favorable opinion of the probation officer, the request is most often rejected. Moreover, the term of appeal is only 24 hours. In cases of a problem concerning probation officers, probationers can only raise this with the hierarchical manager for an amicable resolution.

Are the probation agencies subjected to regular government inspection and/or independent bodies' monitoring ?

The rehabilitation and probation services are, in theory, subjected to the control of the inspectorate of prisons (internal inspection) and of the Ombudsman. But, in practice, their activities are little controlled, except after an incident. In fact, internal controls are exclusively held after a problem has arisen, such as the commission of a serious offence by a probationer during monitoring.

Staff

Rehabilitation and probation services are departmental services attached to the prison administration. There are 103 throughout the territory. They are in charge of people benefiting from alternatives, but also people under supervision after release and detainees (maintenance of family ties and social relations, arrangements for early release, release preparation, etc.).

The services are comprised of probation officers, administrative personnel, psychologists (support for the implementation of parole groups, debriefing with probation officers after sessions, etc.) and some custodial officers (for the installation and the removal of electronic bracelets, logistical problems, etc.). There are, currently, 4 538 probation officers. But not all ensure monitoring. Some of them (about 1 500) ensure management. The number of cases followed is variable. on average, the ratio is 100 cases per agent, regardless of territorial disparities, vacancies, organization of services and the diversity of supervision (more or less intensive according to case records). In some departments, the ratio may exceed 150 or 180 measures per agent.

Recruitment of probation officers is by competition, external or internal. External competition is open to holders of a 2 years higher education diploma (or equivalent). And internal competition to officials who have at least 4 years of service. In practice, most hold a 4 or 5 years higher education diploma in the field of law. Training lasts two years (law and criminal procedure, prison rules,

sociology, psychiatry, criminology, etc.), including a complete year of practical training. The early career salary is 1 658 € (1 630 € during training). 2 869 € in the last step of the grade.

The probation service is mandated by the judicial authorities[1]. According to the law, it can define the terms of the treatment of persons placed under judicial control but must notify the judge. It must also ensure the compliance with the obligations and measures of control defined by the judge, send in assessments reports and may propose modifications. In practice, the perception of probation services is changing. Their competence to determine the nature of the treatment, the appropriate obligations, etc. is increasingly recognized in relation to those of magistrates. Probation services remain mandated, but they occupy an increasingly important role. For the time being, their experience and expertise is rarely used by the public authorities in developing crime reduction strategies, but since the consensus conference on the prevention of recidivism, things a little. Some training on methods of assessment is beginning to be provided, assessment tools (based on search results like "What works") are starting to be used experimentally in some services, the recommendation of the Council of Europe not to focus solely on monitoring compliance is receiving more emphasis, etc. In relation to the tasks performed and the evolution of the profession, the levels of remuneration do not seem appropriate. And the number of probation officers is very inadequate compared to the number of cases recorded, which adversely affects the quality of treatment and taints the credibility of alternatives and sentence adjustment. To achieve a ratio of about 50 cases per agent, the number of agents would have to be almost doubled .

Number of probation officers in 2015, and historical series since 2000

1st January	Number of probation officers (including management)
2015	4 538
2014	NA
2013	4 205
2012	4 080
2011	4 406
2010	3 941
2009	3 747
2008	3 115
2007	NA
2006	2 764
2005	2 322
2004	2 107
2003	NA
2002	NA
2001	NA
2000	1 560

Source : direction of the prison administration.

[1] Relations with general social services have been previously described (partnerships, etc.).

PART TWO. SPECIFIC PROGRAMMES

Alternatives to pre-trial detention

Alternative measures in detail

Judicial supervision

An alternative to pre-trial detention, judicial supervision is a measure that can subject a person to various obligations/prohibitions until his court appearance. It concerns persons awaiting trial or under investigation, and who risk a sentence of imprisonment. It can be ordered because of the exigencies of the investigation or as security measure. The judicial authority which can pronounce it varies depending on the procedural framework. When there are no extensive investigations (indictment), the decision, since a penal reform in 2000, is made by a special judge, called "judge of freedoms and detention" (JLD), on the proposal of the prosecutor. In other cases, the decision can be taken by the investigating judge. It is only if the investigating judge intends to order a pre-trial detention that the JLD is seized. And, on this occasion, he may object to the pre-trial detention and replace it with a measure of judicial supervision. In all theses cases, the measure is called judicial supervision *ab initi*o (because it is taken without prior pre-trial of detention). But this measure may also be pronounced after a pre-trial detention period. It is then called release under judicial supervision. A minor could be subject to judicial supervision; but in this case, the decision rests with the juvenile court judge.

