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CONTENTS

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Correspondence

All correspondence should be addressed to the Directorate of Legal Affairs, Division of Crime Problems,
Council of Europe,
67006 Strasbourg, Cedex
France

Editorial and production team

Chief Editor: Marguerite-Sophie Eckert

Secretariat: Helen Louise Monks

Responsible Editor: Erik Harremoes

Cover illustration: Jean-Rémy Schleifer

FOREWORD

In the course of time old questions always come back. Such as the question about the net effect of recommendations of the Council of Europe. Although it may be agreed that the answer of gradually growing international consensus caused by its recommendations is not a completely satisfying answer, it still is a truth not to be underestimated.

The now called European Prison Rules were accepted by the Committee of Ministers of the Council of Europe in February 1987. They are a revision of the Standard Minimum Rules of the Council of Europe, which in their turn were an amended version of the United Nations Standard Minimum Rules of the Treatment of Offenders. It is a real fact that these Rules contributed highly to a general agreement on approach and objectives of the national prison policy of the member States.

This does not mean that the differences have disappeared, or that the ways of carrying out prison sentences are the same, or that the tempo of change is equal. But it does mean that no country questions the basic principles or the guidance and spirit of the rules.

It should be mentioned with the highest appreciation that this difficult task could not have been fulfilled in such a way and in such short a time, if the Committee had not been both guided and assisted by Mr. Kenneth Neale, *who first as Chairman of the Committee, later as consultant took a major part in formulating viewpoints and drafting new rules.*

The Committee thanks him very much for his able dedication to this work.

The Committee also wishes to commemorate Mr. Costas Christou, *former Director of Prisons of Cyprus, one of its members and valued highly as a person and an expert, who took an active part in the reviewing of the rules and who recently died from a brutal murder attack. His death has confronted us with the saddening knowledge that good intentions and powerlessness sometimes go hand in hand. And still it is more often than not prison directors and administrators who stress the importance of high and humane standards despite of the often disappointing reality.*

To give a clear impression the different parts of the European Rules are dealt with hereinafter separately.

Even in these days of economic depression and increasing prison problems, the principles of a humanitarian approach and of preparing and assisting inmates for a positive return to society are kept. It is on the basis of this consensus that the Council of Europe has asked for and agreed to a review of the Standard Minimum Rules according to modern ideas. To inspire people to study these revised rules, to make them known and of course to apply them, this summary of the most important changes and the reasons behind it is given.

The Co-operation Committee on Prison Affairs which prepared this review, seriously tried to find the balance between ideals and present day reality. Therefore rules which did not necessarily ask for a review since they were not as such contrary to modern ideas, were not changed. Moreover ample attention is given to explain the reasons for change so as to facilitate the understanding of changes. Also a general overview of the historic and philosophic background of the Standard Minimum Rules has been made.

Hans H. Tulkens
Penological Consultant
at the Dutch Ministry of Justice
Member of the Committee
for Co-operation in Prison Affairs

The European prison rules

The adoption of the European Prison Rules by the Committee of Ministers of the Council of Europe in February 1987, was a landmark in the evolution of a common penal philosophy for treatment and practice in the member States, and for others that share the aspirations of the European prison administrations. The new Rules are to be seen as a natural extension of the commitment of the Council of Europe to the ideals and principles enshrined in its Statute and the European Convention on Human Rights. The concept of a comprehensive range of international rules for the treatment of prisoners is older than either of these latter documents. However, they all spring from historic common approaches based on humanity, justice and international co-operation to promote the fundamental values they are designed to uphold. It has been averred, with reason, that the Rules for the treatment of prisoners constitute the most important international document in the prison field. The Rules are a formal expression of the moral standards and philosophical purposes that have inspired what is best and most progressive in prison systems. This article will indicate, in general terms, the historical background to the European Prison Rules, the reasons for the decision to undertake the new formulations, the approaches on which the work was based and venture some thoughts on the future role and influence of the Rules.

The Historical Perspective

At the outset of the work of preparing the drafts of the new Rules and the associated documents, it was apparent that it would be burdened with technical and procedural problems. The major task, however, was to reconcile the concepts of a fresh formulation embodying contemporary thinking, and considerably enlarged in presentational scope, with the traditional values and texts, on a basis that would find support from all the member States of the Council of Europe. The underlying strength of the historic role of the Rules and the common commitment to them as a code of standards for prison administration made this possible. It was also essential to see the task as part of an evolutionary process derived from the experience of more than a hundred years of international discourse and co-operation in prison affairs. That co-operation has its roots in the international penal reform movements that began to flourish towards the end of the nineteenth century. There was, of course, even then, a much longer tradition of international penal activity and of the exchange of knowledge and experience. All that, largely relied on the reforming zeal of determined individuals or small, ephemeral groups. It was with the conferences and official inter-service liaison from about 1870 that the pattern of international co-operation in penal affairs as we now conduct it at state level really began. Thus, when on 28 September 1935, the League of Nations, at its 16th Ordinary Session, adopted a Resolution instructing the Secretary General to request those governments which accepted the Standard Minimum Rules for the Treatment of Prisoners to give those Rules all possible publicity, the devoted work of the International Penal and Penitentiary Commission came to fruition at world level. Those Rules did not purport to define a model for prison systems and were based on practical considerations. Furthermore, although tentative in some respects, they did prescribe minimum conditions of imprisonment based on humanitarian and social criteria. They represented an internationally agreed code that, even if in practice it was not thereafter, in all parts of the world, strictly complied with, has never been seriously challenged. Certainly no other international document imposes the same comprehensive influence on the disciplines of prison administration as do the international Rules.

After the war of 1939-45, in a climate of high moral aspirations and social renewal, the United Nations, at the 1st Congress on the Prevention of Crime and the Treatment of Offenders, accepted a revised version of the League of Nations Rules on 30 August 1955. This was subsequently approved by the Social Commission of the Economic and Social Council and the General Assembly of the United Nations and promulgated to member States with a request for regular reporting of progress with the application of the United Nations Rules. Although rather less ambitious, but arguably more realistic in the conceptual aspects than the earlier version, the arrangements for monitoring progress could be seen as an important step towards higher world standards. Unfortunately, the responses to that were not consistent or as effective as had been hoped. The future strength of international Rules has thus come to be seen as lying within the competence of more cohesive regional arrangements. An adaptation of the United Nations text, in a Council of Europe version that was adopted by the Committee of Ministers in a Resolution (73) 5, came into force in Europe on 19 January 1973. The broad purposes of this version were stated to be to meet the needs of contemporary penal policies and to encourage the better applications of the Rules in Europe. Under the terms of the Resolution the member States were recommended to be guided, in legislation and practice, by the principles of the Rules and to report quinquennially to the Secretary General of the Council of Europe on progress with implementation. Stress was laid on the value of common principles for penal policy and contemporary developments in penal treatments.

Since then the European version of the Rules has symbolised the Council of Europe's ideals and values in regard to humane and constructive approaches to prison administration and has been an important influence in safeguarding minimum standards and stimulating progress. However, even when the European version was promulgaged there was already a developing body of opinion in the European Committee on Crime Problems and among the Directors of prison administrations in Europe that something more definitive, forward-looking and rigorous was needed. The opportunity was thus taken, at the first quinquennial review in 1978, to appoint a Select Committee of Experts to report on

the purposes and nature of a future revision and to consider the more difficult problem of the supervision of the Rules in Europe with a view to their more effective application. The Select Committee reported in 1980 and its conclusions were approved by the European Committee on Crime Problems and subsequently by the Committee of Ministers in June of that year. Its findings and recommendations are set out in the published report of 4 July 1980 and summarised in Appendix III of the new Rules. Suffice it here, to note that its proposals led to the establishment of the Committee for Co-operation in Prison Affairs in 1981 and the decision of the European Committee on Crime Problems to commission the drafting of new European Rules. Within the ambit of its wider role in prison affairs the prison Committee was given special responsibilities for the application of the Rules in Europe. The movement for a European initiative in regard to the international Rules was given further support by the Parliamentary Assembly of the Council of Europe in Recommendation 914 (1981) on 29 January 1981. The responsibility for the new Rules was subsequently assumed, at the request of the European Committee on Crime Problems, by the Committee for Co-operation in Prison Affairs in consultation with the Directors of prison administrations in Europe. At its 35th Plenary Session in 1986 the European Committee on Crime Problems agreed the draft Rules and the associated documents for submission to the Committee of Ministers which, as indicated at the beginning of this article, approved the documents in February 1987.

The formulation of the European Prison Rules

The decision to undertake a comprehensive reassessment of the content and character of the then existing Standard Minimum Rules was taken against the background of major changes in social circumstances and penal philosophy in the immediately preceding decades. Societies disrupted by war, economic crises and fundamental shifts in social attitudes and behaviour had been exposed also to radical new ideas, changing moral and religious disciplines, structural unemployment and, important in this context, threatening manifestations of criminality. These insistent, minatory themes had also been mirrored by commendable parallel influences towards higher ethical standards and community responsibility. In prison management, novel regime developments, changing operational conditions, advanced technology and more sophisticated human and material resources had intruded new dimensions into treatment and administration. A formidable array of enquiries, studies and experiments, much of this sponsored by the Council of Europe, had also promoted fresh thinking and activity within the prison scene. It was necessary, it was agreed, that the new European Prison Rules should be compatible with the realities of this changing environment and the implications of that for prison treatment and administration. They must also satisfy the needs of modern social expectations and prison management with scope for future development and a more convincing discipline in application.

The criteria that were applied to the task may therefore be broadly summarised in the following terms. The new Rules should reflect the contemporary social background in Europe, the development of new penal philosophies and changing practices in prison administration and treatment. They should be related to current and probable future standards in European prison services taking due account of identifiable programmes and policies as well as the economic and political considerations that may be expected to inspire or inhibit them.

So far as textual development was concerned the process was designed to accommodate an Explanatory Memorandum to put the new Rules into a modern philosophical framework and to provide a statement on the practical dimensions of their application to guide prison staff in their work and to enhance the overall influence of the Rules. The Rules would be amended and re-organised to offer a more logical and orderly presentational sequence of the subject matter so as to exert new emphasis and to associate more closely the related areas of prison treatment and management to facilitate their application. In the detailed development of the drafts, account would be taken of the reports, studies and conclusions of European provenance over the last twenty years, recent work by other international bodies and authoritative individual contributions to penal thinking. Specifically, the new Rules would be informed by the practical experience and detailed proposals for revision put forward by the European prison administrations and other competent authorities. Overall, and in specific Rules, the new standards would be aimed at extending and raising the level of the requirements and encourage better application, recognising that there were prison administrations in Europe already operating above the level of most of the existing Rules. It will be apparent that it was inherent in this criteria and approaches that the new formulation would, for the first time, involve a significant departure from the concordance with the traditional texts as represented by the current United Nations Rules.

The new European Prison Rules are thus introduced by a positive statement of purposes in the Preamble. The first six Rules (Part I) embody the basic principles which define the ethos and fundamental status of the Rules. The new Rule 1:

> "The deprivation of liberty shall be effected in material and moral conditions which ensure respect for human dignity and are in conformity with these rules"

epitomises the philosophical and stylistic differences that distinguish the European Prison Rules from the previous international versions. The intrinsic strength and authority of this prime requirement is manifest. What was a sub-clause (3 of Rule 5, 1973 Rules) has become the Rule of first priority and principle as well as being strengthened by the unequivocal reference to compliance with the Rules as a whole. All of the Rules are enlarged and supported by the related texts of the Explanatory Memorandum in Appendix II of the Minsters' Recommendation. Together with the

historical and philosophical statements in Appendix III, the three documents provide a comprehensive statement as regards the concept and authority of the Rules in advance of anything that has previously been promulgated at international level.

Beyond Part I, the remaining areas of the Rules are set out in separate parts dealing collectively, in a well defined sequence, with the standards for the management of prisons, personnel, treatment objectives and regimes, each of which is the subject of further articles in this edition of the Prison Information Bulletin. Meriting special mention here is the introduction of new requirements or emphasis concerning compliance, inspection, personnel and developments in prison management and regimes. These are all areas of prison work and practice in which significant change has been experienced in the recent past.

