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CONFERENCE, 13 OCTOBER 2026 – PRISON OVERCROWDING

Parallel Session 2: Sentencing and Sentence Lengths, and Alternatives to Imprisonment: What Challenges? What Effective Solutions? | 14:00 – 15:30

Presentation by Céline Filliol: the French experience

Good afternoon everyone,

I am delighted to be taking part in today's discussions on prison overcrowding, which are both in-depth and insightful.

I shall briefly outline the current situation in France, followed by some avenues for consideration that are currently being explored and trialled in France, as well as at European level, with a view to curbing this phenomenon.

As at 1 September 2026, France had 90,020 prisoners, representing a **6.8 per cent increase year-on-year, compared with 63,348** operational **places**. Prison occupancy rates thus stand **at an average of 142.1 per cent across the country**. They are particularly high in remand centres and remand centre wings (176.1 per cent); 32 institutions or wings have occupancy rates of 200 per cent or higher. This level of prison overcrowding has significant consequences for conditions of detention and the running of institutions. In his report published on 2 July 2026, the Inspector-General of Places of Deprivation of Liberty drew particular attention to the deterioration in prisoners' living conditions, the difficulties faced by prison staff, access to healthcare and the rise in violence within prisons.

This observation prompts an initial remark on my part: prison overcrowding is not a recent phenomenon in France but has been part of the assessment of the situation in French prisons since the mid-1970s.

Having made this preliminary observation, we must seek to understand what measures have been put in place since then, and to what extent these measures have failed to bring about a sufficient reduction in the prison population.

1- Sentencing and the length of sentences – alternatives to imprisonment

It should be noted at the outset that, in accordance with the principle of discretionary prosecution, approximately half of the criminal responses provided by public prosecutors' offices to offences take the form of alternatives to prosecution, under the supervision of public prosecutors.

One of the key principles laid down by the French Code of Criminal Procedure is that **detention constitutes an exceptional measure.**

⇨ For defendants, and therefore at the pre-sentencing stage:

Article 144 of the Code of Criminal Procedure sets out two cumulative conditions for the use of pre-trial detention: 'Pre-trial detention may only be ordered or extended if it is demonstrated, on the basis of specific and detailed evidence arising from the proceedings, that **it constitutes the sole means of achieving one or more of the following objectives** and that **these objectives could not be achieved by placing the defendant under judicial supervision or under house arrest with electronic monitoring**'.

The use of pre-trial detention may therefore only be resorted to as a last resort, following the measures of house arrest with electronic tagging and judicial supervision.

⇨ For convicted offenders:

The Criminal Code provides for a diverse range of sentences, enabling the courts to seek, in accordance with legal criteria (criminal record, mandatory sentences, etc.), a proportionate and individualised response (daily fines, imprisonment with a probationary suspension, etc.).

With a view to reducing prison overcrowding, **the Act of 23 March 2019 establishes the principle of alternative arrangements for fixed-term prison sentences of one year or less.**
For fixed-term prison sentences of six months or less, **such adaptation –** in the form of home detention under electronic monitoring, day release or placement in an external facility – **must even be ordered**, unless this is impossible due to the personality or circumstances of the convicted person.

The **same Act** also **prohibits fixed-term prison sentences of one month or less**.

2- The limits of alternatives to imprisonment

The legislative framework therefore allows for and encourages the imposition of various sentences other than custodial sentences.

Despite the very numerous alternatives to imprisonment provided for in the legislation, **in 2024, 45 per cent of the principal sentences handed down by all courts were sentences of imprisonment or detention.**

What are the reasons for this?
Firstly, as mentioned, subject to certain conditions, the judge is free to impose the sentence of their choice, which in practice will depend on the circumstances in which the offence was committed AND the personality of the offender (both of these aspects having to balance against the need to protect the victim).
However, beyond the choice of sentence at the trial stage, the **question of its enforcement is crucial**. Indeed, the theoretical sentence imposed loses all meaning (for both the convicted person and society) if it cannot be enforced (for example: house arrest with electronic tagging for a convicted person who is homeless).

Furthermore, **the expansion of the prison system has proved insufficient**, in that the increase in capacity has been accompanied by a parallel rise in the number of prisoners.