Obligations/prohibitions related to judicial review may take many forms. They may be :

- restrictions on freedom of movement : driving prohibition (with potential confiscation of licence); travel prohibition (with potential confiscation of passport), prohibition from frequenting some localities, places or designated areas; prohibition from leaving home except at times or for reasons specified by the judge; obligation to inform the judge of any movement outside specified areas
- prohibition to enter in contact by whatever means with certain persons designated by the judge
- obligation not to engage in specified activities in relation with the offence(s) allegedly committed
- prohibition to possess or to carry weapons
- obligations to provide financial guarantees : obligation to provide a bail in an amount determined by the judge; obligation to justify a contribution to the family expenditure.
- prohibition to issue cheques
- obligation to submit to socio-educational monitoring
- obligation to undergo examination, treatment and care for detoxification purposes, or to submit to social, psychological or health care measures in cases of domestic violence
- obligation to report periodically to designated services (probation and rehabilitation service; association, police, etc.)

The content of the measure varies considerably depending on the nature of the obligations/prohibitions imposed. It may be limited to the provision of a security; the obligation to

report to the police (police control) with or without some prohibitions; or may involve submission to medical treatment or socio-educational monitoring. The number and nature of the obligations/prohibitions can be modified throughout the supervision. The person who is subject to them may at any time request modifications of the obligations/prohibitions, or release. In case of non-compliance, the judge may be seized and order a pre-trial detention.

The monitoring can be carried out by the probation and rehabilitation service (a penitentiary service call the SPIP), by associations by agreement with the court, or by individuals authorised by the court as judicial supervisors. Since the early 1990's, the choice had indeed been made to develop a private sector (primarily for budgetary reasons) to take charge of the judicial supervision with socio-educational actions. The courts can introduce competition between the associations or the authorised persons. And partnerships may be interrupted if the courts no longer have the necessary financial means.

According to the latest data (for 2011)[2], 7 % of the measures are limited to the provision of a security; 22 % to the obligation to report to the police (and to respect some prohibitions). And the others (71 %), included socio-educational monitoring, more or less intense. Among these, monitoring is carried by the SPIP in 17 % of cases, associations in 28 % of cases, and authorised persons in 55 % of cases.

Electronically monitored house arrest

Electronically monitored house arrest previously existed as a form of judicial supervision (from 2004), before being established as a specific alternative measure in a law of November 2009. The measure involves the obligation to wear an electronic bracelet and the prohibition from leaving home (or a specified residence) except at times or for reasons specified by the judge. The electronic bracelet incorporates a transmitter to verify that the person is in fact in the defined place, when he or she should be there. The receiver is generally installed in the place in question (a fixed box), which does not permit the location of the person when he/she is free to leave. But, since the law of 2009, in some cases, the bracelet may be equipped with a portable receiver (GPS) which enables the person to be located at any time. The person may also be subject to obligations/prohibitions pronounced as part of a judicial supervision, in the same conditions.

Electronically monitored house arrest falls under the same procedure as judicial supervision but its pronouncement implies the consent of the person concerned. Moreover, it may be pronounced only if the charged person faces a penalty of at least two years of imprisonment. The judge must also justify its application by the fact that judicial supervision is insufficient in view of the exigencies of the investigation or as security measure[3]. The initial term of electronically monitored house arrest is six months maximum, but it can be extended to two years. Wearing a GPS electronic bracelet can be imposed only when the offence involves violence, serious damage to property or life, and is punishable by imprisonment of at least seven years; five years in case of domestic violence (children, partner). Control via the electronic bracelet is provided by the prison administration staff. In case of non-compliance, the judge may be seized and may order pre-trial detention. The execution time of this measure is equated with pre-trial detention and is deducted from the length of the sentence pronounced, whenever this is the case. In case of acquittal or where the case is dropped, the person can claim compensation.

[2] Monitoring commission for pretrial detention, edition 2013, July 16, 2014.

[3] The measure may be imposed on a minor, only if it is aged over 16 years.

Impact of the measures:

on the pre-trial prison population

Established by a law of 1970, judicial supervision was intend to reduce the number of people in pre-trial detention. As was electronically monitored house arrest. However, the statistics show that judicial supervision *ab initio* does not operate as an alternative to pre-trial detention, but rather as a measure used systematically when the person is not placed in custody. In 1999, 61 % of people indicted were placed under judicial supervision (21 %) or remanded in custody (40 %). Ten years later, this was the case for 89 % of people indicted, with nearly the same proportion of pre-trial detention (41 %) but twice as many judicial supervisions (48 %). And the proportion has risen further: in 2011 (latest data), 97 % of people indicted were concerned by pre-trial detention (48,2 %) or judicial supervision (49 %). On the other hand, electronically monitored house arrest is is never used *ab initio* but only after a period of pre-trial detention. And the number is insignificant: 450 in 2011 (9 with GPS). About 350 measures in 2013 (4 with GPS). While pre-trial detention is supposed to be exceptional and subsidiary.