The role of the Rules

Although the merits of a major statement of principle and an agreed code of standards of international validity are self-evident, it is more difficult, briefly to describe the influence of the Rules in national practice. The Rules are expressed in various ways within the domestic legal frameworks of the member States, ranging from incorporation in Statute law to a systematic reflection in local regulations and management instructions. In the various ways in which they intrude upon prison administration they represent the only international yardstick that can be seen as applicable across the whole spectrum of prison treatment and management. Application at national level is a matter for the domestic authorities. Their governments have also accepted the moral and political obligations that flow from their subscription to the Recommendation that embodies the Rules. There is also now an expert and supportive capacity at Strasbourg with formal responsibility to oversee and to encourage the application of the Rules. That has begun to function in a positive way in the work of the Committee for Co-operation in Prison Affairs. The bi-annual Conference of the Directors of Prison Administrations in Europe also has a duty to follow and further the application of the Rules in practice. The involvement in this process of the Committee for Co-operation in Prison Affairs has already promoted some progress in the application of the Rules at national level and it may be expected that this aspect of the work of the Committee will develop further in co-operation with the Directors of Prison Administration in the European prison services. The new Rules 1, 4 and 6 are germane to this purpose and should help to encourage more progress than has been possible in the past.

There is a view that the Rules concerning minimum standards could be more usefully expressed in detailed specifications and measurable criteria than in the more generalised terms that are the common currency of international documents. That may be so at national level and the new European Prison Rules provide a valid international framework for such an approach. Because of the wide differences in local circumstances and the need to meet the requirements and expectations of a large number of countries with significant variations in their constitutional, economic, social climate and geographical circumstances the codification of standards on the basis of agreed detailed specifications would not be feasible or appropriate in an international formulation on such a comprehensive scale as that of the Rules. An extension of the European Prison Rules on this basis would be technically complicated and seems to be essentially one that would benefit from local implementation. It is likely that it will develop in this way in many countries as part of a wider application in national practice that will include prisons within its scope.

Those concerned with the management of prisons, and others with a similar concern for the human and social aspects of imprisonment should find in the new texts substance to strengthen their belief in the efficacy of the Rules as an instrument for improving prison practice as well as a more powerful statement of purpose than has hitherto been agreed internationally. If the new Rules are to be employed for the optimum benefit of society, prisoners and staff they will need to be given wide circulation as has been requested by the European Ministers and given a more conspicuous role in prison management. It is to be hoped that the new Rules will give a fresh impetus to modern prison treatments by strengthening the base for prison management in the context of contemporary standards and the traditional values. A positive attitude to the new Rules, with their detailed supporting texts, would provide an opportunity for imaginative evaluations of existing practices and standards, a useful vehicle for staff training and a framework of reference for developing modern regimes and management styles. The expertise of the Committee for Co-operation in Prison Affairs and the authority of the European Committee on Crime Problems is available to support developments in these areas of prison administration. However, the initiative that has been taken in Strasbourg now rests mainly with the prison administrations of Europe. It is within their authority that the European Prison Rules must now find practical expression, in terms that will further improve the conditions in which people are imprisoned and prepared for release and help to enrich and reward the work of the staffs of the European prison service.

Kenneth Neale

Part I: The basic principles

In the process of revising the European version of the Standard Minimum Rules for the Treatment of Prisoners (Resolution (73) 5 of 19 January 1973) it was unanimously agreed that the most important general principles, which are to be regarded as the very basis of any contemporary prison system, should be clearly formulated and compiled in a new Part I. Thus, the six rules of Part I of the European Prison Rules reflect the fundamental philosophy on which our prison systems are based. All the other rules should be seen and applied in the light of these six basic rules.

Rule 1 lays down that the deprivation of liberty shall be effected in material and moral conditions which ensure respect for human dignity and are in conformity with the rules. This rule states, as the old Rule 5.3 already did, that due respect for human dignity is obligatory. The additional reference to conformity with the rules is new and intends the strengthening of Rule 1.

According to Rule 2, the European Prison Rules shall be applied impartially. There shall be no discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, birth, economic or other status. The religious beliefs and moral precepts of the group to which a prisoner belongs shall be respected. This rule follows the former Rules 5.1 and 2. The provisions of Rule 2 are in conformity with Article 9 and Article 14 of the European Convention on Human Rights. Rule 2, which seeks to respect individuals and their beliefs, governs the spirit in which many, often very delicate, arrangements are to be made in everyday life in penal institutions.

Rule 3 states that the treatment of persons in custody shall be such as to sustain their health and self-respect and, so far as the length of sentence permits, to develop their sense of responsibility and encourage those attitudes and skills that will assist them to return to society with the best chance of leading law-abiding and self-supporting lives after their release. Rule 3 reflects the old Rules 58, 59 and 66.

The purposes of imprisonment, as they are prescribed by law or generally acknowledged in many states, are, on the one hand, social rehabilitation to enable the offender in future to lead a socially responsible life without committing criminal offences and, on the other, the protection of society, security and good order. The reference to treatment in Rule 3 creates the general basis for a wide range of treatment strategies. It indicates, in the broadest sense, all those measures (work, vocational training, schooling, general education, social training, reasonable leisure-time activities, physical exercise, visits, correspondence, newspapers and magazines, radio, television, social-work support, psychological and medical treatment) employed to maintain or recover the physical and mental health of prisoners, their social re-integration and the general conditions of their imprisonment. All treatment strategies lead sooner or later to the preparation of prisoners for release and pre-release treatment and aim at their social rehabilitation. The main goals of preparation for release programmes are the cultivation of the work habit; proper vocational training in marketable skills; the sustaining of social links to family, relatives and others; the acquisition of appropriate life and social skills; specific assistance and expert guidance to meet individual needs of the prisoners. Obviously, the extent to which treatment strategies can be applied in practice will vary according to the opportunities provided, the length of sentences, the custodial environment and the personal circumstances. Nevertheless, the general demand of treatment and its aims is of the greatest importance.

Rule 4 demands that there shall be inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. Their task shall be in particular to monitor whether and to what extent these institutions are administered in accordance with existing laws and regulations, the objectives of the prison services and the requirements of these rules. This Rule follows the old Rule 56.1.

The value of regular inspection has been emphasised by the priority given to this as one of the basic principles. The arrangements for the inspection process will vary from country to country. The effectiveness and credibility of the inspection services will be enhanced by the degree of independence from the prison administration that they enjoy and the regular publication of the results of their work.

According to Rule 5, the protection of the individual rights of prisoners with special regard to the legality of the execution of detention measures shall be secured by means of a review carried out, according to national rules, by a judicial authority or other duly constituted body authorised to visit the prisoners and not belonging to the prison administration. The great importance of this Rule which follows the old Rule 56.2, is self-evident. Its priority has been recognised by including it as one of the basic principles in the new rules. Rule 5 elucidates the fact that the sentenced offender is still a member of society and that law applies to prisoners too. Such a grave intrusion by the state into the life of a citizen as a prison sentence represents needs a solid legal basis to warrant it. It is not enough for the rights and duties of prisoners to be clearly laid down; the prisoners must also have the legal remedies available to assert their rights.

Rule 6 provides that the European Prison Rules shall be made available to staff and to prisoners in the national languages and in other languages so far as it is reasonable and practicable. This Rule is new. It is important for the effective application of the Rules in practice.

Dr Helmut Gonsa
Director of the Austrian Prison Administration
Member of the Committee
for Co-operation in Prison Affairs

Part II: The management of prison systems

Part II of the European Prison Rules deals with the arrangements which should be made for the reception and accommodation of prisoners, for their physical, spiritual and social needs and for the maintenance of discipline and control in penal establishments.

The Rules governing the reception and registration process no longer require that a register with numbered pages be maintained as a record of prisoners received, instead, Rule 8 merely requires that "a complete and secure record ... shall be kept". This takes account of recent advances in information technology and the increasing use of computers which can provide management at all levels with immediate access to a wide range of information about the prison population. This section of the Rules has also been extended to include, in Rule 9, a reference to the need for reception procedures to take account of the fact that those committed to prison are likely to have personal problems that require urgent attention. It is to the advantage of both staff and prisoners that such problems are tackled as soon as possible after reception into prison and thereby help to reduce the level of anxiety and alienation. There are, of course, considerable organisational and resource implications but the arrangements which are made and the manner in which staff respond to the needs of prisoners at this time can have a significant influence on future relationships, attitudes and behaviour throughout the period of custody.

By including in this section a requirement for full reports and a training programme to be prepared for each prisoner, (Rule 10), added emphasis is given to the well established principle that preparation for release should begin as soon as possible after a person is received into prison. The aim should be to individualise the treatment of prisoners in an institutional setting taking account of their physical, mental and social needs. The custodial experience should provide the means and the opportunity for prisoners to change should they wish to do so. The details of each programme will depend upon a number of factors including sentence length, resources available and, not least, the attitude and capacity of the prisoner concerned.

Rules 11 to 13 are concerned with the principles to be applied to the inter-related procedures by which prisoners are classified and subsequently allocated to specific establishments or regimes. Rule 11, which provides guidance on allocation criteria, has been formulated in such a way as to accommodate developments in regimes, institutional design, resource management and other penological initiatives which would require, or would benefit from, some relaxation of the rules requiring the separation of groups differentiated by age, sex or legal status. It is clear that this flexibility must be exercised with care and with proper regard for the status and needs of the prisoners concerned. Rule 12 now includes a specific reference to re-classification and thus reinforces the provisions of Rule 10 which require reports and information about prisoners to be kept up to date. This takes into account that diagnosis is an ongoing process and encourages establishments to recognise as well as encourage changes in attitude and behaviour. Rule 13 advocates the provision of discrete accommodation for the use of different categories of prisoners and to meet specific treatment needs. The extent to which the provisions of this Rule can be observed will depend upon the number, size and design of establishments and the security and treatment needs of the prisoners. At a time when many countries are experiencing an increase in the size of the prison population, as well as an increase in the number of violent prisoners and those sentenced for terrorist activities, keeping these elements in a state of equilibrium is a daily pre-occupation of prison managers and administrators. The operational reality is that the availability of discrete and dedicated accommodation may frequently fall short of that which would be required to give full effect to Rule 13.

It is an often stated and widely accepted principle that sufficient accommodation should be available to ensure that there is no enforced sharing of cells. Rule 14 acknowledges and reinforces that principle but at the same time recognises that there are circumstances in which it may be advantageous to provide for accommodation to be shared. The attitude of prisoners to cell sharing varies according to personal preference, institutional conditions and, perhaps, length of sentence. There are some, naturally gregarious people, who will always prefer to share accommodation rather than be on their own; others will be influenced by the extent to which they are able to mix with other prisoners at work or recreation and how long they are locked in their cells. Those who enjoy an open and active regime in the company of other prisoners are more likely to prefer the privacy of their own cells at night. In those establishments where the regime is restricted and there is limited opportunity for social inter-action more prisoners are likely to favour cell sharing. Objections are likely to be reduced where integral sanitation is provided. Some prisoners, regardless of regime considerations and general living conditions, undoubtedly find it very stressful to be locked alone in a cell and in these circumstances cell sharing can be an important factor in reducing tension and, in extreme cases, reducing the risk of suicide.

Apart from the personal needs and preferences of individual prisoners, there are important managerial considerations which bear upon the issue of accommodation sharing. Responsible resource management requires that the optimum use is made of all available accommodation. There is a general move towards the provision of single cells or, exceptionally, purpose designed double cells, but many prison administrations are left with a residue of dormitory accommodation which, because of financial considerations and sustained population pressures, cannot simply be discarded. Rule 14 provides a clear indication of the standard to be achieved and at the same time recognises the operational realities and imperatives. Rules 15 and 16 provide guidelines for the development of technical specifications which

define the standard of accommodation to be provided to meet local needs and to reflect local conditions.

Rules 17 and 18 deal with sanitary and bathing installations. The 1973 version of those Rules was mainly concerned with the adequacy of provision whereas the new Rules place greater emphasis on the need to arrange for prisoners to have improved access to these facilities. The standard of maintenance and cleanliness of an institution has a considerable influence on the morale and quality of life of both staff and prisoners. It is therefore appropriate that Rule 19 has been amended to require that the whole institution, and not only that part occupied by prisoners, should be kept clean and properly maintained. This recognition of the need to improve the working conditions for the staff of institutions is long overdue and particularly welcome.

