

Chapter 12

France

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1 HISTORICAL DEVELOPMENT OF THE PROBATION SERVICE SYSTEM

1.1 The start of probation in France

Probation was introduced in France in 1958 in the form of the suspended sentence with probation (*sursis avec probation* or SME). A new department that reports to the prison service that in turn is part of the Ministry of Justice runs this service. Known as the Committee for Probation and assistance to released prisoners (*Comité de Probation et d'Assistance aux Libérés* or CPAL), it is also responsible for monitoring those on conditional release. It is a recent government service but one whose origins date back to the end of the nineteenth century. Conditional release (*libération conditionnelle*) dates back to 1885 in a period when the government was faced with the problems of persistent reoffenders that resulted in the *Loi de Relégation* (an Act introducing a form of preventive detention) being passed. Scientific circles that represented positivism¹ were in favour of this Act. Specialists in prison science were not sure and wanted it to be part of a general penal policy designed to prevent reoffending.

In 1882, René Bérenger, senator and creator of the general prisons' society who believed in reforming convicted prisoners, submitted a draft law "on preventive measures to combat reoffending". That law was passed on 14 August 1885 (it is a charitable law of rehabilitation and pardon, said the rapporteur of the Chamber of Deputies).² It provided that patronage societies or institutions should be responsible for monitoring the conduct of released prisoners. It was a Royal Decree of 1819 that laid down the initial foundations on which the supervision of released prisoners³ was built. The first society for the supervision of released prisoners was created in Paris in 1869. It was therefore quite natural that they would be called on to support prisoners who are on conditional release. Convicted prisoners were supervised by charitable organisations until the creation of the CPAL.

At that time, whereas probation was developing in the United States and England, in continental Europe progress was slower. It would appear that the predominance of written law prevented the empirical development of the methods of conditional suspended sentence.⁴ In order to combat short prison sentences given to first offenders, Senator Bérenger submitted a new draft law establishing the suspended sentence. This law was passed on 26 March 1891. It made no provision for supervising the convicted prisoner. Although this new sentence had the benefit of being more in line with the spirit of continental law "by retaining a solemn dimension when it was pronounced"⁵ it slowed down the development of probation. In fact, nothing changed in the legislation until 1945,

¹ R. Badinter – "La prison républicain" - Fayard – 1992 – p.115.

² Ibid – p. 169.

³ Fuchus – "Le patronage des prisonniers libérés – Bulletin de la société générale des prisons, June 1889 (ENAP's digital library – historic documents).

⁴ J. Faget – *Le rhizome pénal* – Research paper GERICO 1989 – roneo – p.12.

⁵ J. Faget – op.cit – p.12.

with the exception of youth justice that introduced supervised release in 1912. From an institutional point of view, the prison service became part of the Ministry of Justice on 13 March 1911.

In 1945, the prisons were full (more than 60,000 inmates) and in very poor condition. The country was destabilised and the prison service even more so. It was against that background that Paul Amor was appointed Director of the Prison Service and set about reforming it. The reform was centred on 14 points, one of which provided for the creation of a social service in each prison whose task, *inter alia*, would be to prepare for release on parole and post-sentence supervision. The social service was also responsible for coordinating private initiatives.⁶ In 1946, the committees for probation and assistance to released prisoners were established within each court and responsible for supervising prisoners released on parole and acting as advocates for those who are released definitively. From that time, several people asked for a probation system to be created in order to combat reoffending and tailor the treatment in prison to the individual.⁷ From 1951, several experiments were conducted on the initiative of the Toulouse, Lille, Mulhouse and Strasbourg prosecution departments. Despite several draft laws, it was not until 1958 that the probation service was created.

The French Code of Criminal Procedure (Code de Procédure Penale) which replaced the 1808 Criminal Instruction Code (Code d'Instruction Criminelle) introduced theories of new social defence into the law.⁸ The key innovation was the creation of the judge who supervises the execution of sentences (Juge de l'application des peines or JAP). He is at the top of a hierarchical structure of a new body of professional agents grouped together in the committee for probation and assistance to released prisoners. Accordingly, the body became professional and the prison service was no longer in control of the service. In the following years, several laws extended the conditions for granting suspended sentences with probation (*sursis avec mise à l'épreuve* or SME) and the powers of the JAP. Against a background in which insecurity became a political issue, the Act of 2 February 1981 limited the scope of this initiative. A key turning point occurred which favoured changing the majority and Mr Badinter was appointed as Minister for Justice. Several key reforms were passed between 1981 and 1984 that significantly changed probation practices.

The decentralisation acts which gave new powers to local regional authorities, prevention of delinquency with the creation of councils (national, regional and local) for the prevention of delinquency following the findings of the Bonnemaïson report⁹, the Act of 10 June 1983 repealing certain provisions of the Act of 2 February 1981 and creating the community service order (*travail d'intérêt général*) opened up the CPALs to the outside and resulted in them working in partnership, which was new to them and which became increasingly

⁶ C. Faugeron and J. M. Le Boulaire – Le création du service social des prisons et l'évolution de la réforme pénitentiaire en France de 1945 à 1958 – CESDIP Etudes et données pénales no. 57 1988

⁷ J. P. Beguet – La probation surveillée – Revue de science criminelle et de droit pénal comparé no. 3 – 1947 – p.384.

⁸ M. Ancel – La défense sociale nouvelle – Cujas 1954 – 2nd edition 1971.

⁹ "Face à la délinquance: prévention, répression, solidarité" – Report compiled by the commission of mayors on safety chaired by G. Bonnemaïson (January 1983).

commonplace. Pre-sentencing work expanded with the arrival of a system for judicial, social and educational monitoring (contrôle judiciaire socio-éducatif) and rapid social enquiries (enquêtes sociales rapides). These two activities can be carried out by the CPAL or the social workers. Several laws strengthened the structure of these services (creation of the socio-educational service in prisons, a new hierarchical authority in open environments and the director of probation). The concept of cross-functionality between the prison's educational services and those in open environments also emerged. Experiments were conducted (unified services).

The Act of 22 June 1987 on the public prison service stated that it "encouraged the social rehabilitation of prisoners and that it was structured in such a way as to ensure that sentences were tailored to the individual." s a result of several reports¹⁰ emphasising the need to review the structure of CPALs in order to make them more transparent and improve their credibility, and on the strength of the Act of 6 January 1995's plan to double the number of social workers in open environments, the prison service embarked on a wide review which in 1999 resulted in the creation of a new service, the rehabilitation and probation prison services (Service Pénitentiaire d'Insertion et de Probation or SPIP), a regional structure that includes the old socio-educational services and the old CPALs, under the authority of a manager who reports to the regional director of prison services. Thus these services became attached to the prison service. Although the JAP lost their hierarchical powers, their duties became judicialised. They became "real judges" whose decisions made after hearing the arguments of all parties were subject to appeal.

1.2. Important developments

During the last ten years, new measures were added to the tasks of the SPIP:

- electronic monitoring, introduced by the Act of 19 December 1997 which gradually came into effect from 2000;
- socio-judicial monitoring (Act of 17 June 1998), a sentence created for sexual offences and since that time extended to other offence;
- supervision by the court (Act of 12 December 2005), a safety measure that may contain some of the obligations of probation;
- mobile electronic monitoring (Act of 12 December 2005) currently being experimented.

1.3 Probation activities in a nutshell

The tasks of the probation services have been considerably broadened since 1958. They cover an area from pre-sentencing until execution of the sentence, from the specialist investigation (before judgment or in order to prepare for release from prison) to supervision, and from short-term intervention to long-term monitoring. The gap between the closed environment (prison) and the open

¹⁰ Report on the modernisation of the public prison service (1989) and report of the judicial services inspectorate on the evaluation of the operation of Probation Committees (CPAL) and proposals to improve the effectiveness of their work (1993)

environment has narrowed, the concept of cross-functionality and continuity of supervision has developed as a result of structural reform in particular. It has become one of the prison service's priorities, particularly for devising amended sentences (temporary release, release on parole, work release or electronic monitoring.). The Act of 9 March 2004 strengthened the legitimacy of these measures and helped to reduce overcrowding in prisons. However, these new tasks require additional resources as Member of Parliament Jean-Luc Warsmann noted in several reports.¹¹ That is why a big recruitment drive began in 2004.