One obstacle to the development of electronically monitored house arrest would be the difficulty to carry out quickly feasibility studies and audits of the family's social, psychological and material circumstances. Pre-trial detention appears easier for judges, unfamiliar with electronically monitored house arrest[4].

on the lives of the subjects involved (work, physical/psychological wellbeing, family and social relationships, goals and life perspectives)

Regarding the impact of the measures on the life courses of the subjects, we cannot answer also, because there are no studies on this. The only known fact is difficullty relating to the wearing an of an electronic bracelet for more than a few months (say 6 months) and the deterioration of family relationships that can result (the family is indirectly subject to the same limitation of movements and/or is placed in a position of jailer)

[4] Monitoring commission for pretrial detention, edition 2013, *op.cit.*

Number and percentage of people awaiting trial (column 2) serving: an alternative measure to pre-trial detention pronounced ab initio (column 3), pre-trial detention (column 5), no measure of control (column 7) in the period 2000 - 2014

	People under judicial enquiry	Measure of pre-trial alternative to detention pronounced ab initio	%	Measure of pre-trial detention pronounced	%	No measure of control	%
2014	NA	NA		NA		NA	NA
2013	NA	NA		NA		NA	NA
2012	28 878	NA	NA	14 411	49,9	NA	NA
2011	32 927	16 176	49,1	15 871	48,2	880	2,7
2010	36 121	17 488	48,4	16 625	46	2 008	5,6
2009	41 908	20 069	47,9	17 058	40,7	4 781	11,4
2008	45 068	20 730	46	18 709	41,5	5 629	12,5
2007	47 045	20 996	44,6	19 087	40,6	6 962	14,8
2006	50 016	22 104	44,2	20 205	40,4	7 707	15,4
2005	53 494	21 529	40,2	23 196	43,4	8 769	16,4
2004	55 640	21 699	39	23 808	42,8	10 133	18,2
2003	51 821	20 521	39,6	24 001	46,3	7 299	14,1
2002	48 543	17 868	36,8	23 787	49	6 888	14,2
2001	43 711	16 308	37,3	19 534	44,7	7 869	18
2000	56 752	16 765	29,5	22 793	40,2	17 194	30,3

Source : Monitoring commission for pretrial detention, edition 2013, July 16, 2014.

Total of measures of pre-trial alternative to detention pronounced and releases under supervision pronounced after a pre-trial detention period in the period 2000 - 2014

	Releases under supervision pronounced after a pre-trial detention period	Total of measures of pre-trial alternative to detention pronounced
2014	Not available	Not available
2013	Not available	Not available
2012	Not available	20 625
2011	5 848	21 348
2010	5 786	23 214
2009	6 692	26 931
2008	6 930	27 749
2007	7 423	28 839
2006	8 178	30 529
2005	7 901	29 589
2004	8 440	30 322
2003	8 445	28 980
2002	8 815	26 694
2001	7 965	24 273
2000	11 144	27 914

Source : Monitoring commission for pretrial detention, edition 2013, July 16, 2014.

People serving a pre-trial alternative to detention controlled by penitentiary service (column 4): judicial supervision (column 2), electronic monitoring (column 3) in the period 2000 - 2014

	People under judicial supervision (controlled by penitentiary service)	People under house arrest with electronic monitoring	People serving a pre-trial alternative to detention (controlled by penitentiary service)
31/12/14	3 562	/	/
31/12/13	3 689	259	3 948
31/12/12	3 680	227	3 907
31/12/11	3 683	186	3 869
31/12/10	3 651	130	3 781
31/12/09	3 697	/	3 697
31/12/08	3 675	/	3 675
31/12/07	3 841	/	3 841
31/12/06	3 692	/	3 692
31/12/05	3 907	/	3 907
31/12/04	3 596	/	3 596
31/12/03	4 073	/	4 073
31/12/02	3 972	/	3 972
31/12/01	3 942	/	3 942
31/12/00	3 663	/	3 663

Source : direction of the prison administration.

There are no data on the number of judicial supervisions controlled in a given time by police, associations or individuals entitled by courts.

Daily rate and rate per 100,000 population of people in pre-trial detention in 2014 and the historical series since 2000

	People in pre-trial detention	General population	Rate of people in pre-trial detention per 100 000 population
31/12/14	16 549	66 317 994	25
31/12/13	16 622	66 020 994	25
31/12/12	16 454	65 525 420	25
31/12/11	16 279	65 241 241	25
31/12/10	15 702	64 933 400	24
31/12/09	15 395	64 612 939	24
31/12/08	15 933	64 304 500	25
31/12/07	16 797	63 961 859	26
31/12/06	18 483	63 600 690	29
31/12/05	19 732	63 186 117	31
31/12/04	20 134	62 730 537	32
31/12/03	21 749	62 251 062	35
31/12/02	20 582	61 824 030	34
31/12/01	16 124	61 385 070	26
31/12/00	16107	60 941 410	26

Source : direction of the prison administration.

There are no data on the percentage of foreigners or of women for each type of measure. There are only global data: women represent 6,3% of those being monitored by rehabilitation and probation services, while they represent 3,4% of prison population. Respectively 5,6% (monitoring) and 19% (prison) for foreigners.

Moreover, no data exist on the revocation or re-offending rate whatever the measure.

Alternative sanctions[5]

Alternative sanctions and judicial authority responsible for the establishment of the measures

When an offence is punishable with imprisonment, national legislation allows the trial court to impose various alternative sanctions: fine, suspended sentence, suspended sentence with probation, suspended sentence with the obligation to carry out community service, community service, daily fine, repair penalty, obligation to follow a citizenship program, forfeiture or restriction of some rights, probation sentence.