Rules 20 to 25 deal with personal hygiene, clothing, bedding and food and the text is little changed from that which was contained in the 1973 version of the Standard Minimum Rules. The Explanatory Memorandum places considerable emphasis on the importance of food not only to the health but also the morale of prisoners. It urges those concerned with the management of prisons to pay particular attention to the quality, presentation and variety of food taking into account ethnic needs, the training and supervision of the catering staff, the need for consultation with health authorities and for the involvement of the institutional medical staff as a matter of routine. No-one with experience of institutional life or with the management of prisons would doubt the wisdom of that advice nor underestimate the seriousness of the consequences of failing to follow it.

Similar considerations apply to the provision, nature and quality of medical services to which Rules 26 and 32 apply. A number of minor textual amendments have been made but there have been no changes of substance. The duties and responsibilities of the Medical Officer remain largely unchanged though the opportunity has been taken to remove the requirement for the Medical Officer to advise upon the observance of rules relating to physical education and sports. These activities are now the subject of more extensive treatment in Part IV of the Rules.

Rule 32 directly links the medical services of the institution with the resettlement of the prisoner after his release and requires that the full range of medical services available in the community be provided to meet the particular needs of the prisoner. This provision reinforces the principle that the quality of medical care available to prisoners should be no less than that which prevails in the community at large. It is important that institutional medical staff keep abreast of professional developments, particularly those concerned with transmissable diseases such as AIDS. The Rule also emphasises the importance of and the need for medical through-care. This process, which has not yet been fully developed, has special relevance to the treatment of drug addicts and in this context there is a need to establish close links with outside agencies such as the Probation Service and other specialist support groups.

Guidance on the means by which discipline may be maintained and punishments administered is contained in Rules 33 to 40. The main changes are the enhancement of Rule 33 to set the need for discipline and control in the context of the treatment objectives of the institution, and a new requirement under Rule 35 to provide access to an appellate process. Whilst the former provision should present no difficulties to prison administrators, the latter may not so easily be accommodated. As the Explanatory Memorandum makes clear, there is no universal acceptance of the need for an appellate process and even if the need were to be accepted there may still be many organisational and resource problems to be overcome before a separate authority and the procedures for access to it could be established. This new provision signals the need for prison administrations to review the existing disciplinary procedures to determine whether the additional safeguard of an avenue of appeal is necessary or desirable in the interests of manifest justice.

Rule 37 prohibits collective, inhuman or degrading punishments and its centrality to the application of Rule 1 is reinforced by further emphasis in Rule 38. The principle and its application commands widespread if not universal support. Rule 39 prohibits the use of instruments of restraint as a punishment and, together with Rule 40, prescribes the types of restraint, the circumstances in which they may be used and the authority for their use. Of particular significance is the new requirement that when an instrument of restraint is used on medical grounds it should be applied not only on the direction, but under the supervision of the Medical Officer.

Rules 41 and 42 deal with the provision of information to prisoners and with the arrangements which should be made to enable them to make requests or complaints. The only change of substance is the requirement that prisoners should be given the opportunity to make requests or complaints daily rather than on weekdays only. In accordance with the 1973 version of the Rules the emphasis is on the importance of ensuring that prisoners fully understand their rights and obligations and on the need to provide an effective means by which requests or complaints can be dealt with fairly and expeditiously.

Closely associated with the institutional information and communications systems are the arrangements made to enable prisoners to maintain contact with the outside world. Rules 43 to 45 incorporate amendments intended to give added emphasis to the need for managerial regulation of the means by which contact with the outside community can be strengthened and maintained. Rule 43 now requires that prisoners should be allowed visits as often as possible and that a system of prison leave should form part of the treatment programme. There is a tendency for prison populations to become increasingly multi-national and the need to give special consideration to the needs of foreign prisoners is reflected in the expanded text of Rule 44. This Rule, which requires that foreign prisoners should have access to their diplomatic or consular representatives, now includes a specific reference to the need for

prison administrations to co-operate fully with these representatives in the interests of foreign prisoners who may have special needs. Rule 45 which deals with the need to provide the means by which prisoners can keep themselves informed of the news now requires that special arrangements be made to meet the linguistic needs of foreign prisoners.

Only minor changes have been made to Rules 46 and 47 which regulate the provision of religious and moral assistance to prisoners. Rule 46 has been modified to allow a prisoner to have in his possession both books and other literature necessary to satisfy his spiritual and moral needs. Rule 47 facilitates religious links with the outside community and establishes the right of access to a qualified representative of any religion. The new Rule also makes it clear that prisoners have the right to refuse to be visited by a religious representative.

There have been no changes of substance to Rule 48 which is concerned with the arrangements to be made for the handling of prisoners' property. The Rule requires that procedures should be established through which the stewardship of the personal effects of prisoners can be properly exercised and accounted for.

Rule 49 deals with the procedures needed to ensure that prisoners and their families are notified in the event of death, illness or transfer. There is no change in the provisions contained in the 1973 version of the Rules. Rule 50, which applies to the arrangements for the transfer of prisoners, has been changed only so far as to extend the prohibition on transport arrangements which would subject prisoners to either physical hardship or indignity.

Part II of the European Prison Rules provides a framework of minimum standards for the management and regulation of prisons in accordance with the basic principles enunciated in Part I. The functions and status of staff and the rules governing treatment objectives and regime delivery are more extensively dealt with in Parts III and IV respectively.

Gordon H Lakes CB MC
Deputy Director General
of the Prison Service of England and Wales
Member of the Committee
for Co-operation in Prison Affairs

Part III: Personel

Part III does not seem to differ very much from the rules of the former Standard Minimum Rules (46-55). They are indeed basically the same as the new Rules (54-63).

Still the changes should not be underestimated, since they present a change of importance and approach towards staff requirements, not so much a change of content.

As it is said in the explanatory memorandum to the Rules the importance of staff, their functions and status have been increasingly recognised. Defining rules, introducing more liberal régimes, efforts to encourage prisoners to work positively towards their future life in free society, it is all a waste of time unless staff truly, ably and energetically co-operate.

It is the staff which creates the social atmosphere in prison. It is the staff, not the Rules or the facilities, which show interest or lack of interest in the individual prisoners.

Therefore it depends on the staff whether prisoners generally get along with each other and with the staff and whether they allow each other to engage co-operatively in activities and assistance made available to them.

The importance of staff has not always been as great as it is nowadays. In prisons where, by tradition, prison officers play a merely guarding rôle, where maintaining order and discipline are their major if not sole task and where organisation and management are built on these principles only, staff as it were are a continuation of the prison's physical structure, just needing good health, strength and alert.

Social change however has not left prisons out. Prison conditions developed and the prison officer's function with it. The old-style prison does not and cannot exist any longer. Either prisons—staff, structure, régimes—are or become adapted to the overall social change or tension, conflicts, violence, riots will and already did arise and even prison officers have shown their discontent. So, within the limits of required security, a today's prison is or inevitably has to be an environment for living, working, learning, recreating, individually and socially. And nevertheless, it is and will remain a paradoxical environment, consisting of two groups of people, one still in charge of the other and against the other's will. There exactly lies the problem. How to make the wanted environment an environment of co-operation? The answer to that question is the quality of staff of prison officers in particular.

Of course, the quantities of staff are relevant too. In that respect the member States of the Council of Europe differ considerably. According to an article in the Prison Information Bulletin No. 4, December 1984, page 3 the number of personnel per 100 inmates varies between member States from less than 40 to more than 140. It might have been worthwhile to try and develop norms for the required numbers of staff in modern prisons. Differences however too are related to the size and type of prison buildings and their security levels. Because of the national differences in these respects realistic norms are

difficult to define. However, from the rules about staff quality in a way some quantitative conclusions can be drawn. Maybe in the future explicit attention could be paid to matters such as staff ratio, size and structural requirements of prison buildings, differentiated norms for closed and open prisons and for levels of security. Up to now the European Prison Rules link up with the former Standard Minimum Rules in that they are restricted to matters of quality.

The increased importance of staff in that respect is stressed in the new Rules by introducing two new Rules (51 and 52) and two partly new Rules (53 and 55). The first two Rules accentuate the prison administration's responsibilities and the necessity of "training, consultative procedures and a positive management style" in order to further the staff's skill and attitude. Rule 55 even stipulates the importance of permanent education, especially desirable since nowadays in prisons and prison régimes changes are many and staff have to skillfully respond to them.

Rule 53 extends the old Rule (46/2) by stressing the significance of information of the public and the development of an active public relations' policy. This indeed is of high necessity. The prison officer's attitude and confidence in fulfilling his or her duties depend to a large degree on the public's opinion about what imprisonment means and what it seeks to do.

The Explanatory Memorandum elaborates on these matters. In essence Part III of the European Prison Rules show an improvement of the old rules in that they are not restricted any longer to the humane guarding requirements of prison staff, especially prison officers, but that they demand a professional standard of staff, of prison officers in particular, who must be able to work with people and to assist them in finding their way back to society.

Hans H. Tulkens

Part IV: Treatment, objectives and regimes

This part dealing with the concept of treatment and the rules covering the main instruments used in applying it enlarges on the concepts embodied in the "basic principles" of Part I.

The aims of treatment are described in the light of major advances by prison research in recent years. As well as reiterating the intrinsic value of humanisation of the sentence, the essential *harmfulness* of imprisonment is indirectly pointed out by stating as one of the aims of treatment that of reducing the adverse effects of imprisonment to a minimum. Contacts with the family and the outside world are advocated as primary conditions for constructive treatment, while it is emphasised that the provision of such treatment does not automatically lead to social rehabilitation. In fact any regime activity merely increases the chances of rehabilitation without guaranteeing it; everything depends on the individual concerned and the receptiveness of normal society (65(d)).

The system of segregating prisoners is still regarded as useful, but is now flexible and informal and recommends the use, wherever possible, of open institutions with ample opportunities for contacts with the outside world (67.3). The work of the Select Committee of Experts on dangerous prisoners, which gave rise to Recommendation No. R (82) 17 concerning custody and treatment of dangerous prisoners, stresses that it is preferable to use moderation in classifying dangerousness and to adopt as few custodial measures as security will allow.

As in the past, the expediency of prisoners' involvement in the treatment applied to them is emphasised, and a new rule (70.1) recommends that preparation for release should begin as soon as possible after their reception.

Rules on prison leave and non-discrimination between nationals and aliens are laid down by the new European Prison Rules derived from specific recommendations of the Council of Europe.

There have been no radical changes in the rules applying to prison work apart from the reference in Rule 72 to modern principles of management and organisation of production, whereas the rules on education have been completely updated. For instance, new rules state that education is to be placed on the same footing as work if it is part of an individual treatment programme (78). The rule on libraries (formerly 40) has been appositely included in the same paragraph (82). It stresses the expediency of establishing a link between the prison library and community library services.

Physical education, sport and recreation, which were formerly covered by a single rule, are now the subject of a whole paragraph. Its four rules indicate the importance of organising physical activities with proper facilities meeting the special psychological and physical needs of people serving custodial sentences.

As to pre-release preparation programmes, the content of the new rules is amplified compared to the old ones by a more realistic outlook as to what can be achieved for instance in respect of employment for released prisoners. Former Rule 81.2 stipulating the duty to provide accommodation and employment inter alia has now been transformed to the effect that the prisoner must be "assisted" (89.2). This alteration stems from a realistic analysis of the employment situation in Europe. It should also be pointed out that active relations between the various agencies dealing with the difficult post-release stage are indispensable.

Luigi DAGA, Director of the Study,
Research and Documentation Office,
Directorate General of Preventive and Punitive
Establishments, Italian Ministry of Justice,
Member of the Committee for Co-operation
in Prison Affairs

Part V: Additional rules for special categories

Laying down rules for each category of prisoners as in the former rules certainly does not mean establishing a special and exceptional set of rules. Indeed, Rule 90 states at the outset that all the rules in Part IV must also be applied as far as possible for the benefit of certain special categories, and that they are strictly additional.