¹¹ “Les peines alternatives à la détention, les modalités d’exécution des courtes peines, la préparation des prisonniers à la sortie de prison” (April 2003) and information report on the implementation of the Act of 9 March 2004 adapting the judicial system to changes in the nature of crime (June 2005)

2 LEGISLATIVE BASIS AND MISSION

2.1 Legislative Basis

As part of the Ministry of Justice since 1911, the prison service contributes to the overall objective of public safety by taking on two roles: supervising the people referred to it by the courts and encouraging social rehabilitation. The public service nature of this government department was recognised in Act no. 87-432 of 22 June 1987 on the public prison service. The French probation service was created in 1958 at the same time as the office of judge responsible for the execution of sentences. Initially, it consisted of a committee for probation and assistance to released prisoners (Comité de Probation et d'Assistance aux Libérés or CPAL) in open institutions and a socio-educational service (Service Socio-Educatif or SSE) in the closed prison environment.

The Decree of 13 April 1999 combined these two services in a single entity with territorial and administrative departmental powers: the Rehabilitation and Probation Prison Services (Service Pénitentiaire d'Insertion et de Probation or SPIP) which was defined in Article 572 of the French Code of Criminal Procedure (Code de Procédure Pénale or CPP): "a rehabilitation and probation prison service, a decentralised prison service, shall be created in each département. It shall be responsible for implementing the tasks specified in Articles D. 573 to D. 574. The director of the rehabilitation and probation prison service shall report to the interregional director of the prison services. The headquarters of the rehabilitation and probation prison service and a list of local sub-branches shall be determined by Ministry of Justice Decree." The creation of this structure enabled resources to be shared, ensured continuity between the socio-educational work in closed (prisons) and open (without incarceration) environments and provided a better interface between the task of reintegrating the prison service and public policies on social action. The creation of the rehabilitation and probation prison services in 1999 provided the prison service with a single departmental representative in the field of rehabilitation and probation, the director of the rehabilitation and probation prison service, thus enabling the government departments to better identify the service and its work.

The European Prison Rules (EPR), which were adopted on 11 January 2006 by members of the Council of Europe, are the French public prison service's charter for action. They express a set of basic principles, particularly with regard to the development plans for prisoners and implementation of different regimes in prisons. The responsibility for prisoners is cross-disciplinary and includes the concept of steady progress in prisoners' development. References:

- Decree of 13 April 1999 no. 99-276, NOR: JUS9940058D;
- Decree of 2 August 1999 no. 99-670, on the employment status of DSPIP;
- Decree of 9 August 1999 classifying SPIPs;
- Circular dated 15 October 1999 on the tasks of the SPIP, NOR: JUSE9940065C;
- Circular dated 27 December 1999 on the relationship between the SPIPs and other prison services and their partners, NOR: JUSE9940287C;

- Circular dated 21 November 2000 on the methods of intervention of social workers attached to the SPIP, NOR: JUSE0040086C;
- Circular dated 29 November 1999 NOR: JUSE9940194C on the management of human resources in SPIPs;

Other references that have an impact on the work of the SPIPs and which were drawn up prior to the reform:

- Circular dated 28 May 2001 on the execution of sentences, NOR: JUSE0140042C;
- Circular dated 2 July 2003 on the design, conduct and monitoring of vocational training initiatives for administrated persons, NOR: JUSE0340063C;

Since they were created in 1999, the SPIP have had to cope with a constantly changing legislative and regulatory framework:

- The Act of 19 December 1997 establishing electronic monitoring as a means and execution of custodial sentences and creating electronic monitoring, grants new powers to the SPIPs;
- The Act of 17 June 1998 on the prevention and punishment of sexual offences and the protection of minors created socio-judicial supervision which was implemented by the SPIP;
- The Act of 15 June 2000 reinforcing protection of the presumption of innocence and victims' rights began the judicialisation of the execution of sentences in closed environments which involves the establishment of a written inter partes report;
- The Act of 9 March 2004 adapting the judicial system to changes in the nature of crime established a new procedure for adapting the aims of sentences, granting the DSPIP new powers, amending the sentence reduction system, extending pre-judgment social enquiries, establishing referral to the SPIP by the Criminal Court (Art. 474) and ended the judicialisation of sentence execution by the open environment;
- Act no. 2005-1549 of 12 December 2005 on the treatment of recidivism;
- Decree no. 2006-385 of 30 March 2006 on the execution of sentences;
- Act no. 2007-297 of 5 March 2007 on the prevention of delinquency.

2.2 Mission and mission statement

The Act of 9 March 2004 introduced an article that defined the execution of sentences:

Article 707 of the French Code of Criminal Procedure: "On the decision of the judicial authorities or under their supervision, except in insuperable circumstances, sentences imposed by the criminal courts shall be enforced effectively and as soon as possible. The execution of the sentences shall further the rehabilitation of convicted persons as well as the prevention of recidivism, whilst respecting the interests of society and the rights of victims. To this end, sentences may be modified during the course of their execution to take account of the individual's evolving personality and situation. Whenever possible, tailoring sentences to the individual must enable the convicted person to regain his freedom gradually and avoid release without any form of monitoring by the court." The tasks of the SPIP are laid down in Articles D. 572 et seq. of the French

Code of Criminal Procedure. They vary depending on whether the person is imprisoned or given a non-custodial sentence.

- Article D. 573: “the rehabilitation and probation prison service, in conjunction with, where appropriate, other government authorities, local authorities and any public or private bodies, promotes access to the rights and means of rehabilitation under ordinary law of prisoners and persons who are referred to them by the courts. It ensures, particularly for released prisoners, continuity of the rehabilitation measures taken pursuant to Articles D. 441-1, D 457 and D.459. It may also provide the persons referred to it by the courts with practical help.”

- Article D 574: “When instructed by the courts, the rehabilitation and probation prison service helps in the preparation of criminal court decisions; it may be responsible for conducting investigations and for measures prior to judgment. It conducts investigations as to the material, family and social circumstances of persons who are subject to court investigations or proceedings to enable the measures or sentence to be better tailored to the individual and encourage rehabilitation of the persons concerned.

It supervises and monitors persons who are released under court supervision. It conducts the investigations required of it prior to execution of sentences that deprive the offender of his freedom. The rehabilitation and probation prison service implements the supervisory measures and ensures that those who are given a suspended prison sentence with probation comply with their obligations. It also supervises socio-judicial monitoring or community service orders, those who are given a deferred sentence with probation, those who are released on parole, convicted prisoners who are subject to monitoring by the court or conditional mitigation of penalty, suspended sentence, temporary release, work release, or electronic monitoring or mobile electronic monitoring, exclusion from specified locations and the persons referred to in Article L. 51 of the French National Service Code.”

- Article D. 575: “under the authority of the Director of the rehabilitation and probation prison service, social workers ensure that the person referred to the service complies with the supervisory measures and the obligations imposed on him. They implement the measures that are designed to further his social rehabilitation. They provide the instructing judge, at his request or at their own initiative, with all the information to enable him to take into account the measures that are adapted to the person’s situation. They suggest adaptations or modifications of the supervisory measures, obligations or conditions, and report on any breaches thereof. They provide it with a half-yearly assessment report from the time the case has been referred to the service and at the end of the supervisory measure.” For the sake of clarity, the above-mentioned articles can be summarised as follows:

Where the person is imprisoned, the SPIP’s general tasks are to:

- help to prevent the desocialising effects of imprisonment;
- encourage the maintenance of links with friends and family;
- help to prepare inmates for social reintegration;
- seek ways in which to promote the adaptation of sentences and tailoring them to the individual.

Where the convicted person is not imprisoned (measures to restrict freedom, adaptation of the sentence ab initio), the SPIP’s tasks are to:

- implement the supervisory measures and ensure that the obligations placed on administrated persons are complied with;
- conduct feasibility studies in the case of electronic monitoring;
- evaluate the possibilities of adapting the sentence ab initio;
- provide assistance in order to foster the social reintegration of prisoners;
- report to the judicial authorities on the progress of the measures.