Alternative measures in detail

Suspended sentence

Suspended sentence is the oldest alternative sanction. It was introduced in the criminal law in 1891. It is pronounced by the trial court and relieves the convicted person from serving (part or all) the sentence of imprisonment (up to five years), provided he or she be not re-convicted within five years. It can only be applied when the person convicted has not been subject to a prison sentence during the five years preceding the incriminated acts. Since January 2015, the suspended sentence is no longer automatically revoked in case of new conviction. Now, it is for the trial court (pronouncing the new conviction) to decide whether to revoke (totally or partially) the suspended sentence.

Suspended sentence with probation

Suspended sentence with probation was introduced in the criminal law in 1958. It can be imposed for any offence punishable by a maximum of ten years of imprisonment. The main difference with the suspended sentence is that it implies socio-educational monitoring and compliance with obligations/prohibitions which may involved submission to medical treatment or socio-educational monitoring. The obligations/prohibitions are initially determined by the trial court, and can be modified throughout the execution of the sentence (a specific judge, in charge of sentence enforcement, is competent for that). The probationary period is set by the court, at its sole discretion, within the limits of 12 months and 3 years, raised to 5 or 7 years in cases of recidivism. In case of non-compliance or a new conviction to an unconditional sentence of imprisonment, the suspended sentence with probation can be revoked totally or partially. In the first case, the decision is made by the judge in charge of sentence enforcement. In the second case by the trial court (pronouncing the new conviction).

Some obligations/prohibitions are the same as those applicable in the context of a judicial

[5] Those established by the judge as main sanction during the trial

supervision : prohibition from frequenting some localities, places or designated areas, prohibition to possess or to carry weapons, prohibition to enter in contact with certain persons (or category of persons) designated by whatever means, obligation not to engage in specified activities in relation to the offence(s) allegedly committed, driving prohibition (all vehicles or only some), obligation to justify a contribution to the family expenditure, obligation to undergo examination, treatment and care for detoxification purposes. Others are larger :

- obligation to seek or exercise a professional activity / to follow courses or vocational training
- prohibition from exercising activities involving regular contact with minors
- obligation to reside in a specified place
- prohibition from entering bars and pubs
- prohibition from gambling / gaming for money
- obligation to follow, at his expense, road safety awareness training course (for offences committed while driving a vehicle) / or, if the person agrees, to registrer for a driving licence examination, after -where appropriate – driving lessons.
- obligation to follow, at his expense, a domestic violence or gender based violence prevention program
- obligation to follow a citizenship programme
- obligation to repair the damage caused by the offence (totally or partially, depending on ability to pay)
- obligation to justify the payment of fines (depending on ability to pay)
- obligation to hand children over to those to whom custody has been granted
- obligation to refrain from making public comments in relation to the offence (in the case of wilful attacks on life, sexual aggression or assault)
- prohibition from travelling abroad without judicial authorisation.

The person convicted must also submit to control measures :

- obligation to report periodically to the probation and rehabilitation service and the judge in charge of sentence enforcement ; and to attend when required
- obligation to apply to the judge for permission to change jobs or residence if this change is likely to impede the fulfilment of obligations
- obligation to inform the probation officer of any change of employment, residence, or any travel lasting more than two weeks.

Community service

Community service was established by a law of 1983. It may be ordered, as an alternative to imprisonment, by the trial court for any offence punishable by a maximum of ten years of imprisonment. The person convicted must be aged over 16 years and must consent to the measure. It requires the performance of community service (unpaid) for a period of 20 hours to 180 hours within 18 months (building repairs, maintenance of green areas, graffiti removal, assistance to people in need, etc.). Not performing the community service is punishable by two years imprisonment and a fine of 30 000 €.

Suspended sentence with an obligation to carry out a community service

Community service can be ordered in addition to a suspended sentence, when the term of imprisonment incurred is less than or equal to five years. The implementation of this penalty is similar to that of a suspended sentence with probation. The person convicted can be subject to the

same obligations/prohibitions for a period of up to 18 months, must report periodically to probation and rehabilitation service and the judge in charge of sentence enforcement; and attend when required. As with a suspended sentence with probation, non-compliance may lead to imprisonment.

Daily fine

Introduced into the criminal law in 1983, a daily fine may be ordered by the trial court for any offence punishable by a maximum of ten years of imprisonment, if the offender is an adult. The penalty requires the convicted person to pay to the Public Treasury an amount determined by the court which must take into consideration the seriousness and circumstances of the offence and also the resources and expenses of the convicted person. The amount imposed is the result of the determination of a daily contribution for a given number of days (for example, 100 € for 120 days). The number of days cannot exceed 360 and the daily amount may not exceed 1 000 €. The full amount is due after the expiry of the period corresponding to the determined number of days . Not paying (partially or totally) may lead to imprisonment for a period corresponding to the number of unpaid days. After imprisonment, the debt is cancelled.