Subject to the very broad scope of alternatives to prosecution mentioned earlier, a parallel can – and indeed must, at this stage – be drawn with **the widening of the criminal justice net**. This mechanism refers to the paradox whereby the introduction of alternatives to imprisonment (such as electronic tagging, community service or probation) does not lead to a reduction in the prison population**,** but instead broadens the scope of criminal control to include groups who would otherwise not have been subject to such an intrusive sanction. Preventing the expansion of the criminal justice net would therefore likely require stricter regulation of alternative measures, which seems to run counter to the objective of tackling prison overcrowding.

In short, we need to find new solutions at both national and individual levels that will finally enable us to curb this persistent trend of rising prison populations.

3- <u>Best practices and measures taken or envisaged to reduce prison overcrowding</u>

Several initiatives and pilot schemes are underway or being considered at national level. Their value lies in particular in improving the information available to the courts, ensuring the smooth implementation of decisions, and making use of support options tailored to individual circumstances.

⇨ A pilot scheme to resume rapid social assessments by the Prison Integration and Probation Service (**SPIP**), which began on 1 September 2026 **across 5 SPIP offices and 6 courts:**

- SPIP report, which aims in particular to **propose credible alternatives to imprisonment**
- This approach aims to provide the court with a clearer understanding of the individual's situation and the possible support arrangements, including where an alternative to imprisonment appears appropriate;
- **the fitting of electronic monitoring devices <u>immediately following a hearing</u> at the Magistrates' Court or the District Court,** which currently requires a delay in implementation;

⇨ A pilot scheme for judicial supervision with probationary placement

- The extension of **judicial supervision with probationary placement** (CJPP), which aims to manage perpetrators of domestic violence from the prosecution stage through to the enforcement of the sentence, enabling them to be placed in accommodation providing multidisciplinary support. Its widespread implementation would help reduce the number of pre-trial detentions whilst ensuring strict and appropriate monitoring to prevent reoffending. However, such widespread

implementation would require a **significant commitment in terms of both human and financial resources.**

- **Prioritise swift criminal proceedings** to speed up the enforcement of court decisions, and thus of sentences, thereby reducing the use of procedures leading to pre-trial detention;

- **Reduce waiting times for hearings,** particularly in criminal and pre-trial proceedings, through the creation of a computerised tool for cross-cutting monitoring of pre-trial detention across the entire criminal justice system. Work is currently underway to develop software for managing pre-trial detention during the criminal hearing phase, known as the HORAE software. A pilot scheme involving three courts is nearing completion, and initial feedback from the pilot sites has been positive.

⇨ Facilitating the imposition of alternatives to imprisonment and sentence adjustments *from the outset*

The **regular sharing of prison data** – **including data on open-prison facilities** – by the prison service to the judicial authorities enables judges to have **up-to-date knowledge of the** local **prison situation,** with a view to promoting the imposition of alternatives to imprisonment or adjustments to sentences that could be utilised, and would allow for the precise optimisation of places in day-release schemes and external placements.

Regular dialogue between the judicial authorities, the prison service and the SPIPs promotes a better shared understanding of needs and available resources. Practices and rates of recourse to certain measures vary from region to region: any analysis of these must take into account local characteristics, individual circumstances and scope for organisational improvement.

⇨ Better preparation for the end of a sentence and reducing the number of unaccompanied releases

The expansion of supervised release, parole and arrangements at the end of a sentence can facilitate a gradual return to freedom, within a framework of supervision and support.

This approach is particularly important in a context of overcrowding, but it requires sufficient capacity in the community, accommodation solutions and early planning for release by the SPIP and the courts responsible for the enforcement of sentences.

- ⇨ The European INNOVAPRIS project is currently being launched: **four European working groups** comprising representatives from **Belgium**, **France**, **Portugal** and **Romania**, with the aim of **identifying current best practices and innovative solutions to reduce prison overcrowding in the long term.**

France now finds itself at a turning point. Faced with persistent and unprecedented prison overcrowding, it must innovate to address the issue.

The situation in France requires sustained and coordinated action. Beyond simply adapting prison capacity, the aim is to better coordinate judicial decisions, their enforcement and the available support resources. These approaches, which must be assessed in terms of their results and the safeguards they offer, could usefully inform our European discussions.