In order to perform its tasks, the SPIP organises its work on several levels:

- reception, with a view to providing the prisoner with information, identifying his needs and evaluating his socio-professional position;
- supervision, assisting the individual in his day-to-day life through regular meetings and drawing up his social reintegration plan;
- coordination with its partner networks, with a view to tailoring the sentence to the individual: access to social benefits, work, vocational training, health care, preparing for release etc.

The key partners of the rehabilitation and probation prison services are:

- The courts: the rehabilitation and probation prison service's first contacts are the senior judges and the judges responsible for the execution of sentences. However, concerning pre-sentencing, more often than not the SPIP is instructed by the Public Prosecutor and the investigating judge. Concerning post-sentencing and, depending on the convicted person's individual circumstances, any other judge who is involved with him from a non-penal point of view is entitled to call on the rehabilitation and probation prison service. That is often the case as regards youth court judges or family court judges where the SPIP's opinion may be sought with a view to helping the judge make a decision (for example, in relation to the right of access of a prisoner who has committed a sexual offence on a minor).

- The prison authorities: as a prison service and owing to the very tasks entrusted to it by the Code of Criminal Procedure, the rehabilitation and probation prison service contributes to prison life. In that respect, it may be required to pass on certain information concerning the prisoner, whether he be on remand or convicted, with a view to ensuring that the decisions made in relation to him are tailored to his needs. Accordingly, the Governor may call on the SPIP to appear before the disciplinary commission for a decision to transfer him etc. The rehabilitation and probation prison service acts in partnership with the prison in the areas of sports and cultural activities, vocational training and health education. In prisons, the sentence execution plan (parcours d'exécution de peine or PEP) is the means of structuring prisoners' sentence execution by a global, cross-disciplinary management. Said plan must value the prisoner and limit the desocialising effects of imprisonment by giving him an active role and making him responsible for himself during his time in prison. The PEP is the focus of the discussions and action taken by the professionals who work in the prison environment. Accordingly, a cross-disciplinary commission examines and formalises the key aspects of prisoners' personal plans during the time when they are serving their sentence. Said commission is a central point for discussing, reviewing and making suggestions in relation to prisoners' treatment plans. It consists of prison staff and the rehabilitation and probation prison service and any other person who is involved with prisoners (medical, educational, work and training services).

- Partnership: the rehabilitation and probation prison service develops and coordinates a network of community-based and private institutional partners, in order to provide inmates in their care with all the opportunities for social reintegration, geared towards the provisions of ordinary law: access to social benefits, health care, health education, cultural and sports activities. The content of said partnerships is decided by mutual agreement.
- Public partners: these include the government's decentralised services, regional councils, general councils, towns, and social agencies. They support the prison service's reintegration work by making it consistent with public policies: urban policy, access to housing, work and vocational training, cultural activities, health, etc.
- Private partners: consisting primarily of associations, the private partners support or take over the tasks for which the SPIP is responsible: meeting inmates leaving prison, work release etc.

2.3 Crime prevention

The prison service actively helps to implement the reoffending prevention policy, inter alia by monitoring the effectiveness of the penalties it imposes, preparing prisoners for release and drawing up adapted sentences which it favours and arranging support for prisoners in open or closed environments. Individual support for each person in their charge and a can-do policy of developing alternatives to imprisonment and adapted sentences are key assets. Ensuring that the punishment is effective is paramount. Processes must also be established to reduce the risk of reoffending in an open environment. Reintegration is of prime importance in that respect. The rehabilitation and probation prison services identify and appraise the characteristics and needs as regards the reintegration of persons in their charge. This diagnosis serves as a basis for designing initiatives that are proposed and negotiated with all the partners involved in managing and implementing them.

The director of the rehabilitation and probation prison service is responsible for identifying and managing the prison service's rehabilitation policies in the département, which further access of persons in their charge to the provisions of ordinary law and provide continuity of action between the open and closed environment. Using its knowledge of persons in their charge and an appraisal of the problems they face when serving their sentences, the rehabilitation and probation prison service seeks the means to make the execution procedures more efficient, taking into account the characteristics of each person (age, type of offence, etc.). By way of an illustration of the rehabilitation measures taken by the SPIP the aim of which is to prevent delinquency, here are some examples:

- Citizen's community service (travail d'intérêt general or TIG): Several rehabilitation and prison probation services have introduced the citizens' community service or citizenship training before it becomes statutory law. The SPIP have had to respond to a new form of delinquency such as urban aggression (damage to public property, insulting persons who hold official positions and rebellion). Liaising with the court that executes the sentences and the prosecution department, the SPIP devised this community service with partners such as the centres for justice and law (maisons de justice et de droit), local

initiatives, the regional public safety department (Direction Départementale de la Sécurité Publique), Members of Parliament, representatives of the education department, private enterprise, including transport, associations, etc. The aims of the project are to create the conditions for dialogue between the convicted prisoners and the public services, allow reflection on the offence and the sentence by introducing the concept of victim and help to bring out young people's potential using examples of collective or individual actions.

- Road safety community service: The increase in offences committed whilst under the influence of alcohol or drugs has caused the rehabilitation and prison probation services to manage this problem in the form of road safety community service, inter alia. In fact, prisoners convicted of this type of offence account for a significant proportion of the prisoners managed by its services. Accordingly, measures intended for convicted prisoners with an addiction problem have been taken at the instigation of the SPIP in conjunction with local authorities and specialist associations to work with these prisoners and the Ministry of Education. This project is part of the local security and delinquency prevention agreement (contrat local de sécurité et de prévention de la délinquance or CLSPD). Through its content and objectives it contributes to move towards an educational approach to sanctions. This project is aimed at those who are given a community service order and raises awareness of the concepts of road safety and a real awareness of the dangers of drivers who are addicted on road safety.

The objectives of the project are to rehabilitate offenders and prevent reoffending.

- Parole board for sex offenders: Faced with the observation of the increase in the number of sex offenders managed by the services and their particular problems (complex personal and family issues, defensive attitude - denial, minimisation, resistance to adopting social values, and their indifference to the victim's experience), the obligations of the judicial measure are often perceived as merely an administrative constraint. It therefore became necessary to consider new means of intervention. Several rehabilitation and probation prison services devised a plan based on the concept of guidance, the aim of which is not care, cure or social rehabilitation but expressly, to prevent reoffending. The work based on a parole board is designed to develop the person's ability to abide by society's basic values, based on respect for other people and their freedom.

2.4 Victim protection

Victims of crimes who, for a long time, have been outside the criminal process are now increasingly taken into account by the new laws and regulations, particularly the Act of 15 June 2000, which strengthens the principle of the presumption of innocence and victims' rights and the Act of 9 March 2004 adapting the judicial process to changes in the nature of crime, supplemented by the Act of 12 December 2005 on the prevention of reoffending. The victim has acquired a real place at the sentence execution stage and respect for victims' rights is becoming one of the guiding principles of the execution of sentences. The law now obliges courts responsible for executing sentences to take the victim's interests into account when making their decisions. The rehabilitation and probation prison services are not responsible for victims of criminal

offences; however, they have contact with them in connection with the damages payable to them and in the context of the investigations carried out prior to adapted sentences. The court responsible for executing sentences may ask the SPIP to obtain specific information about the victim's living environment or a more in-depth enquiry from the victim him/herself before any decision to amend the sentence is made. Accordingly, the SPIPs may refer victims to victim support associations or sign partnership agreements with such bodies.

3 THE ORGANIZATION OF PROBATION SERVICES

3.1 Main characteristics

There are currently 103 SPIPs throughout the whole of France. Every day, they take on approximately 60,000 prisoners (convicted and remand) and 145,000 convicted prisoners who are given a non-custodial sentence (community service order, suspended sentence with probation etc.). The SPIP consists of a headquarters and one or more sub-branches that serve the prisons and courts in the département.

This organisation is managed by a Director of rehabilitation and probation prison services (directeur des services pénitentiaires d'insertion et de probation or DSPIP). The DSPIP reports to the interregional Director of prison services. He is assisted by:

- assistants, who are Directors of rehabilitation and probation (directeurs d'insertion et de probation or DIP);
- executives, heads of the rehabilitation and probation service (Chefs de Service d'Insertion et de Probation or CSIP) and/or social service technical advisors (conseillers techniques de service social or CTSS);
- prison social workers who are rehabilitation and probation advisors or social workers;
- administrative staff.