Obligation to follow a citizenship programme

Introduced into the criminal law in 2004, the obligation to follow a citizenship programme can be part of a suspended sentence with probation, an additional penalty[6], and also an alternative sanction. It may be ordered by the trial court for any offence punishable by a maximum of ten years of imprisonment (subject to the agreement of the convicted person). The programme aims to remind the convicted person of the "republican values of tolerance and respect for human dignity on which society is based", to "raise his awareness of his civil and criminal liability and the duties that living together entails". Not following the programme renders the convicted person liable to two years imprisonment and a fine of 30 000 €.

Organized in group sessions (for a maximum of six hours a day), the programme is carried out by the probation and rehabilitation service or by agreed associations (or by the juveniles judicial protection service in the case of minors). There may be involvement of representatives of the police, the prefecture, the prosecutor, victims' associations, psychologists, etc., depending on the issue (incivility, abuse, damage to public property, theft, domestic violence, etc.) : reminder of the law / notion of citizenship, reflections on the mechanism of violence, received ideas …The duration of the program must not exceed one month, and the organization must take into account the social, family, professional or academic obligations of participants. Sessions can be spread over several weeks or compiled on few days. The person convicted can be required to pay a fee for the programme, which cannot exceed 450 €. In practice, the programmes organised by associations are generally "fee-paying", unlike those organised by the probation and rehabilitation service. This creates inequality.

Forfeiture or restriction of some rights

Forfeiture or restriction of some rights specified in the criminal law may be ordered, as an alternative sanction (or in addition to the primary penalty), by the trial court for any offence punishable by a maximum of ten years of imprisonment. The order may include :

[6] In French law an additional penalty is one that may be added to the primary penalty by the judge if he expressly orders it.

- prohibitions related to vehicle driving : cancellation or suspension of driving licence for a period up to five years ; confiscation of vehicle(s), immobilization of vehicle(s) for up to one year, ban on driving certain types of vehicle or a vehicle without alcohol interlock for up to five years
- prohibitions related to weapons : ban on possessing or carrying weapons for up to five years, confiscation of weapons belonging to the offender or freely available to him, withdrawal of a hunting licence
- ban on issuing cheques or using bank cards for up to five years
- confiscation of any object that was used in committing the offence or was the product of the offence
- ban on exercising any professional or social activity where the facilities afforded by such an activity were knowingly used to prepare or commit the offence
- ban on exercising any commercial activity for up to five years
- ban on entering into contact with certain persons designated by the court (by whatever means) for up to three years
- ban from frequenting the locality where the offence was committed or designated areas.

Not complying with these obligations is punishable by two years imprisonment and a fine of 30 000 €.

Reparation penalty

Introduced into the criminal law in 2007, reparation may be ordered, as an alternative sanction (or in addition to imprisonment), by the trial court for any offence punishable by a maximum of ten years of imprisonment. The reparation penalty requires compensation for the damage caused, within a period and on terms determined by the court. With the agreement of the victim and the offender, the reparation can be performed in kind. It may then consist of the repair of damaged property, performed by the convict himself or by a professional chosen by him. Not performing the repair may lead to imprisonment or fine : when sentencing, the court sets the maximum amount of the fine or the maximum length of imprisonment which can be put into execution (totally or partially) by the judge in charge of sentence enforcement if the obligation of reparation is not fulfilled. The length of imprisonment can not exceed six months, and the amount of fine 15 000 €.

Probation sentence (“contrainte pénale”)

Established by a law of 2014 (which came into force on 1st October 2014), the probation sentence (called “contrainte pénale”) is similar to a suspended sentence with probation. It may imply compliance with the same obligations/prohibitions and measures of control. It may also imply an obligation to perform a community service, or (in some cases) to be subject to a medical treatment order. The main differences are that this penalty may be imposed only when the offence is punishable by five years imprisonment maximum and requires socio-educational monitoring, and that the obligations/prohibitions must be defined after evaluation of the personality and the social, material and family situation of the offender. It includes the principle of a re-evaluation at least once a year by the probation and rehabilitation service. If the situation has changed, the judge in charge of sentence enforcement may, after hearing the convict person and his lawyer, modify, delete or complete the obligations/prohibitions. The trial court determines the length of the sentence (between six months and five years), however the judge in charge of sentence enforcement may decide to end prematurely the penalty if the convicted person has followed his obligations for at least one year and no further socio-educational monitoring seems necessary for

his reintegration (if the public prosecutor opposes it, the court decides). The trial court determines also the maximum length of imprisonment which can be pronounced in case of non compliance with obligations/ prohibitions or measures of control. It cannot exceed two years, nor can it exceed the term of imprisonment imposed for the offence. However, the court is not automatically seized in case of non compliance. The judge in charge of sentence enforcement may, initially, remind the offender of his duty or modify his obligations/prohibitions. Nevertheless, in case of commission of a new offence for which the offender is sentenced to imprisonment, the penalty for non-compliance can be added to the new sanction.

On 1st March 2015 there were 425 probation sentences pronounced, for minor offences of violence and domestic violence (35 %), violations of road safety (31 %), theft (20 %), drug abuses (8 %), carrying weapons (6 %). Offences usually punished by measures other than imprisonment (suspended sentence, suspended sentence with probation, fine, etc.)