As regards remand prisoners, who should be only exceptionally and briefly present in the prison system, despite which they are detained in large numbers and for long periods in certain countries, the new rules are generally in line with the old ones. There is a new rule (92.3) on the private life of the prisoner, who in general cannot be compelled to have contacts with the family and the outside world. Also to be noted is a major change prompted by experience as regards the arrangement of cells; Rule 94 now makes it possible to avoid solitary confinement in case of potential danger (e.g. risk of suicide).

Rule 99 corresponding to former Rule 94 is no longer entitled "Condamnés pour dettes" ("Civil prisoners") but "Condamnés par une procédure non pénale" ("Civil prisoners"). The content is unchanged, although the omission of any formal recognition of a type of sentence less and less commonly used in the judicial systems of European countries was contemplated.

The provisions on insane and mentally abnormal prisoners are virtually unchanged.

In conclusion, there are now 100 new European rules compared to the former 94. Fifteen are new, while 9 are old provisions have been deleted (1-4, 57, 84.1, 85.2 and 87).

Luigi Daga

Work release schemes for young offenders in France

Work release is a *special arrangement applicable in the context of a custodial sentence*, which may be judged from three standpoints:

— as a means of putting into effect a policy of diversification of prison regimes and individualisation of treatment;

— as a remedy for overcrowding in prisons, where the morale of the younger prisoners is impaired by boredom and confinement with large numbers of fellow-inmates;

— as part of a policy whereby occupational and social resettlement assistance starts from the moment a person enters prison and involves the entire local network of agencies and services.

In France, after following a fairly conventional course for some years, this policy was given a new look and fresh impetus on 11 August 1986, when the Justice Minister, Mr Chalandon, wrote to the Préfets (Commissioners of the Republic) of all Departments asking them to help find opportunities for between 20 and 30 young offenders per Department to work outside prison on projects useful to the community.

Work release thus consists in signing up young prisoners for jobs put on offer by local authorities, voluntary organisations or commercial enterprises. Accommodation is provided away from the prison environment, in rented flats, workers' hostels, youth hostels, etc. Ancillary activities, usually conceived in terms of training, socio-educational and cultural recreation or sport, are organised in such a way as to keep the young people fully occupied in their spare time throughout this stage of resettlement assistance.

The organisation employing the young prisoners is also responsible for training them in the use of the relevant occupational techniques. This duty, and that of monitoring their social and educational progress, will normally be carried out in conjunction with an outside social worker whose services the employer has enlisted, and will also involve a member of the socio-educational or supervisory staff of the prison concerned.

When he launched this programme, the Justice Minister stressed the need for "an unprecedented effort in order that new, imaginative solutions may be implemented rapidly". If young prisoners are to be treated according to general rather than criminal law, responsibility must be shared at local level by various agencies and services who pool their resources and work as a team. Society's traditional forms of detention for people who have been convicted on a criminal charge do not always make this easy.

Although this programme is being implemented very gradually and despite substantial differences from one area to another, almost 500 young offenders were placed on work release schemes, without continual supervision, between 1 September 1986 and 31 March 1987 and 250 new jobs are planned as from April 1987. It should be possible to reach the target of enabling 2,000 young offenders to serve their sentence in this manner as Departments set up an increasing number of schemes.

The offenders in question are convicted persons:

— who have one year or less of their sentence to serve;

— whose remaining sentence is three years or less and who meet the time conditions for conditional release;

— who should in the main be under 25;

— who volunteer for this type of scheme;

— who are physically and mentally suitable;

— who are not in custody pending deportation nor escort to the border, in the case of foreign prisoners.

The decision to place someone on a work release scheme is taken by the judge responsible for the execution of sentences, acting on a proposal of the prison warden and on the advice of the Sentence Enforcement Committee (Commission d'application des peines). Responsibility for monitoring the penal aspects of the scheme is then transferred to the judge responsible for the execution of sentences at the prison nearest to the place where the scheme is being carried out.

In order to elicit the requisite local participation in the scheme on the one hand and to pave the way for occupational and social resettlement on the other, the prison administration service has introduced several simultaneous ancillary measures.

National co-ordination among various administrative authorities has made it possible:

— to offer young offenders on work release schemes de jure and de facto access to a variety of national meaures to assist the resettlement of persons in difficulty (community service, sandwich courses, individual and joint training measures);

— to persuade outside services and networks of associations to set up local schemes;

— placing responsibility for the introduction of measures at regional level with Préfets makes it easier to find public authorities and private companies prepared to participate in local community service schemes (especially the maintenance and protection of the heritage and the environment);

— decentralised management of the prison administration service's budget earmarked for this programme (12.5 million francs in 1987, i.e. on average 70 francs per day for each offender for the duration of the scheme), makes it easier to encourage other organisations to pledge financial support for these schemes as part of their general policy to assist the resettlement of persons in difficulty, on the basis of agreed schemes.

Preliminary assessments confirm that this particular way of serving a sentence and preparing for resettlement is useful to both the offender and the community.

It provides the young offender with an opportunity to face up to the demands and discover the possibilities of working and social life and to develop his skills. For society it represents the discharging, without any major risks (as incidents during work release schemes are practically nil) of a collective duty to organise work and training which fulfils an economic purpose while at the same time assisting rehabilitation.

Nicole Maesdracce
Head of Section of Participation in Prison
at the French Ministry of Justice

Centre for physical training for inmates with drug and alcohol problems in Norway

A great proportion of the inmates in Norwegian prisons have problems with narcotics and alcohol abuse. About 25% of the inmates are sentenced or charged for crimes in connection with narcotics. In addition, almost 20% are sentenced for drunken driving.

With this background it is no great surprise that smuggling and use of narcotics represents one of the major problems and challenges for the Norwegian prison system for the time being. Also as many as 25% of the inmates say that they have used narcotics while serving their sentence.

In 1983 the Prison Service Administration launched a project with a centre for physical training for inmates with drug and alcohol problems. The purpose of the project is to strengthen the inmates' physical capacity and to give a basis for an active and positive use of their leisure-time during the time in prison as well as after discharge. In addition, the importance of social training and training in the many practical tasks of daily living are emphasised.

In 1983 only three prisons were included in the project: one security installation, one central prison and the local prison in Oslo. The average length of the sentences of the participants in the project were more than 4 years. From 1984 also female inmates were given the opportunity to take part in the project. This year the activities have been further extended, and today 7 prisons are involved.

Normally each prison selects 10 inmates who form a group. In addition 4 prison officers take care of the planning and instruction in close co-operation with a specially engaged supervisor in the Prison Service Administration.

Since the start in 1983 the Prison Service Administration has co-operated with The Norwegian College of Physical Education and Sport with regard to the elaboration of the programme, testing and instruction.

The programme usually begins with 4 weeks of intensive training both inside and outside the prison. Tests are also arranged in order to measure the effect of the training.

The peak of the programme is a weeks stay outside the prison. In the beginning we were allowed to make use of a military camp on the west coast. Later we used a large cottage in the mountains in the middle of the country. This part of the programme is usually used for all sorts of training and exercise, such as running, swimming, cycling, cross country and downhill skiing and football, etc. In addition, it arranged a 2-3 day walking tour in the mountains.

After returning to the prison the training continues for at least 4 more weeks. Also in this period the prison officers take an active part. The participation of the prison officers, and thus the close and informal contact between the inmates and the prison officers, is of great importance.

It is obvious that a project like this will not bring about great results unless it is carried out within the framework of the ordinary physical training in the prisons. Today this seems to work satisfactorily.

With regard to the possible effects of this experiment in physical training, we know very little about the long-term results. On the other hand, it is easy to observe some immediate results:

— The great majority of the participants are in much better physical condition, and most of them continue to train for the rest of their time in prison.

— The relationship between the inmates and the prison officers who have taken part in the project has improved.

— It is reported that the use of legal medicines has been reduced drastically.

— There have been only negligible disciplinary problems.

— Most of the inmates claim that they are in better mental condition after having taken part in the project. They are emotionally more stable and it is easier for them to get in contact with others.

Initially the training centre was administered centrally from the Prison Service Administration as an experiment. Since the start of 1983, 300 inmates participated in the training centre, and the reported results are judged to be so convincing that the idea of the centre is adopted as part of the ordinary training activities of our prisons.

Asbjørn Langås
Deputy General Director
Department of Prison and Aftercare in Norway

Statistics on prison populations in the member states of the Council of Europe

Situation at 1.2.1987 and changes since 1970

The following data, obtained through the data collection system set up by the Committee for Co-operation in Prison Affairs, reflect the position regarding prison populations at 1 February 1987 [1].

The data accumulated since 1983 enabled us in the previous bulletins to present recent changes in prison populations [2], committal flow and detention periods [3].

In order to view such information over a larger time scale, administrations were asked to provide data on prison populations—"stock" statistics—over the period 1970 to 1987, along with information on laws, regulations and judgments which had exerted a substantial direct influence on the general trends. The chronological series below concern 16 States.

Situation at 1 February 1987

From the raw information provided by national administrations, it has been possible to calculate the following indicators (Table 1):

a. Total prison population.

b. Rate of detention per 100,000: total prison population at 1.2.1987 as a proportion of all inhabitants at that date (Figure 1).

c. Percentage of unconvicted prisoners: number of prisoners who have not been convicted as a percentage of the total prison population.

d. Rate of unconvicted prisoners per 100,000: number of unconvicted prisoners as a proportion of inhabitants at 1.2.1987 (Figure 2).

e. Percentage of women prisoners.

f. Percentage of young prisoners.

g. Percentage of foreign prisoners.

At 1 February 1987 the average rate of detention is 66.2 per 100,000 inhabitants; a year ago the rate was 67.9 [4].

1. As in the past, data for Finland are given in Appendix 1. The data on committal flows for 1986 will be published in the next bulletin.
2. Prison Information Bulletin No. 7, June 1986, 23-31.
3. Prison Information Bulletin No. 8, December 1986, 16-24.
4. These calculations do not take account of the situation in Switzerland, for which we have no data at 1.2.1987.

Figure 1

Breakdown of Council of Europe member States by rate of detention per 100,000 inhabitants