3.2 Internal organization

Unless there is a special exception, the headquarters of the SPIP is located in the main town in the département. The following are appointed to the headquarters:

- the Director of the SPIP;
- where appropriate, the assistant (or assistants);
- the administrative staff who are specifically attached to the Director or his deputy.

The sub-branch is an operational unit of the SPIP, under the hierarchical authority of the DSPIP and possibly with an intermediary executive as an interface. The sub-branch is designed to serve both the prisons and the judicial district (mixed branch). However, there may be sub-branches that are devoted either to a prison or to a court. There are two possible structures: either the SPIP has a single entity; the headquarters and sub-branch are combined (simple configuration) or it includes the headquarters and several sub-branches. The social workers and administrative staff are assigned to sub-branches. The

number varies according to the number of persons in their charge (personnes placées sous main de justice or PPSMJ).

3.2.1 Probation workers

The status of prison staff is defined by Act no. 83-634 of 13 July 1983 on the general status of civil servants and by Act no. 84-16 of 11 January 1984 on the special status of prison staff. Accordingly, as members of a government department responsible for a public safety role, prison social workers are also governed by a special status that departs in some respects from the general status of civil servants; accordingly, they are prohibited from “any concerted stoppage of the service.” The rehabilitation and probation advisors are responsible for monitoring and supervising the measures that deprive persons in their charge of their freedom or restrict it. They are involved in tailoring sentences to the individual and help with the preparatory work for quasi-judicial decisions. Under the authority of the Director of the rehabilitation and probation prison service, they ensure that the rehabilitation measures are applied, in conjunction with other prison service staff and their external partners.

The SPIP does not have a supervisory role. That is solely for the prison officers. By contrast, it is responsible for supervising the rehabilitation obligations and assistance. It is difficult to quantify the proportion of these two aspects of the duties of rehabilitation and probation staff, which vary according to the nature of the sentence, the prisoner’s personality, the seriousness of the offences committed and the progress he makes.

Allocation of cases:: The judge making the order instructs the service after, if necessary, notifying it of the obligations or reiterating them. He indicates the date on which the measure will end and provides any special instructions referred to in Article D.577 of the French Code of Criminal Procedure in writing. However, with a view to reducing the times for managing the case, a new procedure was introduced by the Act of 9 March 2004. Accordingly, the introduction of Article 474 of the French Code of Criminal Procedure allows the sentencing court to refer the case directly to the SPIP without having to go through the court responsible for executing the sentence.

The DSPIP lays down the terms and conditions for allocating cases among social workers. The case is removed from the service by a decision in writing by the judge when he wishes to supervise a measure himself or refer it to another service in connection with pre-sentencing, or if the person under supervision changes his address. The SPIP’s chosen division into regions must be based primarily on a geographic division that is common to open and closed environments, similar to the département’s social and administrative sectors in order to facilitate effective partnerships. The service policy decided by the DSPIP may take several forms, including the existence of specialist divisions (community service division, sentence adaptation division, etc) or by instituting differentiated supervision.

3.2.2 Education, training requirements and opportunities

Initially named EFPAP (Ecole de Formation des Personnels de l'Administration Pénitentiaire), located in the Villages Vacances Famille in Alsace (in Albé, then in Obernai), the school then became l'EAP (Ecole d'Administration Pénitentiaire) and from 1965 it was housed in a former youth custody centre built at the Plessis-le-Comte site in Fleury-Mérogis, in the Essonne. It was finally renamed ENAP (Ecole Nationale d'Administration Pénitentiaire) following a Decree dated 20 July 1977 governing the structure and running of the establishment. On 20 September 1994, the cross-ministerial committee for land use (CIAT) decided to relocate the school to Agen. This geographic transfer that was part of a general modernisation of the public prison service went hand in hand with a structural and educational reorganisation of ENAP that began in 1999. Since 22 January 1998, a Decree amending the structure and running of the school laid down in 1977 outlined the beginnings of this reorganisation.

The national prison service school is an administrative public establishment that is attached to the Ministry of Justice and reports to the prison service. It is the only initial training establishment (that is to say, training is provided after the student has passed the examination in his chosen field) for all prison staff (prison officers, managerial staff, rehabilitation and probation staff, administrative and technical staff). It also provides continuous training for executives, training staff and various "specialists" (computer, trainers, sports instructors). Its role is to provide prison staff with theoretical and practical training before they obtain employment. It also offers opportunities for improvement and provides continuous training to enable them to prepare for promotion (training known as job-specific training) and to keep abreast of changes in the work of the prison service. Entry into the prison service is by competitive examination for all staff:

- Rehabilitation and probation adviser (CIP): internal competitive examination: provide evidence of four years' actual public service. External competitive examination: DEUG (a two-year undergraduate degree) or equivalent qualification or State social worker or special education teacher qualification.
- Head of rehabilitation and probation (CSIP): internal competitive examination: provide evidence of four years' public service. External competitive examination: hold a degree or equivalent qualification.
- Director of rehabilitation and probation (DIP): internal competitive examination: provide evidence of four years' public service. External competitive examination: hold a degree or equivalent qualification.
- Director of rehabilitation and probation prison services (DSPIP): subject to certain conditions, judges, directors of prison services, category A civil servants and Directors of rehabilitation and probation may be appointed to this position. Rehabilitation and probation advisers may receive a two-year sandwich training. This is designed to help them enter the prison service as a civil servant and social worker. Moreover, it also aims to prepare them to perform their future duties by allowing them to gradually acquire their professional, technical and relationship skills.

At the end of their training, CIPs must be capable:

- to lie within in their professional and institutional environment, to master the organization and operation of the prison administration at national, regional and departmental levels;

- to help in the making of court decisions;
- to manage persons in their charge (Personnes Placées sous la Main de Justice or PPSMJ) in a Rehabilitation and probation prison service by devising a personal plan or a group action plan with them;
- establish and/or use a network of partnerships;
- evaluate the measures put in place.

Heads of the rehabilitation and probation service undergo a one-year sandwich training. It is designed to prepare them to help implement the national, regional and departmental guidelines at local level as regards the rehabilitation of administrated persons (PPSMJ). Moreover, it must enable them to train a team of social workers, administrative staff, court staff and voluntary workers and trainees. At the end of their training CSIPs must be capable:

- to have an in-depth knowledge of social matters;
- to roll out and promote the prison services' key policies in relation to managing administrated persons;
- to help to design, implement and appraise the service's plan;
- to propose management strategies that are tailored to the various problems encountered by persons in their charge;
- to use the methods, techniques and tools to organise a service, train and effectively motivate a task team ;
- to implement a service's methods for managing its resources, staff and budget;
- to master the written and oral communication skills that are necessary for performing their duties;

Rehabilitation and probation directors undergo one year's training.

3.2.3 Other organizations involved in probation work

Access to culture is one of the aspects of a person's rehabilitation or reintegration plan. Liaising with the town or department's cultural organisations and with the support of the Ministry of Culture, the rehabilitation and probation prison services (SPIP) schedule activities that are suitable for their audience: broadcasting literary works, arts workshops in different fields (plastic arts, writing, theatre, music, audiovisual). Each prison has a library that is accessible to all detainees (Article D. 440 to 449 of the French Code of Criminal Procedure).

A counterbalancing influence, sport plays a fundamental role in improving conditions of imprisonment and maintaining a good atmosphere in prisons. It makes individuals abide by rules, take responsibility and get involved in a group activity. An agreement between the Ministry of Justice and the Ministry of Youth and Sport lays down the common principles of a sports policy in the prison environment. It focuses on the weekly time devoted to physical activities, sports equipment and training for instructors. A framework agreement signed in 2004 by 14 sports federations promotes and develops sport in prison, as regards both a quantity and quality (supervision, coordination and training). It will also harmonise sporting practices, facilities and equipment. The prison now has access to sports facilities providing on average four hours of activities a week. The initiatives taken are designed to extend this average to six hours. In future juvenile offender institutions, it is proposed that young offenders will be able to benefit from around 20 hours of sporting activities a week.