Impact of the measures on the prison population

Alternative sanctions were introduced as a substitute for prison sentences. Their development should have led to a decrease in the number of prison sentences. But it is not so, as noted by the consensus conference on the prevention of recidivism. For the last twenty years, the prison population has increased, and so have the alternatives. There is a net-widening effect. These sanctions are pronounced not in place of prison sentences but in place of less restrictive penal measures, or even no measures.

Total number and percentage of people serving a final sentence (column 2): alternative measures (column 3) or in prison (column 5) for the period 2000-2014

	People serving a final sentence[7]	People serving alternative sanctions	%	People serving prison sentence	%
2014	Not available	Not available	N.A	Not available	N.A
2013	574 133	410 963	71,6%	140 987	24,6%
2012	576 348	421 683	73,2%	131 636	22,8%
2011	554 870	400 134	72,1%	131 733	23,7%
2010	569 899	413 471	72,6%	131 878	23,1%
2009	590 370	432 063	73,2%	130 389	22,1%
2008	593 604	434 707	73,6%	135 628	22,8%
2007	591 114	429 859	72,7%	134 723	22,8%
2006	586 086	428 765	73,2%	129 398	22,1%
2005	552 585	400 311	72,4%	125 547	22,7%
2004	488 542	350 734	71,8%	116 082	23,8%
2003	437 238	307 374	70,3%	113 924	26,1%
2002	379 172	262 625	69,3%	101 977	26,9%
2001	417 289	294 403	70,6%	103 231	24,7%
2000	449 850	322 318	71,7%	107 891	24,0%

Source : from data of Ministry of Justice

[7] Included educational measures for juveniles and exemption from penalty.

Breakdown of total number of people serving an alternative to detention for the period 2000-2014

	Fine pronounced	Suspended sentence	Suspended sentence with probation	Suspended sentence / community service	Community service	Daily fine	Others
2014	N.A	N.A	N.A	N.A	N.A	N.A	N.A
2013	176 384	111 656	48 314	9 312	16 071	25 286	23 940
2012	187 355	111 715	49 662	8 721	15 656	24 271	24 303
2011	170 767	111 116	49 394	8 554	14 607	24 001	21 695
2010	175 422	114 582	54 586	9 169	15 653	23 963	20 096
2009	183 576	122 186	57 305	9 253	16 385	23 377	19 981
2008	175 478	130 650	57 918	8 806	14 208	22 099	22 904
2007	174 676	131 832	54 772	9 061	14 301	20 292	24 925
2006	170 715	135 731	51 598	9 697	14 519	19 971	26 534
2005	143 205	138 703	50 283	9 839	12 757	18 526	26 998
2004	102 480	135 616	52 967	9 999	10 396	14 956	24 320
2003	72 524	132 188	49 568	8 822	8 059	12 657	23 556
2002	63 151	102 122	44 762	8 918	8 350	10 860	24 462
2001	74 832	115 219	45 217	8 974	8 576	13 536	28 049
2000	84 473	127 671	46 348	10 191	10 200	12 453	30 982

Source : Ministry of Justice

The data do not detail all the alternatives, notably reparation penalty, or forfeiture / restriction of some rights.

There are also no daily rate of the total number of people serving alternative sanctions or serving a final sentence. The only data available concern the measures that involve monitoring by the rehabilitation and probation service.

Daily rate of people serving measures that involve monitoring by the rehabilitation and probation service between 2000 and 2014

	People serving suspended sentence with probation	People serving suspended sentence with community service	People serving community service	People serving citizenship training	Total
31/12/14	136 871	38 529		NA	175 400
31/12/13	141 107	36 588		NA	177 695
31/12/12	144 937	18 803	15 293	858	179 891
31/12/11	144 060	17 280	14 970	792	177 102
31/12/10	143 670	15 244	15 502	677	175 093
31/12/09	141 156	12 618	14 883	588	169 245
31/12/08	132 726	11 610	13 228	415	157 979
31/12/07	121 700	11 226	13 276	NA	146 202
31/12/06	117 225	9 768	14 170	NA	141 163
31/12/05	120 676	8 733	15 528	NA	144 937
31/12/04	106 224	1 160	16 885	NA	124 269
31/12/03	105 247	0	17 990	0	123 237
31/12/02	107 846	0	19 106	0	126 952
31/12/01	119 753	0	23 488	0	143 241
31/12/00	119 764	0	25 411	0	145 175

Source : direction of the prison administration.

Alternatives during execution[8]

Alternatives during execution and judicial authority responsible for the establishment of the measures

There are several measures that allow a person sentenced to imprisonment to be released, under certain conditions, before the end of his sentence : day-release, placement in society, electronic surveillance, conditional release … In some cases, some of these measures (day-release, placement in society, electronic surveillance) can be pronounced before the enforcement of the prison sentence. They then replace the prison sentence.