Rate of detention per 100,000 inhabitants

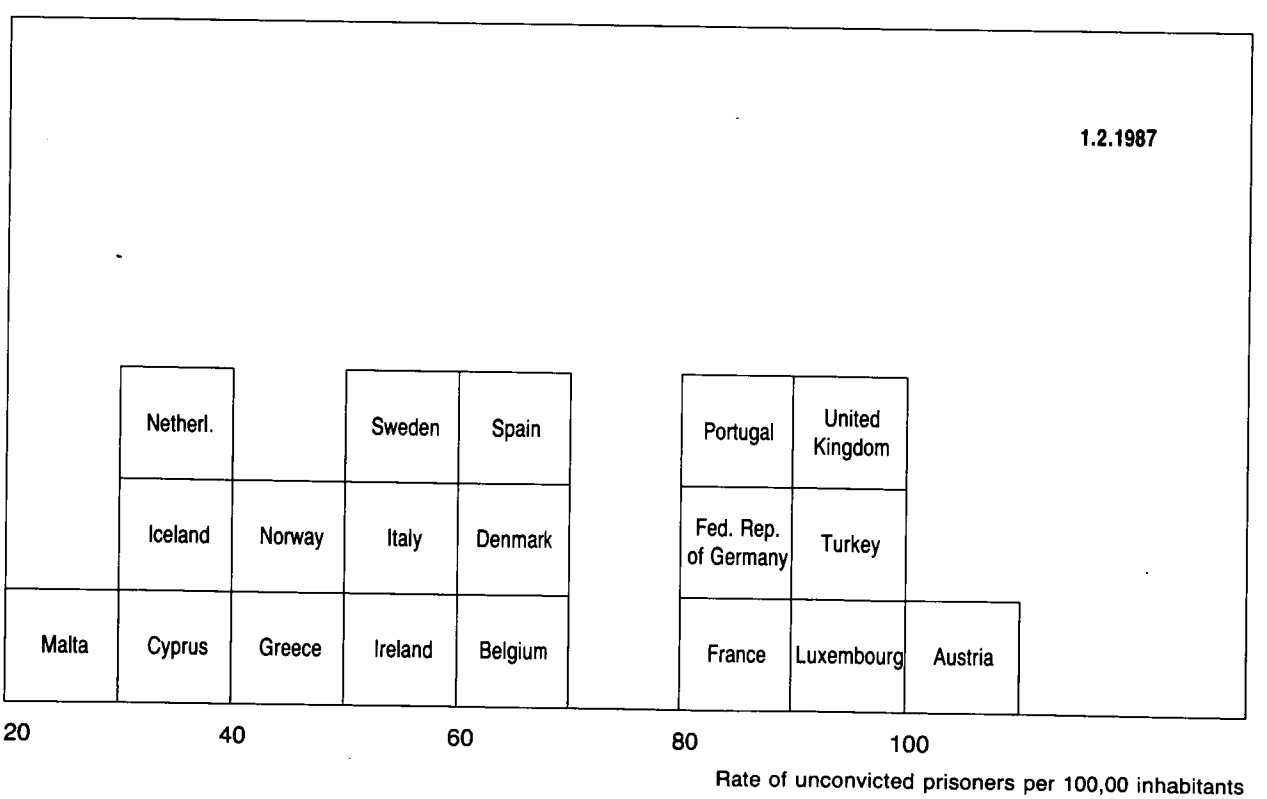
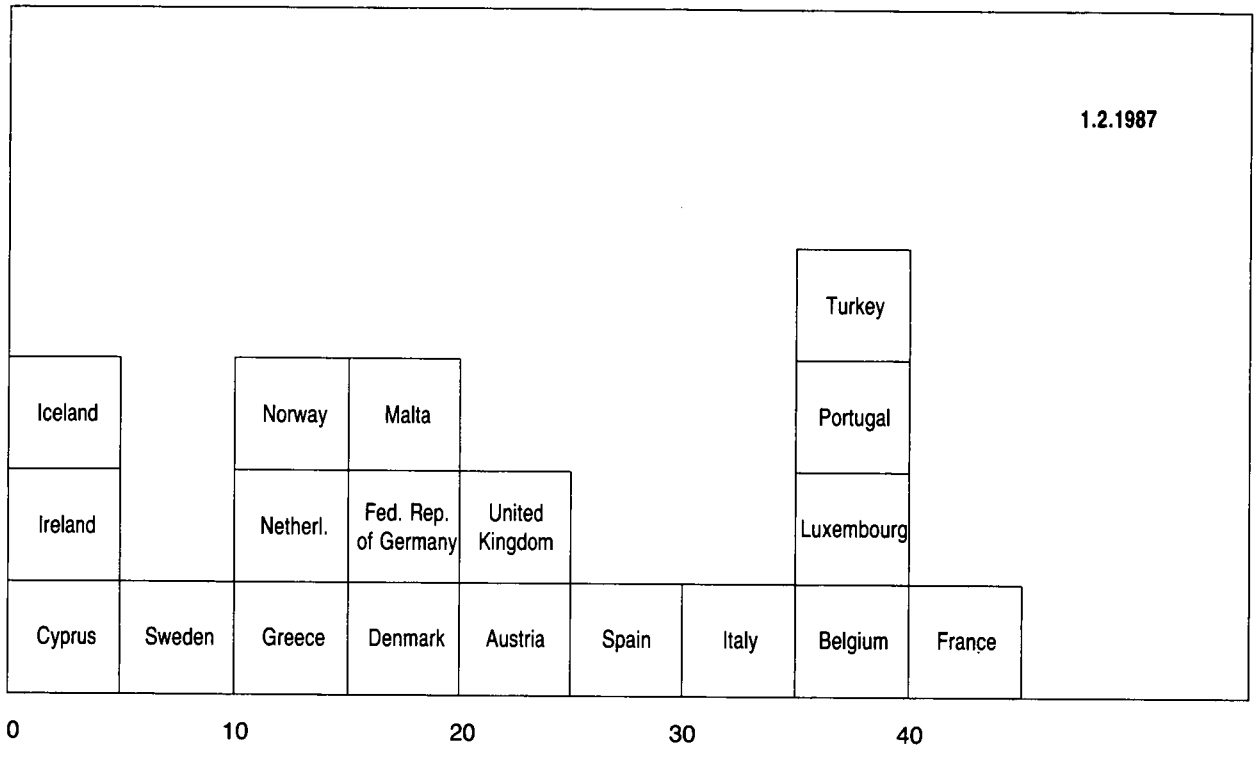


Figure 2

Breakdown of Council of Europe member states by rate of unconvicted prisoners per 100,000 inhabitants



Over the last 12 months seven out of twenty populations have increased considerably (Table 2): Cyprus (26.9%), France (10.2%), Spain (10.1%), Greece (9.8%), Belgium (8.5%), Luxembourg (8.1%), Netherlands (5.1%).

Seven States have remained *relatively* stable: Ireland (3.2%), Sweden (2.8%), United Kingdom (2.6%), Iceland (2.3%), Malta (1.1%), Denmark (0.3%), Norway (-2.2%).

Lastly, five populations have seen a distinct decrease: Austria (-5.9%), Federal Republic of Germany (-8.6%), Portugal (-11.9%), Turkey (-23.7%), Italy (-25.1%).

Table 2 also gives some pointers to changes in the various groups within prison populations over the period 1.2.1986-1.2.1987 (according to criminal category, sex and nationality).

Changes in prison populations since 1970

Table 3 presents the changes in the number of prisoners since 1970. In the great majority of cases, the population refers to the situation at 1 January of each year. The figures for Greece are those at 1 December, and for Sweden, 1 October. Finally, for England and Wales and Ireland an annual average has been taken.

In spite of such differences in definition, we thought it might be of interest to calculate the total prison population in the 16 member States for which data are available (Table 3) [5]. Variations in these population figures are strongly influenced by the Turkish figures. Prison population figures for that country are very high as compared with overall figures (23% on average over the period). They also fluctuate considerably (they multiplied by 3.3 between 1975 and 1982). Turkey is therefore omitted from the graph in Figure 3.1. For all 15 remaining States, the period 1971 to 1979 showed a relatively moderate increase in numbers of prisoners — 7.4% in eight years. Thereafter there is a much steeper rise, giving an overall increase in the seven years betwen 1979 and 1986 of 25.8%.

This general trend obviously covers different types of change depending on the country, as is demonstrated by Figures 3.2 and 3.3. For the purpose of these graphs we grouped States together according to population (at 1.2.1987, Figure 3.2 = over 30 million, Figure 3.3 = three to ten million and under one million). Only three States have seen a downward trend in prisoner numbers in recent years; these are Turkey and Malta since 1982, and the Federal Republic of Gemany since 1983.

5. Prison populations not included in this calculation represented 7.5% of overall figures at 1.9.1986.

Table 4 presents the series of annual increase rates represented in Figure 4. They bring out the relative extent of annual variations in each population. For example, some countries have seen considerable fluctuations in their prison populations: this is evidently the case in countries where the number of prisoners is low in absolute terms (Malta, Cyprus and Luxembourg), but also in Italy, Spain and Turkey, and to a lesser extent in France and Denmark.

For comments on some of these variations, please refer to the notes provided by the national administrations, reproduced after Table 3.

Pierre Tournier
Research Engineer
Centre de Recherches Sociologiques sur le droit et les institutions pénales (CESDIP, UA CNRS 313, Paris)

Figure 3.1

Changes in prisoner numbers in Council of Europe member states since 1970 excluding Austria, Iceland, the Netherlands, Switzerland and Turkey

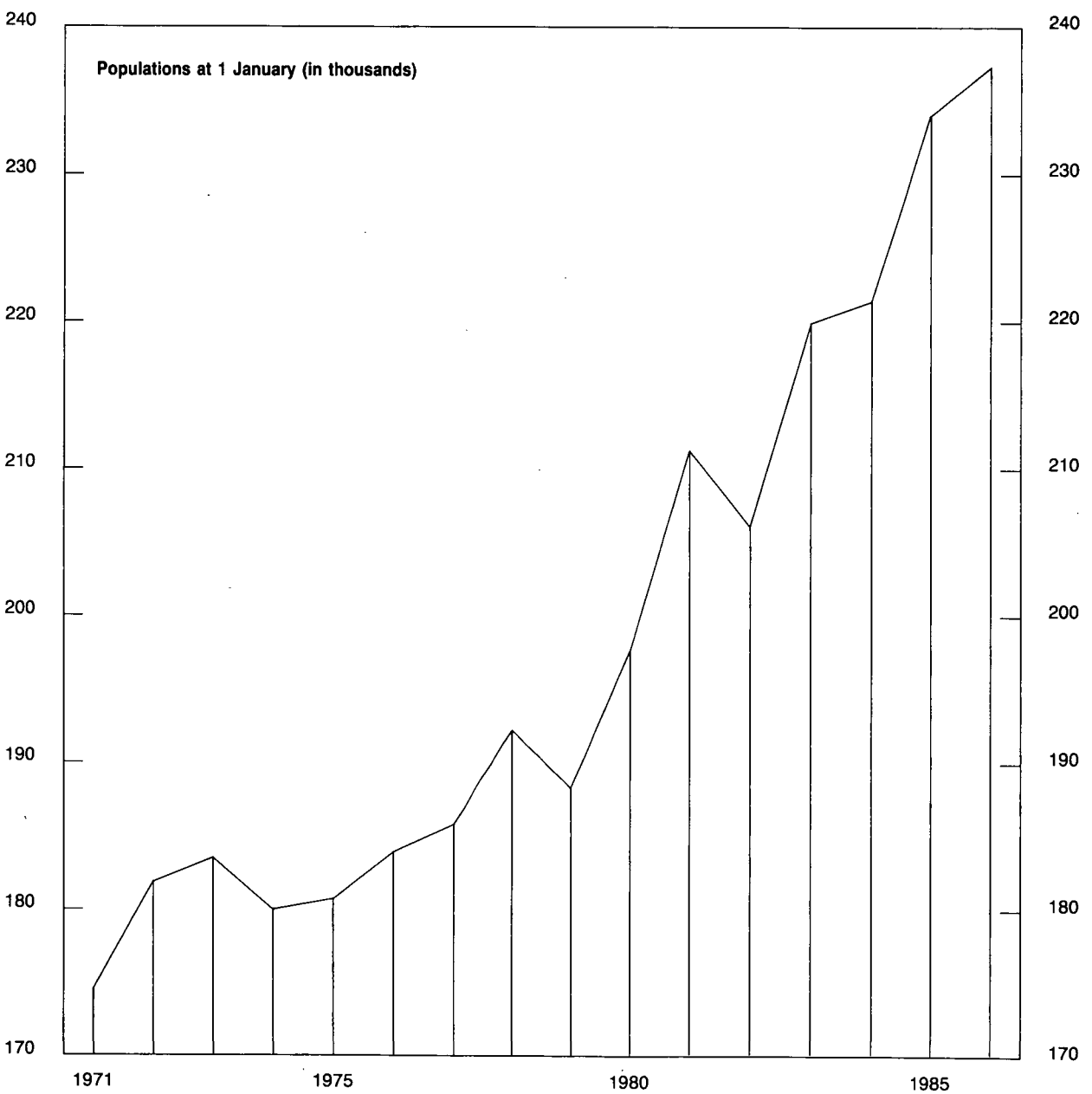
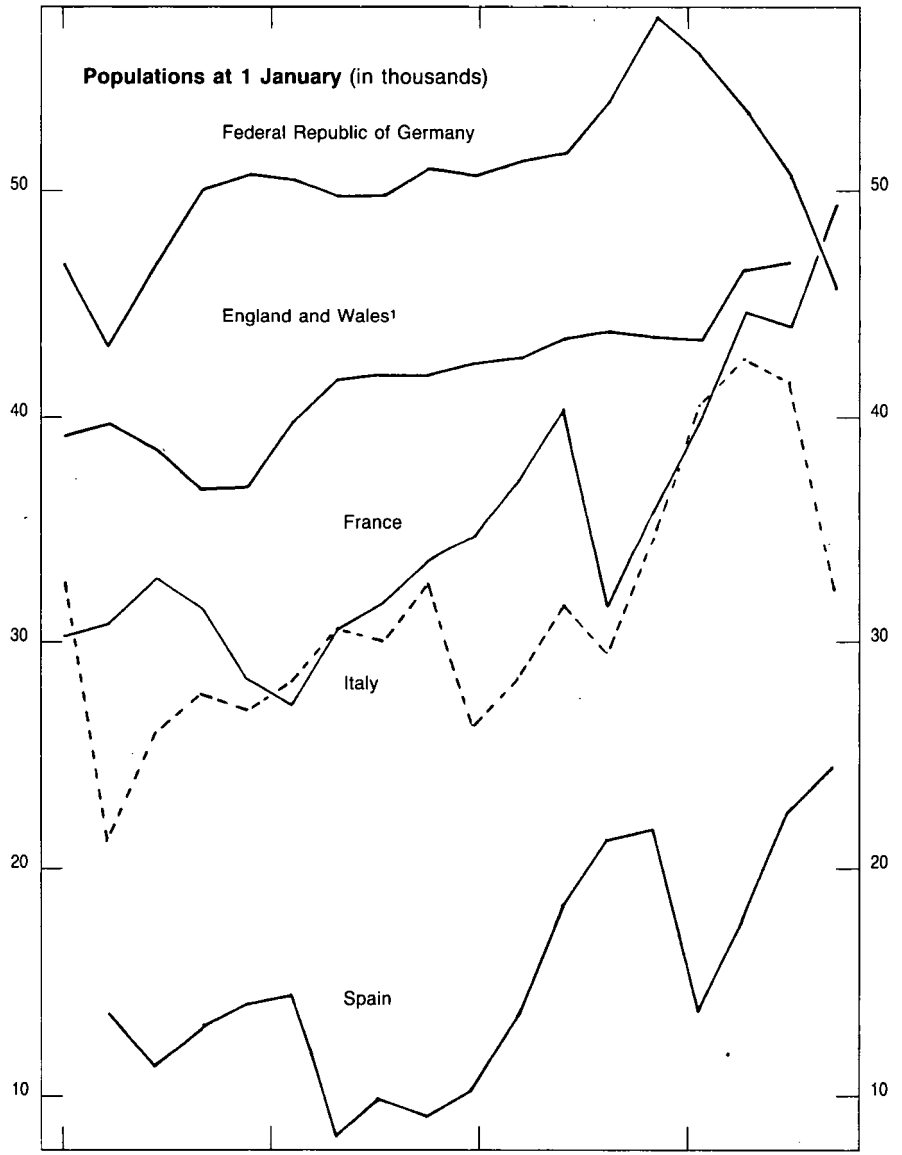
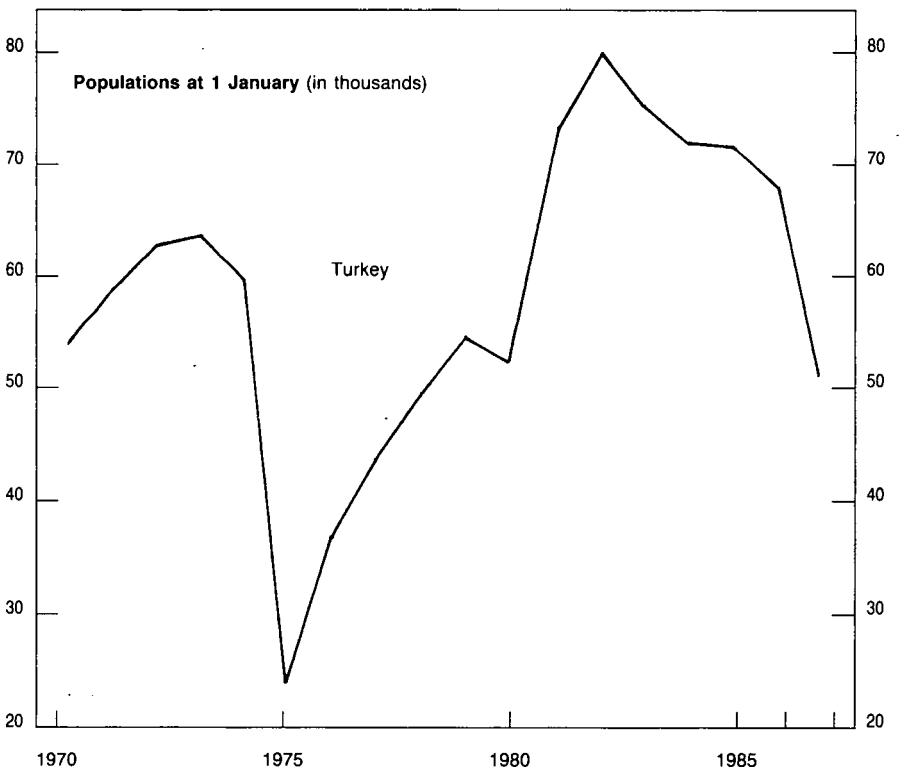