4 PROBATION IN DIFFERENT PHASES OF THE CRIMINAL PROCESS

4.1 General

Table 1: Activities of probation during the different stages of criminal procedure

	Pre-trial Phase	Trial and Enforcement Phase	Post Release Phase
Preparing a social enquiry report	x		
Supervision/assistance to pre-trial detainees	x		
Supervising/organising etc. community service		x	x
Supervising/organising training or learning projects		x	x
Supervising etc. drugs/alcohol treatment programs		x	x
Supervising etc. electronic monitoring		x	x
Supervising etc. other community sanctions, namely:			x
A: training in citizenship		x	x
B: training in road safety		x	x
C: training in awareness of the dangers of using drugs		x	x
Pre-sentence report	x	x	
Supervising etc. sanction of probation			x
Supervising etc. suspended sentence			x
Supervising etc. semi-liberty		x	x
Supervising etc. semi-detention			
Supervising etc. the mentally ill or retarded offenders (in-out patient orders)		x	x
Supervising etc. special measures for drugs addicts		x	x
Supervising etc. conditional sentence		x	x
Supervising etc. conditional release/parole		x	x

The table below sets out the measures and/or actions delegated by the instructing authorities, actors in the process of helping with judicial decisions and/or execution of court decisions, according to whether they fall within the scope of pre-sentencing or post-sentencing.

Table 2

Act or Measure	Requesting or Instructing authority(ies)	Actor(s)	Pre-sentence	Post-sentence
Sentence Advisory Board (Permanence d'orientation pénale or POP): conducting rapid social enquiries	Public Prosecutor	SPIP or Association	x	
Personality enquiry	Public Prosecutor Investigating Judge	SPIP or Association	x	
Feasibility study (Electronic monitoring)	The judge who supervises the execution of sentences (JAP)	SPIP		x
Release under court supervision	Investigating judge	SPIP or Association and/or Police or gendarmerie	x	
Criminal mediation (Composition pénale)	Public Prosecutor	SPIP or the Public Prosecutor's deputies	x	
Deferment with probation	JAP	SPIP	x	
Suspended sentence with probation	JAP	SPIP		x
Sentence Execution Commission	JAP	SPIP and Prison and Public Prosecutor		x
Exclusion from specified locations	JAP	SPIP		x
Community Service Order	JAP	SPIP		x
Temporary release	JAP	SPIP and Prison		x
Conditional release	JAP	SPIP		x
Work release	JAP	SPIP		x
Temporary release	JAP	SPIP		x
Electronic monitoring	JAP	SPIP		x
Socio-judicial monitoring	JAP	SPIP		x
Supervision report for a	JAP	SPIP		x

Act or Measure	Requesting or Instructing authority(ies)	Actor(s)	Pre-sentence	Post-sentence
convicted person (occasional situation report etc.)	Public Prosecutor Investigating Judge Other Judge (eg: Family Court judge [juge aux affaires familiales or JAF], execution judge [juge de l'exécution or JE])			
Supervision report for a person awaiting judgment	Public Prosecutor Investigating Judge	SPIP or Association	x	
Allocating and transferring detainee(s), remand prisoner(s) or convicted prisoner(s)	Prison Governor	SPIP	x	x
Preparation of sentence adaptation (including Article D. 49-1 of the French Code of Criminal Procedure)	JAP	SPIP		x
Opinions and written reports	The judicial authorities The prison authorities	SPIP	x	x

4.2 Pre-trial phase

4.2.1 General

One of the tasks of the SPIPs is to assist in criminal court decisions. In that respect, prior to rendering judgment, various judges (the Public Prosecutor, investigating judge, judge responsible for the execution of sentences and the President of the Assize Court), may instruct it to conduct enquiries or monitoring exercises enabling the sentence to be better tailored to the individual.

- rapid social enquiries (including sentence advisory boards for offenders below 21 years of age) which have become routine since 1 October 2004 for any remand prisoner in the case of an immediate summary trial or initial appearance in court on admission of guilt;
- social and educational assessments prior to judgment;
- personality enquiries;
- supervision of persons who are released under court supervision.

Instructed by the courts, the SPIP checks the material, family and social circumstances of persons who are undergoing enquiries and court proceedings in order to enable the measures or sentences to be better tailored to the individual and to help rehabilitate them.

4.2.1.1 Rapid personality enquiries

The Act of 9 March 2004 adapting the judicial system to changes in the nature of crime extends the scope of rapid personality enquiries which, until then were compulsory, before any order to be placed in temporary detention, in the case of proceedings against an adult who was under 21 years of age when he committed the offence and where the sentence handed down does not exceed five years' imprisonment. Since 1 October 2004, rapid personality enquiries must be prescribed for any remand prisoner in the event of an immediate summary trial or initial appearance in court on admission of guilt (Article 41 of the French Code of Criminal Procedure). The aim of the rapid personality enquiry is to inform the judge what measures will promote the social rehabilitation of the accused (supervision by social services, accommodation, vocational training placement etc.) and, accordingly, devise alternatives to imprisonment. The fact that rapid personality enquiries have become routine increases the contact that social workers have with the courts and requires a wider range of SPIP duty staff, which can put a strain on the normal operation of the services, particularly in view of the time required. Since the new provisions have come into force, some SPIPs have been able to conduct four times as many rapid personality enquiries in a month as in a year.

4.2.1.2 Release under court supervision

The SPIP is instructed by the investigating judge or the judge responsible for freedom and detention to manage release under court supervision. It is responsible for monitoring and supervising persons who have been released under court supervision and who are subject to certain obligations (responding to summonses, work, attending a course, social and educational measures designed to help his social rehabilitation etc.).

4.2.1.3 Deferment with probation (Article 132-63 of the French Criminal Code)

The court defers pronouncing the sentence and places the accused on probation for a period, which may not exceed one year. During this time, the person is under the supervision of the judge responsible for executing sentences and the SPIP. The report drawn up by the SPIP at the end of probation must provide the judge with as much information as possible to enable him to make decisions that are best suited to the person in their charge.

4.3 Trial and enforcement phase

4.3.1 General

The measures with which the rehabilitation and probation prison service is entrusted are divided into:

- sentence adaptation: a means of executing a sentence of imprisonment that allows convicted prisoners (who meet certain criteria laid down by law) to

- work, undergo training, medical treatment or maintain links with family. The adaptation measures may also make the return to freedom easier and thus prevent reoffending;
- alternatives to imprisonment: measures that restrict freedom. In the strict sense, they include supervision by the court, community service, suspended sentence with probation, deferred sentence with probation and judicial monitoring. Legally there are two other measures that restrict freedom: exclusion from specified locations and exclusion from French territory.

4.3.1.1 Alternative measures to proceedings

Pre-sentence penal agreement: this is an alternative to proceedings that is limited to certain offences. It can be compared to “penal mediation” and is part of a restorative approach to justice. The offender can refuse it and if the victim of the offence has been identified, he/she can object to it. It is handled by the Public Prosecutor. It consists of:

- paying a fine;
- handing over to the State the thing that was used to commit the offence or that was designed to commit it or which is the result thereof;
- handing the driving licence or hunting licence over to the registry of the Regional Court;
- carrying out unpaid work on behalf of the community for a maximum of 60 hours within six months or more or undergoing work experience or training in a social, health or professional body for no more than three months within a maximum period of 18 months.

In practice, unpaid work is comparable to a community service order. Moreover, it is to these positions that persons who are subject to criminal mediation are assigned. The Public Prosecutor may appoint a suitably qualified person to implement the criminal mediation. These people are the Public Prosecutor’s representatives, mediators and the rehabilitation and probation prison service who can only be appointed in respect of the execution of unpaid work. Accordingly, that involves the same work as for a Community Service Order.

4.3.1.2 Alternative measures to imprisonment

- Deferment with probation (Ajournement avec probation or AME): This may be ordered by the court that renders judgment in the presence of the accused and with his consent. It consists of deferring pronouncement of the sentence to a later date when the court considers that rehabilitation of the offender is underway, the damage caused is in the process of being compensated and the problem arising from the offence will disappear. The decision concerning the sentence is made no later than one year after the first deferment ruling. Throughout the probation period set by the court, the remand prisoner is monitored by the judge responsible for the execution of sentences who appoints the SPIP to implement the decision. The offender must then comply with general obligations (reply to summonses from the JAP and the SPIP, provide evidence of his means of support, etc.) and specific obligations (compensate the victim, undergo treatment, etc). At the end of the probation period, the SPIP submits a

report to the JAP on the progress of the measure. If the offender has satisfied the obligations, the court may discharge him. If not, it may convict him or defer sentencing again. In all cases, this measure entrusted to the SPIP involves supervision that is similar to that provided in connection with suspended sentence with probation.