Alternative measures in detail

Day-release

Day-release is a measure that allows a convicted person to go out of prison during the day (without surveillance) to perform some activities (work, training, job search, medical treatment, etc.). The schedules (exit and re-entry) are fixed by the judge in charge of sentence enforcement. When working, the convicted is subject to the same conditions of work and pay as free workers. During his time outside prison, the convicted person could be subject (by decision of the judge) to the same obligations/prohibitions and measures of control as apply in the case of suspended sentence with probation. In case of non compliance with the measures of control, or failure to return to the prison, the convicted person is considered to be a fugitive and is liable to 3 years imprisonment and a fine of 45 000 €.

Day-release may be ordered before the enforcement of the prison sentence(s) only when the length of imprisonment is less than two years (one year in case of recidivism). And during execution, when the penalty remaining to be executed is less than two years (one year in case of recidivism).

Placement in society

Placement in society is ordered under the same conditions as day release (criteria, obligations/prohibitions, measures of control, etc.). But it covers different situations. The measure may be conducted under or without supervision of the prison administration. In the first case, the convicted person works during the day outside the prison subject to the monitoring of prison officers (for example cleaning of natural sites), and returns to prison at the end of the day. In the second case, the convicted does not sleep in prison. He is usually hosted by a structure partner of the prison administration which provides social support, and sometimes professional accompaniment. And he has to perform some activities (work, training, job search, medical treatment, etc.). When working, the convicted person is subject to the same conditions of work and pay as free workers. As for day-release, the schedules (exit and re-entry) are fixed by the judge in charge of sentence enforcement. And in case of non compliance of the measures of control, or failure to return to the prison, the convicted person is liable to 3 years imprisonment and a fine of 45 000 €.

[8] Those established during the execution of the sentence as forms of early release from prison.

Electronic surveillance

Electronic surveillance is ordered under the same conditions as day release and placement in society (criteria, obligations/prohibitions, measures of control, etc.). The convicted person can live at home or may be hosted by a social structure. The measure involves the obligation to wear an electronic bracelet and the prohibition from leaving home (or a specified residence) except at times or for reasons specified by the judge. As in the case of electronic house arrest, the bracelet incorporates a transmitter to verify that the person is in fact in the defined place, when he should be there. But in this case, the bracelet cannot be equipped with a portable receiver (GPS). The receiver is always installed inside of the place in question (a fixed box), that does not permit the location of the person when he/she is free to leave the defined place. In case of non compliance with the measures of control, or failure to return to the prison, the convicted person is liable to 3 years imprisonment and a fine of 45 000 €.

Conditional release

Conditional release is a measure that allows a convicted person to be released before the end of the sentence of imprisonment under certain conditions. It can only be granted after the end of a safety term (period set by the law or the court during which no adjustment of the penalty or permission to go outside is possible; in case of life imprisonment, this period is 18 years, or 22 in case of recidivism), in the following cases :

- when the convicted person has served one-half of his sentence, has demonstrated serious effort towards social rehabilitation and he can prove either future employment, professional training or courses, his essential participation in family life, his need to undergo medical treatment, his efforts with regard to compensating his victim(s), or his involvement in a serious project of rehabilitation
- when the convicted person has served one-half of his sentence and is subject to a prohibition to stay on French territory, to be escorted to the border, to an expulsion, an extradition, or a European arrest warrant (in this case, the grant is subject to the execution of the measure and conditional release can be ordered without the consent of the convicted person)
- when the convicted person is more than 70 years old and integration is ensured (unless there is a risk of serious disturbance of public order) and he can prove that he will be taken in charge after release in a manner appropriate to his situation
- when the convicted person is serving a sentence (or remaining sentence) less than or equal to 4 years and she is a pregnant woman (of more than twelve weeks), or if the convicted person exercises parental authority over a child of less than 10 years old having its lawful residence with this parent (except, in all cases, where an offence was committed against a minor)

The decision is made by the judge in charge of sentence enforcement when the convicted person is serving a sentence less than or equal to 10 years or when the sentence remaining is less than or equal to 3 years. It made by a sentence enforcement court (composed of three judges) when the sentence (or sentence remaining) is longer. When the person has been sentenced to an additional penalty of socio-judicial supervision, a conditional release cannot be granted without prior psychiatric examination. And when the person has been convicted of an offence for which socio-judicial supervision is imposed, a conditional release cannot be granted if he/she refuses while incarcerated to undergo médical treatment.

Moreover, when the person has been convicted of a serious offence (for which socio-judicial

supervision is imposed) and sentenced to more than 15 years or 10 years (depending on the case), a multidisciplinary examination and evaluation of dangerousness must be carried out beforehand. This evaluation is made in a specialised penitentiary service called National centre of evaluation where the convicted person should spend six weeks. The decision must also be preceded by the opinion of a commission called multidisciplinary commission of security measures and created by a law of 2005. This commission is composed of the president of the Court of Appeal, the prefect of the region, the inter-regional director of prison administration (or representative), a court expert psychiatrist, an expert psychologist, a representative of a victims support association and a lawyer.

The convicted person who benefits from a conditional release may be subject (on decision of the judge or the court) to all the obligations/prohibitions and measures of control provided for suspended sentences with probation, for a period equivalent to the sentence remaining and which can be extended to one year more (but cannot exceed ten years). And unless the judge or the court decides otherwise, the convicted person is subjected to a medical treatment order if he has been convicted of a offence for which socio-judicial supervision is imposed and if an examination establishes that he can undergo such a treatment. If he was sentenced to a term of at least seven years' imprisonment, he can also be subjected to electronic monitoring with GPS for a period of two years, renewable once in matters relating to tort, or twice in criminal matters.