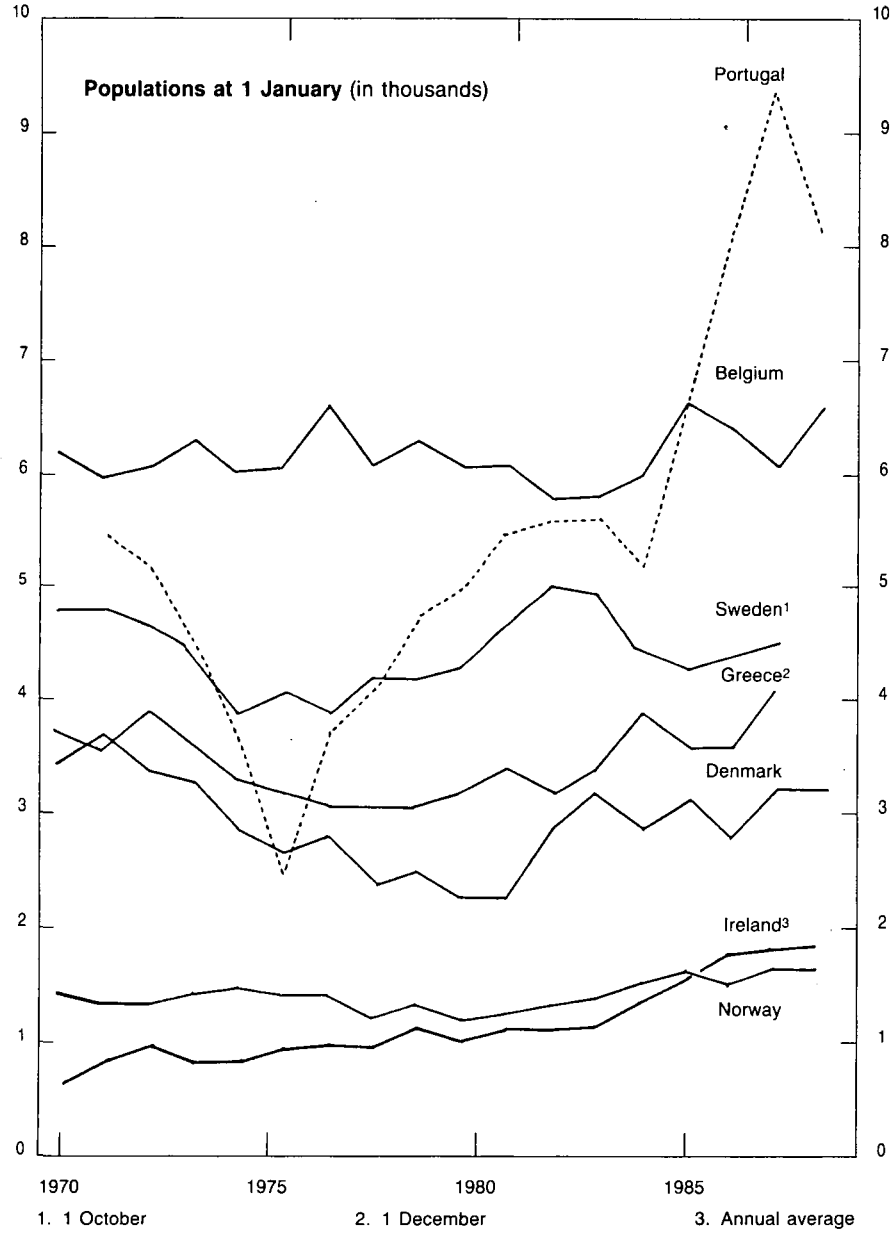
Figure 3.2: **Changes in prisoner numbers since 1970**





1. Annual average

Figure 3.3: **Changes in prisoner numbers since 1970**



1. 1 October 2. 1 December 3. Annual average

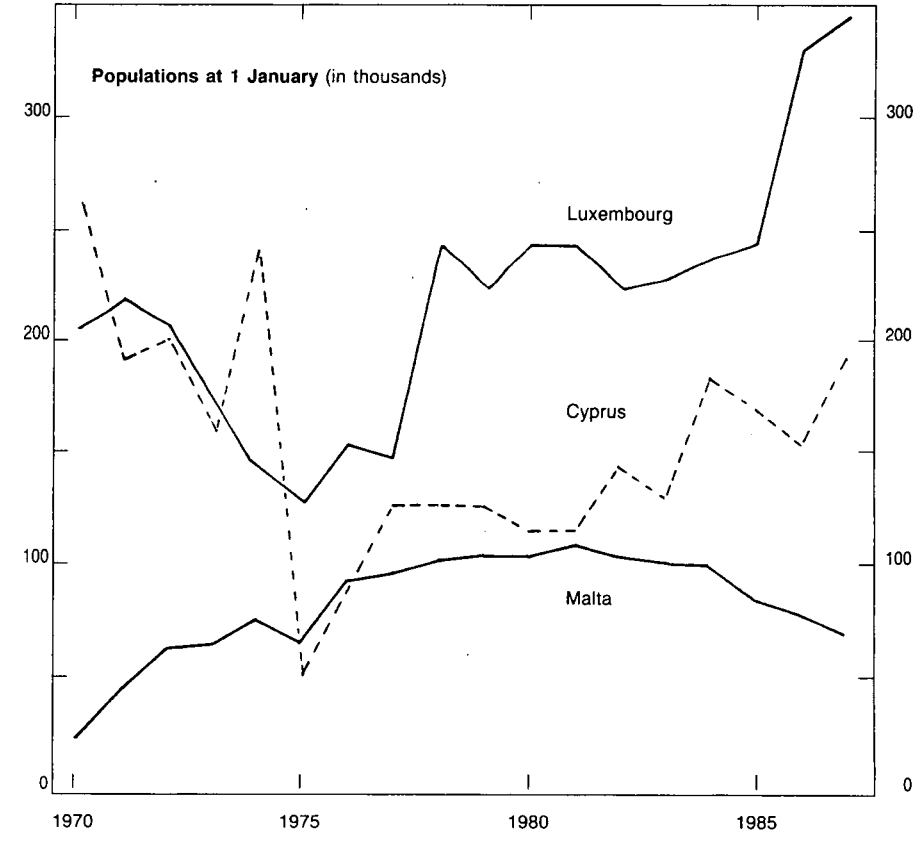
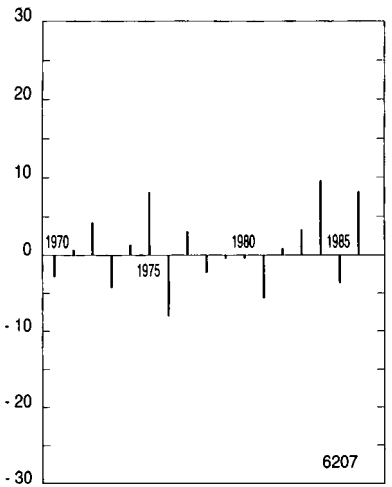
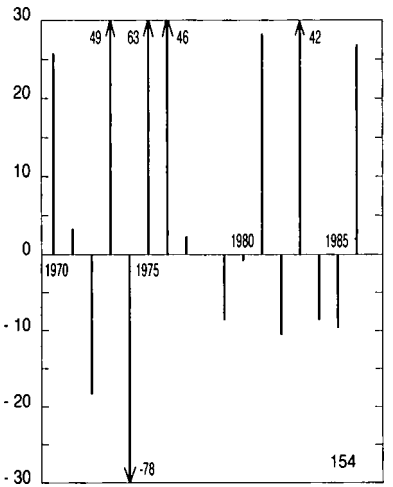