- Suspended sentence with probation (Sursis avec mise à l'épreuve or SME): This is the most frequent measure in the SPIP. It is entrusted to the SPIP and supervised by the JAP. It consists of supervision, aid and assistance. The offender must comply with general and specific obligations that are laid down according to the nature of the offence committed and the offender's personality. The full list of said obligations can be found in Articles 132-44 (general obligations) and Articles 132-45 of the French Code of Criminal Procedure (specific obligations). The court sets the probation period which may not be less than 18 months or more than three years. At the end of that time and provided that the convicted prisoner has complied with his obligations, the sentence is deemed to be non-existent. The assistance provided is designed to back up the person's own efforts to further his social rehabilitation. It may be practical assistance. It is devised in conjunction with the provisions of ordinary law for which the SPIP acts as an interface. Monitoring it requires regular meetings, updating the case file, working in partnership with the person and providing the judge responsible for executing sentences with a regular report. The frequency of invitations to meetings is laid down in the JAP's guidelines. It may have to be altered in accordance with changes in the convicted prisoner's situation and behaviour.

- Community Service Order (Travail d'intérêt general or TIG): Community service is a sentence handed down by the Police Court or Criminal Court to any person who has committed an offence that is liable to imprisonment. Said sentence presupposes the consent of the convicted person who must be present at the hearing and say whether he accepts the principle of community service. It is executed either as the main sentence or in addition to a suspended prison sentence or a category five offence. Community service, which is for between 20 and 120 hours for a police sentence and between 40 and 240 hours for a criminal court sentence, is carried out for a period fixed by the court, limited to a maximum of 18 months. The execution period ends when all the community service has been completed and the sentence is then deemed to be non-existent. It is carried out on behalf of public authorities (State, region, département or district), public bodies (the French State railways (SNCF) or electricity company (EDF) etc.) or associations, which means that the SPIP has to conduct research (seeking Community Service positions and also seeking a reception place that is best suited to the convicted prisoner's personality and situation), and working in close partnership to ensure that the measure is successful.

- Exclusion from specified locations (Interdiction de séjour or IS): Exclusion from specified locations includes prohibition from frequenting certain places that are determined by the court. In addition, it includes supervision and assistance, which the SPIPs are responsible for providing.

- Release under court supervision (Contrôle judiciaire or CJ): This is ordered by the investigating judge or the judge responsible for freedom and detention where the matter is referred to him. It is an alternative to imprisonment pending judgment. It is a supervisory measure but it also provides help and assistance. It

often includes obligations (for example, replying to notices to attend a meeting from the SPIP and providing evidence of means of support) and prohibitions (for example, frequenting places or persons). For the SPIP, it means regular meetings, the frequency of which is generally specified in the judge's order, ensuring that the person complies with his obligations and prohibitions and providing support according to his situation.

- Release on parole (Libération conditionnelle or LC): An alternative measure to imprisonment. It may be ordered ab initio by the judge responsible for the execution of sentences pursuant to Article 723-15 of the French Code of Criminal Procedure, after the SPIP has examined the convicted person's situation, or at the time of execution of a sentence of imprisonment or imprisonment of five to twenty years for felony in certain legal circumstances. A person who is on parole is not committed to prison. He is monitored by the judge responsible for the execution of sentences who refers him to the SPIP. The convict must comply with general obligations (reply to summonses from the JAP, the social worker and the SPIP, provide evidence of his means of support, etc.) and specific obligations, which are laid down according to the offence committed and the offender's situation (obligation to compensate the civil party(ies), undergo treatment, not to frequent certain places or associate with certain persons, etc.). For the SPIP, that means the obligation to summon the person to a meeting at intervals defined in the guidelines or instructions of the judge responsible for the execution of sentences (for example, once a month). It involves meetings, updating the person's case file by means of management forms, providing social and educational support in partnership with other government agencies or associations (for example, in order to help with access to housing, treatment, employment etc.) and providing a regular report to the judge responsible for the execution of sentences (six-monthly or occasional situation report, etc.).

- Socio-judicial supervision (Suivi socio-judiciaire or SSJ): Established by the Act of 17 June 1998, socio-judicial supervision is an order specifically made by courts rendering the judgment against delinquents and sex offenders. There may also be an order to undergo medical treatment, in which case the judge responsible for the execution of sentences appoints a coordinating doctor. In the case of a person who is given a custodial sentence, it takes effect on his release. In the case of a suspended prison sentence, it begins when the conviction is final. The term of the socio-judicial supervision is laid down in the judgment. It cannot exceed ten years for misdemeanours and 20 years for crimes. The JAP instructs the SPIP to ensure that the offender complies with his obligations and prohibitions. As for other measures, that involves regular meetings, updating the case file, social and educational support and a regular report to the judge. In addition, where there is an order to undergo treatment it is necessary to work with the coordinating doctor.

- Supervision by the court (Surveillance judiciaire): Established by the Act of 12 December 2005, supervision by the court is defined in Articles 723-29 to 723-37 of the French Code of Criminal Procedure. Supervision by the court is intended for people who are given a sentence that deprives them of their freedom for ten years or more and for which supervision by the court is ordered: the Public Prosecutor may require the judge responsible for the execution of sentences to order that the offender be placed under supervision by the court when he is

released, by way of a safety measure and solely for the purpose of preventing a real risk of reoffending. A convicted person under supervision by the court is subject to obligations (Article 132-44 and 132-45 of the French Code of Criminal Procedure) and the rehabilitation and probation prison service implements the measures to provide him with assistance and supervises him with a view to helping him rehabilitate and checking whether he has done so.

4.3.1.3 Adapted sentences

- Article 723-15 of the French Code of Criminal Procedure: The French Code of Criminal Procedure provides that any person who is not imprisoned and who has been handed down one or more sentences of imprisonment which, in total, are equal to or less than one year, may have his sentence adapted. The Public Prosecutor provides the judge responsible for the execution of sentences with a copy of the judgment, and, where appropriate, any relevant information. The judge responsible for the execution of sentences then asks the SPIP to investigate the convicted person's material and social circumstances. In practical terms that means at least one notice to attend an initial meeting, checking the evidence provided by the convicted person and drafting a report for the judge responsible for the execution of sentences, all within no more than three months. If there is no sentence that is adapted to the convicted person's circumstances, or for any other reason (for example, there is no reply to the SPIP's notice to attend the meeting), the sentence of imprisonment is executed.

- Temporary release (Permission de sortir or PS): A type of adapted sentence which only concerns prisoners who may be authorised by the JAP to leave prison for up to three (remand prisons) or five days and once a year for ten days (penal institution regime), when they meet the conditions for granting such leave. The decision is made by the court responsible for executing sentences that chairs the sentence execution commission of which the Public Prosecutor and Prison Governor are automatically members. The SPIP is a consultative member and, in that capacity, provides an informed opinion on the inmate's application by advising, inter alia, the judge about his family circumstances etc. Temporary release may be granted in order to maintain family relationships, to prepare for release (interview with an employer), for medical reasons, etc. In exceptional cases, it may be granted for one day (for example in order to attend a close relative's funeral).

- Work release (Placement extérieur or PE): This is a type of adaptation of the sentence for which the offender is imprisoned. The decision is made by the judge responsible for the execution of sentences, either pursuant to Article 723-15 of the French Code of Criminal Procedure or whilst a sentence of imprisonment is being served, when the person meets the statutory conditions (up to less than three years of the sentence to serve in certain conditions). It is offered to a convicted person who can provide evidence of employment, vocational training, continued education, the need to continue treatment or contribute to family life etc. To that end, he is allowed to leave the prison during the time he is working. In some places, the judge responsible for the execution of sentences may allow the prisoner to be housed in a type of accommodation and social reintegration centre (Centre d'Hébergement et de Réinsertion Sociale or CHRS) or at home or

with a member of his family. The person is then monitored by a social worker from the SPIP in accordance with the directions of the judge responsible for the execution of sentences. The prison service may pay the partner who provides accommodation for the offender a daily allowance. Unlike day release, work release places the partner (CHRS, employer or training centre, etc.) under an obligation to inform the SPIP of any incident, unauthorised absence etc. This means, on the one hand, that it is informed of the offender's penal situation and on the other, that it has undertaken to abide by the terms and conditions of a work release agreement signed by the partner(s) the Director of the SPIP and the Governor of the offender's prison.