Moreover, in all cases, the judge or the court may decide that the granting of a conditional release is subject to prior demonstration that some other kind of execution modality has been successful (day-release, placement in society, electronic surveillance during one year maximum). These prior probationary measures are mandatory, for a period of one year to three years, when the person has been convicted of an offence for which socio-judicial supervision is imposed to a sentence longer than 15 years (or 10 years in some cases), except electronic monitoring with GPS. And if the person has been sentenced to life imprisonment for certain offences (murder, rape, torture, sequestration, etc.), he may be subjected, after the period of conditional release, to the same measures of control, obligations/prohibitions under another measure called safety monitoring.

In case of non compliance, misbehaviour or new conviction, the measure can be revoked.

Other procedure of release under conditions “libération sous contrainte”)

A law of 15 August 2014 has established a new procedure (entered into force on 1st January 2015). To promote accompanied release, it imposes, in case of conviction to a term of imprisonment equal to or less than five years, a review of the possibilities of granting a sentence adjustment, after the execution of two-thirds of the term of imprisonment. In this case, a rehabilitation project is not required. The sentence adjustment may be day-release, placement in society, electronic monitoring, or conditional release. The decision is made by the judge in charge of sentence enforcement. No flow data are yet available. We only know that on 1st April 2015, of 14 012 convicted persons who benefited from day-release, placement in society, or electronic monitoring, 426 obtained it through this procedure. In 66,9 % of cases, the measure consisted of electronic monitoring ; in 28,9 % of cases, of day-release, and in 4,2 % of case of placement in society.

Total number of people serving alternatives during execution in 2014 and historical series since 2000

	Electronic surveillance pronounced	Day-release	Placement in society	Conditional release
2014	N.A	N.A	N.A	N.A
2013	N.A			
2012	23 215	4 866	2 258	7 980
2011	20 082	4 889	2 258	7 481
2010	16 797	5 331	2 651	8 167
2009	13 994	5 578	2 890	7871
2008	11 259	5 928	2 608	7 494
2007	7 900	5 283	2 289	6 436
2006	6 288	6 751	2 528	5 679
2005	4 128	6 619	2 478	5 916
2004	2 915	6 842	2 230	6 067
2003	948	6 261	2 733	5 509
2002	359	6 527	2 550	5 056
2001	130	6 481	2 682	5 847
2000	13 (since 1st October)	6 757	3 339	5 567

Source : direction of the prison administration.

Total number of people (daily rate) serving alternatives during execution in 2014, historical series since 2000

	People under electronic surveillance	People serving day-release	People serving placement in society	People serving placement in society (without hosting outside prison)	People under conditional release	Total
31/12/14	10 030	1 689	602	368	6 272	18 961
31/12/13	9 591	1 765	647	375	6 428	18 806
31/12/12	9 029	1 785	573	403	6 651	18 441
31/12/11	7 889	1 857	576	371	6 752	17 445
31/12/10	5 706	1 677	664	359	7 347	15 753
31/12/09	4 489	1 665	622	516	7 023	14 315
31/12/08	3 431	1 643	495	377	7 009	12 955
31/12/07	2 506	1 632	421	384	6 581	11 524
31/12/06	1 648	1 339	353	352	6 870	10 562
31/12/05	871	1 221	307	218	8 179	10 796
31/12/04	709	1 189	257	248	6 865	9 268
31/12/03	304	1 225	512		6 428	8 469
31/12/02	90	1 201	483		6 056	7 830
31/12/01	23	910	533		5 904	7 370
31/12/00	12	1 170	637		5 013	6 832

Source : direction of the prison administration.

Total number of people (daily rate) serving alternatives during execution (column 2) and an imprisonment sentence (column 4) in 2014, historical series since 2000 and rate per 100,000 population for this period (columns 3 and 5)

	People serving alternatives during execution	Rate of people serving alternatives during execution per 100 000 population	People serving imprisonment sentence	Rate of people serving imprisonment sentence (inmates) per 100 000 population
31/12/14	18 961	31,1	66 270	99,9
31/12/13	18 806	30,6	67 075	101,6
31/12/12	18 441	29,8	66 572	101,6
31/12/11	17 445	28	64 787	100,8
31/12/10	15 753	25,1	60 544	93,2
31/12/09	14 315	22,7	60 978	94,4
31/12/08	12 955	20,4	62 252	96,8
31/12/07	11 524	18	61 076	95,5
31/12/06	10 562	16,4	58 402	91,8
31/12/05	10 796	16,7	58 344	92,3
31/12/04	9 268	14,3	58 231	92,8
31/12/03	8 469	13	59 246	95,2
31/12/02	7 830	11,9	55 407	89,6
31/12/01	7 370	11,2	48 594	79,2
31/12/00	6 832	10,3	47 837	78,5

Source : direction of the prison administration.