Figure 4: **Rate of annual incrase in prisoner numbers (bottom right: mean populations)**

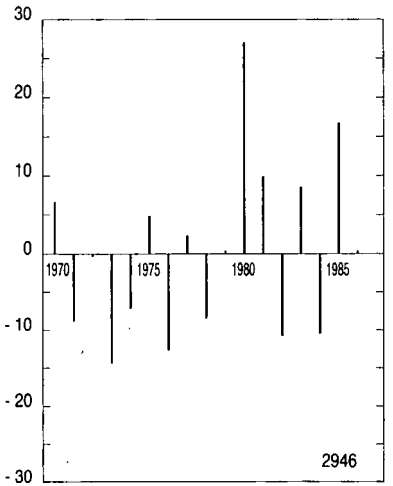
Percentage increase (%)



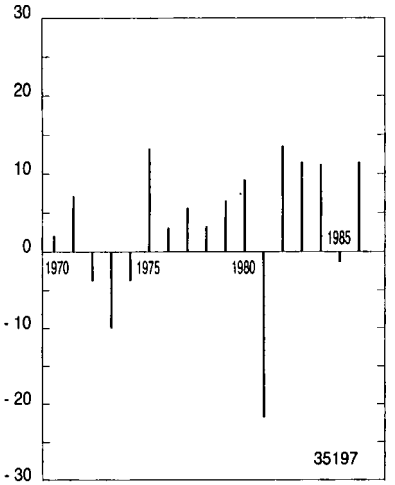
Belgium



Cyprus

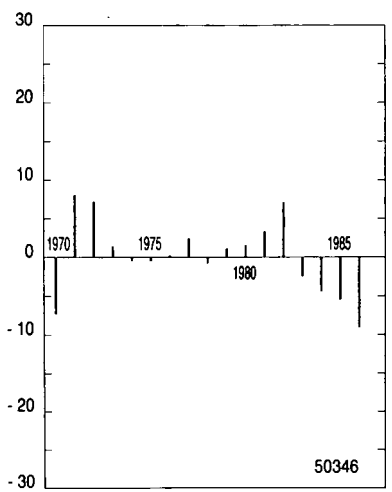


Denmark

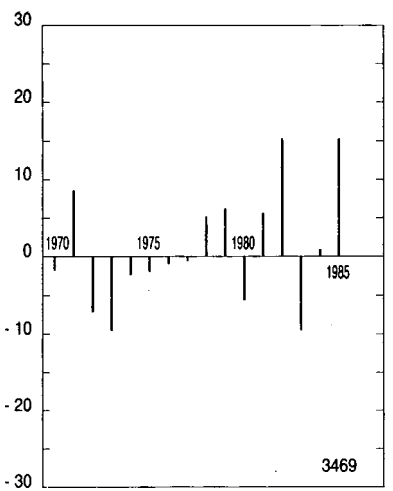


France

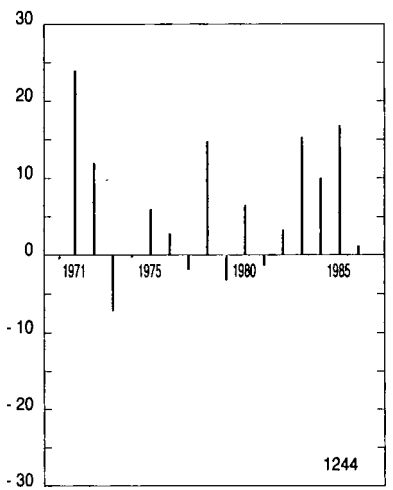
Percentage increase (%)



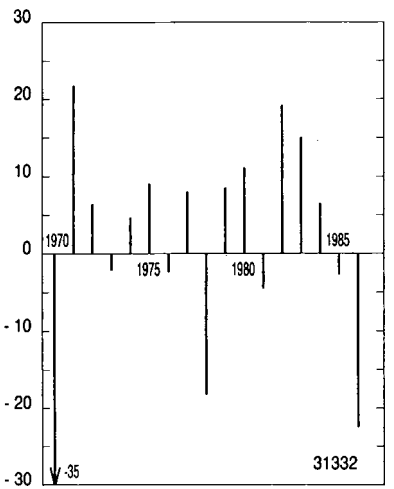
Federal Republic of Germany



Greece



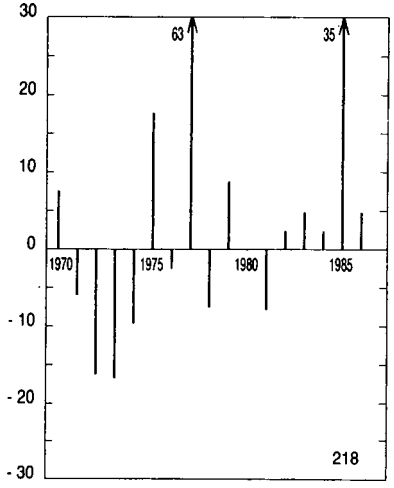
Ireland



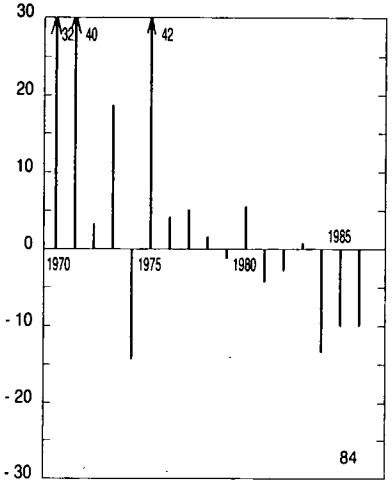
Italy

Figure 4 : (Continued)

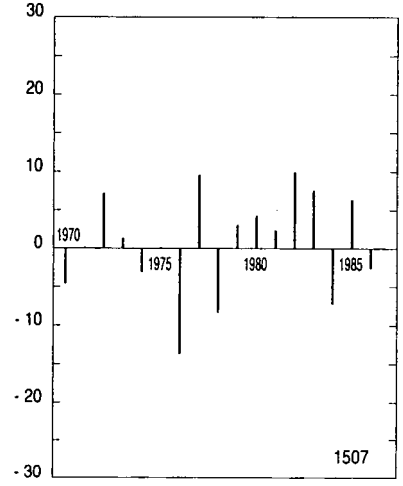
Percentage increase (%)



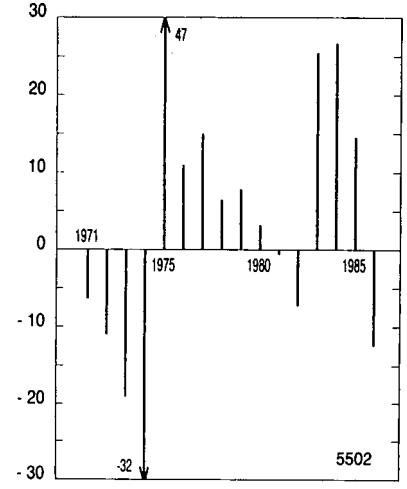
Luxembourg



Malta

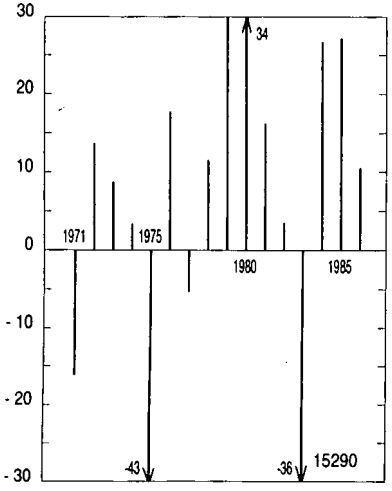


Norway

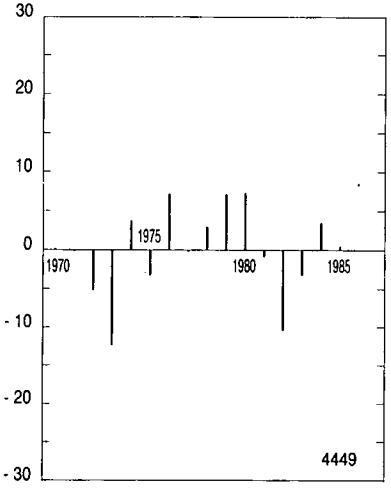


Portugal

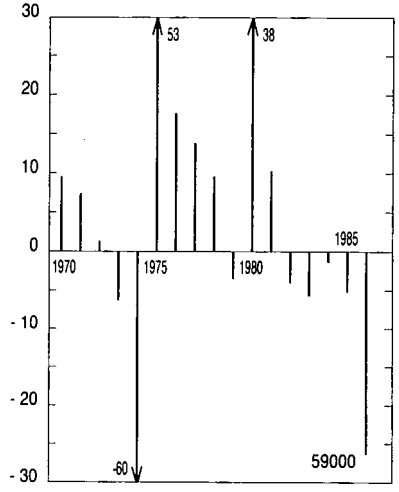
Percentage increase (%)



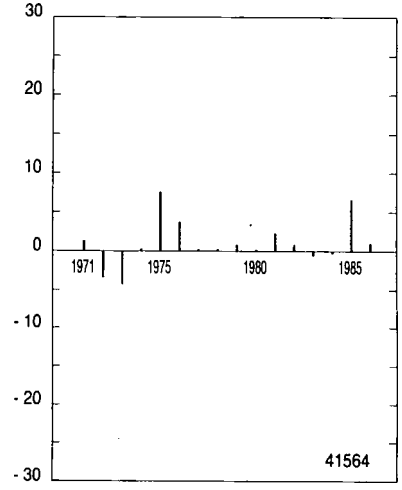
Spain



Sweden



Turkey



England - Wales

Table 1

Situation of prison populations at 1 February 1987

	(a)	(b)	(c)	(d)	(e)	(f)	(g)
	Total prison population	Detention rate per 100,000 inhabitants	Percentage of unconvicted prisoners	Rate of unconvicted prisoners per 100,000 inhabitants	Percentage of women prisoners	Percentage of young prisoners	Percentage of foreign prisoners
Austria	7 795	102,5	21,5	22,1	3,9	18 a: 1,2	7,0
Belgium	6 912	69,4	53,1	36,9	4,5	18 a : 0,8	28,0
Cyprus	217	38,0	5,1	1,9	3,2	21 a : 26,3	30,9
Denmark	3 522	69,0	23,4	16,2	4,3	—	—
France[1]	50 433	88,7	45,7	40,5	4,1	21 a : 15,8	27,0
Fed. Rep. of Germany[1]	51 462	84,2	22,3	18,8	3,8	—	14,5
Greece	3 936	40,4	25,8	10,4	3,6	21 a : 4,4	21,0
Ireland[1]	1 912	54,0	7,9	4,3	2,4	21 a : 25,8	2,0
Iceland	90	36,9	7,8	2,9	6,7	22 a : 18,9	0,0
Italy	32 841	57,4	57,9	33,2	4,8	18 a : 1,6	10,8
Liechtenstein	—	—	—	—	—	—	—
Luxembourg	361	98,9	39,3	38,9	6,6	21 a : 6,6	38,0
Malta	91	27,6	58,2	16,1	6,6	18 a : 3,3	25,3
Netherlands[1]	5 075	36,0	40,8	14,7	2,7	25 a : 17,3	18,5
Norway	2 075	49,7	20,7	10,3	—	21 a : 7,4	7,9
Portugal	8 360	85,0	43,0	36,5	5,2	21 a : 12,1	7,2
Spain	25 925	66,5	43,9	29,2	5,4	21 a : 15,8	14,8
Sweden[1]	4 777	57,0	16,7	9,5	4,4	21 a : 4,6	19,4
Switzerland[1]	—	—	—	—	4,8	18 a : 0,9	34,6
Turkey	51 455	99,8	37,2	37,1	2,7	18 a : 1,0	0,5
United Kingdom[1]	54 483	96,0	21,7	20,8	3,4	21 a : 25,0	1,3
England, and Wales[1]	46 988	93,8	22,4	21,0	3,4	21 a : 25,4	1,5
Scotland	5 602	109,4	17,9	19,6	3,5	21 a : 26,2	0,1
Northern Ireland	1 893	121,0	13,9	16,8	1,7	21 a : 11,9	0,1

1. See notes below

Notes — Table 1

France: The data are for the total prison population in Metropolitan France and the overseas departments (Metropolitan total = 48,959, overseas departments = 1,474).