- Electronic monitoring (Placement sous surveillance électronique or PSE): Electronic monitoring (PSE) is a measure that enables a person to be assigned to a given place, at times decided by a judge. PSE may be ordered ab initio; as a type of sentence adaptation, it enables a firm prison sentence to be executed outside a prison, thus protecting the individual's situation (work, training, health, links with family etc.) and complying with any obligations laid down by the judge responsible for the execution of sentences: treatment, compensating the complainants etc. At the request of the JAP, the SPIP is responsible for conducting a feasibility study prior to the decision. It consists of checking whether it is technically possible to fit the equipment and gathering information about the family background. It also provides the judge with all the information he requires to assess the plan and to implement it. In most cases, a home visit is made in order to appraise the situation more closely. After the decision, the SPIP is also responsible for the offender's social and educational follow-up. Said follow-up provides social support, monitors compliance with obligations and ensures that the measure is successful. It requires regular meetings at the SPIP, at the offender's home or by telephone. The SPIP works in partnership with the PSE supervisor in order to effectively monitor the measure, particularly with regard to dealing with warnings of a breach of obligations.

- Temporary release (Semi-liberté or SL): This is an adapted sentence that is often compared to work release in view of the way in which it is implemented. The judge responsible for the execution of sentences may order temporary release pursuant to Article 723-15 of the French Code of Criminal Procedure or whilst a firm prison sentence is being served, where the convicted person meets the statutory conditions. The criteria for granting it are the same as for work release. It may also be ordered directly by the Criminal Court. The person is in prison but is authorised to leave in order to pursue his work or other activities. He is supervised by the SPIP and it involves the same effects as work release in terms of methods of intervention.

- Mobile electronic monitoring (Le Placement sous Surveillance Electronique Mobile or PSEM):

Act no. 2005-1549 of 12 December 2005 on the treatment of those who have repeatedly committed criminal offences, introduced into French law the right to use mobile electronic monitoring. Mobile electronic monitoring (PSEM) must, inter alia:

- check, by where they are located, that the persons being monitored are complying with the obligations and prohibitions laid down by the courts and to immediately detect whether there is failure to comply;

- further rehabilitation by the SPIP providing support and monitoring compliance with obligations;
- prevent reoffending;
- be an additional investigation tool.

Use of PSEM is possible in the context of conditional release, socio-judicial monitoring and supervision by the court. For these three measures PSEM is ordered by the court responsible for executing sentences, at the request of the offender, on the directions of the Public Prosecution Department or by the court responsible for executing sentences of its own motion. The social worker compiles the file; a feasibility study is conducted to determine whether the monitoring is possible (family and work-related circumstances, agreement of the people with whom the offender shares his home, monitoring by a therapist etc.). In addition, a technical investigation is carried out in order to check that the technical requirements can be met. At the same time, an examination to assess the level of danger and risk of the person reoffending is ordered. If the court responsible for executing sentences agrees to the measure (conditional release, socio-judicial monitoring or supervision by the court) coupled with a PSEM, it will lay down the obligations and prohibitions relating to PSEM (times, prohibited places, work etc.) according to the individual's situation.

NB: In order that all the measures for which the SPIP is responsible are effective and, in view of certain characteristics linked to the person (no means of getting around, for example) and the environment (for example, a rural area with no transport network between the person's home and the SPIP), it should be noted that the social workers may be required to make home visits. They also have decentralised offices, the number of which is determined according to needs.

4.3.2 Pre-sentence report

In the case of an immediate summary trial or initial appearance in court on admission of guilt, rehabilitation and probation advisers must draft a report which includes family and work-related circumstances of persons undergoing court inquiries, including an advice on potential measures which would seem appropriate in the specific situation. This report is then passed on to the judicial authorities before the trial begins.

4.3.3 Probation procedures and processes

As soon as possible when the sentence is given, the SPIP is informed of new measures, which are dispatched among social workers. During a first meeting with the convicted person, at the SPIP, the rehabilitation and probation adviser presents the service itself and its missions, then gives a thorough explanation of the measure this person has to comply with (i.e. specific obligations such as compensating the complainants, compulsory treatment, obligations such as of work, studying, necessity of vocational training or continued education, various prohibitions i.e. links or contacts with the victims etc.). The CIP compiles data concerning family, social- and work-related circumstances. Given the person's obligations and individual situation, he/she is addressed by the social worker to

partners who are able to deal with specific problems (regarding health, social rehabilitation, housing etc.). The rehabilitation and probation adviser regularly keeps in touch with the person through meetings; and provides the judge responsible for executing sentences with frequent reports, thus keeping her/him informed about the execution of the measure.

In order to optimize the monitoring of PPMJ with regard to each particular situation, the SPIP have been generalized the so-called “suivi différencié” (individualized supervision) Following a monitoring and evaluation period of three months; files are submitted to an orientation and evaluation committee, chaired by a senior executive of the SPIP. The rehabilitation and probation adviser proposes a supervision option in consideration of the specificities of each situation (personal situation, obligations to comply, present problems or difficulties). There are three possible options: “intensive” (intensif), “periodical” (périodique), or “administrative” (administratif).

The CIPs have to draw up various reports throughout the monitoring of the measure. Among them, the most important and significant are: biannual report (rapport semestriel), report of incident (rapport d'incident), interim report (rapport ponctuel de situation), final evaluation report (rapport de fin de mesure). Each of these reports include information about judiciary situation, family, and work-related circumstances and supervision follow up (compliance to obligation and the measure itself, supervision proposals). The rehabilitation and probation advisers and SPIP staff use a dedicated software named (APPI), storing the whole information of each file, and which they share with the JAPs and their staff.

4.4 Post-release phase

An imprisoned convicted person may have his sentence adapted and thus leave prison either definitively (conditional release, work release) or partially (temporary release). These measures have been described in point 4.3.1

4.5 Care and aftercare outside the criminal justice system

The SPIP may be required to intervene even after definitive release; according to Article D. 544 of the French Code of Penal Procedure, any person who is released definitively may request help from the SPIP for six months following definitive release. If necessary, said help is provided in conjunction with and with the involvement of other government services, local authorities and any public or private agencies.

5 FINANCES, REGISTRATION, EVALUATION AND OUTSIDE OPINION

5.1 Fincances

On 1 January 2006 the Constitutional Bylaw on Budget Acts (LOLF) came into force. Its aim is to make the budget more comprehensible to people and change

from a means-based approach to a results-based approach. As of 1 January 2006, the budget is no longer negotiated according to government department but according to mission. Missions have become Parliament's voting unit. A mission consists of a set of programmes that contribute to a given public policy. Only a provision of a government initiated Budget Act can create a mission. The new Government budget now consists of 47 missions, including ten cross-ministerial¹² missions. The general budget has 34. To approve the funds requires one vote for each mission, that is to say 47 missions = 47 votes

Debate focuses on the programmes of which there are 158 (132 for the general budget). The programme is the operational management framework for public policies. It falls within the remit of a single Ministry and the staff assigned work only for that Ministry (there is no analytical allocation of staff between programmes). The support functions or multipurpose services have been grouped together in the "support for the Ministry's policies" or "policy administration" programmes. The actions that contribute to setting out the purposes of the public policies are specified in each programme. The "justice" assignment has six programmes consisting of 33 actions:

- Administrative Justice (six actions)
 - judicial function: Conseil d'État;
 - judicial function: Administrative Courts of Appeal;
 - judicial function: administrative courts;
 - consultative function;
 - research, expertise and services provided to government agencies and authorities function;
 - support.
- The Courts (seven actions)
 - handling civil proceedings and rendering judgment;
 - conduct of criminal policy and judgment of criminal cases;
 - cassation;
 - french judicial council (Conseil supérieur de la magistrature);
 - registration of court rulings;
 - support ;
 - training (Ecole Nationale de la Magistrature or ENM, Ecole Nationale des Greffes or ENG).
- Prison service (five actions)
 - custody and supervision of administrated persons;
 - reception of prisoners;
 - assistance for and rehabilitation of administrated persons;
 - support;

¹² Cross-ministerial assignments consist of programmes that fall within the scope of different ministries.

Example "security" combines the funds of the Ministry of the Interior for the national police and the funds of the Ministry of Defence for the gendarmerie, with an allocation of funds to comparable actions.

The new structure of the Government budget is committed to identifying public policies rather than to finding a management framework that is adapted to current administrative organisations.

- training – France’s Prison Service School (Ecole Nationale de l’Administration Pénitentiaire or ENAP).
- Judicial protection for young persons (four actions)
 - implementation of judicial measures: young offenders;
 - implementation of judicial measures: young people in danger and young adults;
 - support ;
 - Training (Centre National de Formation et d’Etudes or CNFE).
- Access to the law and justice (three actions)
 - judicial aid;
 - development of access to the law and the local court network;
 - victims’ aid.
- Support for judicial policies and related bodies (eight actions)
 - government-level: ministries, cabinets, cabinet office, communication;
 - normative work;
 - evaluation, monitoring, research;
 - common administrative management;
 - france’s data protection authority (Commission nationale informatique et libertés);
 - supreme Council responsible for overseeing the profession of auditors (Haut Conseil au commissariat aux comptes);
 - order of the Légion d’honneur;
 - order of the Libération.

The aim of the LOLF is to steer management of the State towards results, that is to say, to measure the effectiveness of the government department’s action and not just its work. In order to do this, Parliament will be better informed of the performance targets set for each programme, together with performance indicators by which their achievement can be measured. The objectives are political in nature. They are based on a strategy and are the concrete expression of the programme’s priorities. Their number is limited for the sake of clarity and they are placed in three categories:

- economic effectiveness: expected benefit of the government action for the citizen;
- quality of service: quality of the service provided to the user;
- efficiency: optimisation of the means employed, the taxpayer’s point of view.

The indicators associated with the targets must be relevant and have a strong logical connection with them. A target figure is attached to each performance indicator or a figure to be achieved within a maximum of five years. The new budget structure must give an accurate indication of the resources that the Government is devoting to each policy. Parliament is informed of the targets, performance indicators and funds itemised according to action and type (headings) by means of an annual performance plan (APP) for each programme when the initial Budget Act is examined. A report of the results obtained will be made in the annual performance reports (APR) when the Budget Review Act is examined.

**Table 3: Presentation per action and title of the funds sought for 2006
Commitment authority**

Number and title of each action/sub-action		Heading 2 Employee costs	Heading 3 Operating costs	Heading 5 Investment costs	Heading 6 Dépenses d'intervention	Total for 2006
01	Custody and supervision of administrated persons	956,510	45,088	356,977	6,000	1,364,575
02	Accueil des personnes in prison	156,426	349,377	1,471	1,802	509,078
03	Support and reintegration of administrated persons	163,151	41,456	3,121	32,510	240,239
04	Support	71,883	25,545	7,578	0	105,007
05	Training (ENAP)	8,721	32,473	1,844	0	43,039
Totals		1,356,693	493,940	370,993	40,313,019	2,261,941

Table 4:

Number and title of each action/sub-action	Heading 2 Employee costs	Heading 3 Operating Costs	Heading 4 Investment costs	Heading 5 Intervention costs	Total for 2006 <u>x1000</u>
01 Custody and supervision of administrated persons	956,510,436	45,088,031	356,977,475	6,000,000	1,364,575
02 Reception of prisoners	156,426,929	349,377,568	1,471,358	1,802,412	509,078
03 Support and rehabilitation of administration persons	163,151,583	41,456,131	3,121,528	32,510,607	240,239
04 Support	71,883,658	25,545,387	7,578,535	0	105,007
05 Training (ENAP)	8,721,251	32,473,818	1,844,712	0	43,039
Totals	1,356,693,857	493,940,935	370,993,608	40,313,019	2,261,941

As the above table shows, the allocation of funds is itemised up to “actions” level but not for the objectives attached to each action. That is why the designers of this new system specify “the link between the budget allocation and the performance objectives is not automatic; the detailed explanation of the results recorded may merely guide the decision”.

5.2 A new mechanism for internal management

The person in charge receives a total, fungible fund allocation for the entire programme.

The total funds are allocated to programme operating budgets (POB), which, more often than not is decentralised. For the prison service, the POBs are created at regional level and the persons in charge are the inter-regional directors. The four stages of management dialogue are:

- the person in charge of the programme (the Director of the prison service) defines and circulates the general framework (objectives, performance indicators, proposed fund allocation) for operational management;
- the person in charge of the POB (inter-regional director) draws up a preliminary budget;
- the person in charge of the programme approves the POB and the funds are allocated;
- the person in charge of the POB draws up an operational management report.

The change from a means-based approach to a results-based approach means that everyone is responsible for defining their mission and an accurate assessment of the resources to be deployed in order to achieve the objectives set and the projected results. The fact that there is no division between the allocation

of funds or jobs affords new room for manoeuvre. It is also an opportunity to review all the resources allocated to a structure and move towards a tighter controlled management.

7 NEW DEVELOPMENTS

The services have had to adapt to new laws and regulations, which increasingly favour an activity focussed around the execution of sentences, in particular, by the development of adapted sentences and alternative measures to imprisonment. A certain disparity has been found between the methods of intervention and practices, despite the guidelines that had been introduced by the various circulars and memos that accompanied the creation of the SPIP. Whether it is a matter of different forms of monitoring, assessment, the need to define the service's policies etc. the services apply said guidelines in different ways. Hence a significant disparity in practices.

Harmonisation of the methods of intervention is at the centre of the policy applied by management of the prison service. Innovative practices have been introduced in many services. It is a matter of reviewing them, sharing them and extending them when they have proved to be appropriate. Harmonisation of the SPIP's methods of intervention will be achieved through discussions between the central prison service and the decentralised services. A project to clarify the tasks of the rehabilitation and probation prison services is currently being drawn up in the prison service; this work will take the form of a new circular. So far as concerns harmonisation of the methods of intervention, a reference manual for the services is in the process of being drawn up.

The significant increases in staff over the last few years, both administrative and rehabilitation staff (almost 600 rehabilitation and probation advisors are currently being trained and a big increase in the number of training staff is underway), were necessary in order to carry out this harmonisation work, which, in addition to improving the way in which the SPIPs work, will reinforce the policy of devising alternatives to imprisonment and adapted sentences.

8 IMPORTANT PUBLICATIONS

J.J. Hyest, G. P. Cabanel, *Prisons: une humiliation pour la République*, 2000, Report of the Senate's commission of inquiry on the conditions of detention in prisons, Senate reports, no. 449, la documentation française

J.L. Warsmann: *Les peines alternatives à la détention, les modalités d'exécution des courtes peines, la préparation des détenus à la sortie de prison*. 2003, Parliamentary report to Mr. Dominique Perben, Garde des Sceaux, Minister for Justice, la documentation française

A. Chauvenet, *Contraintes et possibles: les pratiques d'exécution des mesures en milieu ouvert*, 1999, Centre National de Recherche Scientifique (CNRS)

Commission Nationale Consultative des Droits de l'Homme, *Les alternatives à la détention*, January 2007.

P. Couvrat, *Quelques propos sur les nouveaux services pénitentiaires d'insertion et de probation*, revue de sciences criminelles et de droit comparé, no.3 July-Sept 1999, p. 626

9 CONTACT DETAILS

National Partner Associations of the prison service management (assistance provided to inmates and those leaving prison)

A.N.V.P Association nationale des visiteurs de prison (French prison visitors' association)

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AUXILIA Distance learning association for handicapped prisoners

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CLIP Prison computer club (introducing prisoners to IT and training them)

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COURRIER DE BOVET pen pals for prisoners

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FREP Fédération des relais enfants-parents
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