— For Metropolitan France, indicator (b) is 88.1 per 100,000.

— Indicators (e), (f) and (g) were calculated with reference to the situation at 1.1.1987.

Federal Republic of Germany: Indicator (e) concerns the total prison population, a part from "civil law prisoners" and persons detained pending extradition (n = 1,133). There was no special category for such persons in previous surveys.

— It is impossible to calculate indicator (f) on the total population.

Unconvicted prisoners (n = 11,475): proportion of persons under 21 years = 14.6%. Convicted prisoners (n = 38,854): percentage of convicted prisoners in prisons for young persons = 12.6%; most are between 14 and 25 years old.

— Indicator (g) is an estimate.

Ireland: 38 foreigners, not including 54 prisoners from Northern Ireland.

Netherlands: The figure of 5,075 prisoners does not include the 439 prisoners detained in police premises owing to lack of prison space. In previous enquiries this category was included in the prison population.

Sweden: Indicators (e), (f) and (g) were calculated on the convicted prisoner population.

Switzerland: Detention on remand is excluded from the survey. Contrary to its procedure for previous surveys, the Swiss administration gives no estimate of the number of unconvicted prisoners. It has therefore been impossible to calculate indicators (a), (b), (c) and (d).

— Indicators (e), (f) and (g) are calculated on the basis of the convicted.

England and Wales: Indicators (e) and (f) are for the whole of the prison population except "civil law prisoners" (n = 276).

— Indicator (g) is an estimate; prisoners considered as foreigners are those born outside the Commonwealth, Ireland or Pakistan.

Table 2

Changes in populations from 1 February 1986 to 11 February 1987

	Percentage annual increase						
	(a)	(b)	(c)	(d)	(e)	(f)	(g)
	Total prison population	Unconvicted prisoners	Convicted prisoners	Male prisoners	Female prisoners	Nationals	Foreigners
Austria	- 5,9	-11,7	- 4,2	- 6,2	2,0	- 5,1	-15,9
Belgium	8,5	1,9	17,0	8,7	3,3	6,4	14,2
Cyprus	26,9	( )	24,1	25,0	( )	42,9	(1,5)
Denmark	0,3	- 2,0	1,0	- 0,4	17,2	—	—
France	10,2	2,0	18,3	9,9	18,3	10,9	8,5
Fed. Rep. of Germany[1]	- 8,6	—	—	—	—	—	—
Greece	9,8	4,6	11,7	9,9	7,6	1,0	63,6
Ireland	3,2	30,2	1,4	3,1	(9,5)	4,3	(-30,9)
Iceland	(2,3)	( )	(-1,2)	(0,0)	( )	(3,4)	( )
Italy	-25,1	-24,7	-25,6	-24,9	-28,8	-26,1	-15,3
Liechtenstein	—	—	—	—	—	—	—
Luxembourg	8,1	7,6	8,4	7,0	( )	10,9	3,8
Malta	(1,1)	(39,5)	(-26,9)	(4,8)	( )	(1,5)	( )
Netherlands[1]	5,1	—	—	—	—	—	—
Norway	- 2,2	0,7	- 2,6	—	—	- 3,0	8,6
Portugal	-11,9	2,7	-20,5	13,2	19,3	-13,7	19,3
Spain	10,1	1,6	17,8	9,3	25,0	5,6	45,9
Sweden	2,8	5,0	- 2,3	—	—	—	—
Switzerland	—	—	—	—	—	—	—
Turkey	-23,7	-13,4	-28,7	-23,7	-23,0	-23,8	11,3
United Kingdom	2,6	9,4	0,7	2,6	2,2	—	—
England, and Wales	3,0	13,0	0,3	3,0	0,8	—	—
Scotland	0,6	-15,1	4,8	0,1	16,7	0,5	( )
Northern Ireland	- 2,3	- 2,3	- 1,3	- 2,3	- 2,9	- 2,3	( )

1. See notes below

Notes — Table 2

Percentages given in brackets are to be considered as insignificant owing to the low prison populations concerned (under 100 at 1.2.1986 and 1.2.1987).

Where the populations at these two dates were under 30, no rates were calculated — the symbol used is ( ).

Federal Republic of Germany: Indicators (b) and (c) were not calculated because no comparable data for the two dates were available (change in data presentation — see note to Table 1). Indicators (f) and (g) were not calculated owing to lack of exact data.

Netherlands: Indicators B to G were not calculated be cause comparable data for the two dates were unavailable (problem of persons detained on police premises owing to lack of prison space).

Table 3: **Changes in prisoner numbers since 1970 ("stock" statistics)**

	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987
Belgium	6 235	6 055	6 088	6 347	6 059	6 150	6 650	6 103	6 285	6 137	6 127	5 793	5 854	6 055	6 637	6 380	6 131	6 639
Cyprus	257	192	198	161	240	52	85	124	127	127	116	115	147	131	186	170	153	194
Denmark	3 458	3 680	3 355	3 350	2 868	2 665	2 794	2 441	2 501	2 291	2 302	2 915	3 205	2 856	3 103	2 776	3 230	3 233
France	30 098	30 737	32 890	31 512	28 276	27 165	30 715	31 653	33 485	34 640	36 934	40 376	31 547	35 877	40 010	44 498	44 029	49 112
Fed. Rep. of Germany	46 521	43 040	46 606	49 925	50 519	50 140	49 677	49 772	50 929	50 395	51 051	51 892	53 597	57 311	55 806	53 156	50 220	45 666
Greece	3 670	3 600	3 909	3 613	3 258	3 173	3 118	3 086	3 062	3 221	3 419	3 222	3 408	3 928	3 557	3 591	4 134	—
Ireland	749	926	1 035	963	961	1 019	1 049	1 029	1 179	1 140	1 215	1 196	1 236	1 450	1 594	1 859	1 879	1 920
Italy	32 754	21 379	25 960	27 603	26 987	28 216	30 726	29 973	32 337	26 424	28 606	31 765	29 506	35 043	40 225	42 795	41 536	32 148
Luxembourg	203	218	205	172	143	129	152	148	241	223	242	242	223	228	239	245	330	345
Malta	34	45	63	65	77	66	94	98	103	105	104	110	105	102	103	89	80	72
Norway	1 495	1 424	1 430	1 533	1 558	1 511	1 519	1 308	1 434	1 312	1 351	1 411	1 446	1 624	1 747	1 619	1 725	1 679
Portugal	—	5 544	5 188	4 622	3 723	2 532	3 734	4 142	4 751	5 054	5 454	5 642	5 599	5 188	6 499	8 231	9 407	8 221
Spain	—	13 890	11 598	13 109	14 257	14 764	8 440	9 937	9 392	10 463	13 627	18 253	21 185	21 942	13 999	17 713	22 488	24 869
Sweden	4 751	4 761	4 745	4 495	3 941	4 091	3 941	4 217	4 213	4 345	4 655	4 991	4 943	4 419	4 257	4 418	4 456	—
Turkey	53 829	58 970	63 296	64 369	60 342	24 397	37 237	43 759	49 842	54 671	52 937	73 785	81 346	78 086	73 488	72 511	68 596	50 544
United Kingdom England and Wales	39 028	39 708	38 328	36 774	36 867	39 820	41 443	41 570	41 796	42 220	42 264	43 311	43 707	43 462	43 295	46 233	46 770	—
TOTAL	—	234 169	244 894	248 613	240 076	205 890	221 374	229 360	241 677	242 768	250 404	285 019	287 054	297 702	294 745	306 284	305 164	—
TOTAL without Turkey	—	175 199	181 598	184 244	179 734	181 493	184 137	185 601	191 835	188 097	197 467	211 234	205 708	219 616	221 257	233 773	236 568	—

Table 4: **Rate of annual increase in prisoner numbers**

	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986
Belgium	- 2,9	0,5	4,3	- 4,5	1,5	8,1	- 8,2	3,0	- 2,4	- 0,2	- 0,2	- 5,5	1,1	3,4	9,6	- 3,9	8,3
Cyprus	-25,3	3,1	-18,7	49,1	-78,3	63,5	45,9	2,4	0,0	- 8,7	- 0,9	27,8	-10,9	42,0	- 8,6	-10,0	26,8
Denmark	6,4	- 8,8	- 0,1	-14,4	- 7,1	4,8	-12,6	2,5	- 8,4	0,5	26,6	9,9	-10,9	8,6	-10,5	16,4	0,1
France	2,1	7,0	- 4,2	-10,3	- 3,9	13,1	3,1	5,8	3,4	6,6	9,3	-21,9	13,7	11,5	11,2	- 1,1	11,5
Fed. Rep. Germany	- 7,5	8,3	7,1	1,2	- 0,8	- 0,9	0,2	2,3	- 1,0	1,3	1,6	3,3	6,9	- 2,6	- 4,7	- 5,5	- 9,1
Greece	- 1,9	8,6	- 7,6	- 9,8	- 2,6	- 1,7	- 1,0	- 0,8	5,2	6,1	- 5,8	5,8	15,3	- 9,4	1,0	15,1	—
Ireland	—	23,6	11,8	- 7,0	- 0,2	6,0	2,9	- 1,9	14,6	- 3,3	6,6	- 1,6	3,3	17,3	9,9	16,6	1,1
Italy	-34,7	21,4	6,3	- 2,2	4,6	8,9	- 2,5	7,9	-18,3	8,3	11,0	- 7,1	18,8	14,8	6,4	- 2,9	-22,6
Luxembourg	7,4	- 6,0	-16,1	-16,9	- 9,8	17,8	- 2,6	62,8	- 7,5	8,5	0,0	- 7,9	2,2	4,8	2,5	34,7	4,5
Malta	32,4	40,0	3,2	18,5	-14,3	42,4	4,3	5,1	1,9	- 1,0	5,8	- 4,5	- 2,9	1,0	-13,6	-10,1	-10,0
Norway	- 4,7	0,4	7,2	1,6	- 3,0	0,5	-13,9	9,6	- 8,5	3,0	4,4	2,5	12,3	7,6	- 7,3	6,5	- 2,7
Portugal	—	- 6,4	-10,9	-19,5	-32,0	47,5	10,9	14,7	6,4	7,9	3,4	- 0,8	- 7,3	25,3	26,7	14,3	-12,6
Spain	—	-16,5	13,0	8,8	3,6	-42,8	17,7	- 5,5	11,4	30,2	33,9	16,1	3,6	-36,2	26,5	27,0	10,6
Sweden	0,2	- 0,3	- 5,3	-12,3	3,8	- 3,7	7,0	- 0,1	3,1	7,1	7,2	- 1,0	-10,6	- 3,7	3,8	0,9	—
Turkey	9,6	7,3	1,7	- 6,3	-59,6	52,6	17,5	13,9	9,7	- 3,2	39,4	10,2	- 4,0	- 5,9	- 1,3	- 5,4	-26,3
United Kingdom England & Wales	—	1,7	- 3,5	- 4,1	0,3	8,0	4,1	0,3	0,5	1,0	0,1	2,5	0,9	- 0,6	- 0,4	6,8	1,2

Notes — Table 3

Comments from administrations

Unless otherwise indicated, the reference date is 1 January.

Belgium: Royal Decrees of general pardon in 1976, 1980, 1984 and 1985 (twice). A number of orders granting provisional release pending pardon (to relieve overcrowding).

Denmark: For the period 1970-1973 an average has been taken. Decriminalisations in 1971, 1973, 1981 and 1982. Penalties for drunken driving were reduced in 1971, 1976 and 1981 from an average of twenty to ten days' imprisonment. In 1982, penalties for minor offences against property were reduced by one-third and probation has increasingly been used for this type of crime.

France: Data concern Metropolitan France and the overseas departments. Act of 29.12.1972: introduction of remission of sentence, and empowering judges responsible for execution of sentence to grant conditional release to persons sentenced to three years and under.

Amnesty on 17.7.1974, general pardon on 14.7.1981, and amnesty on 4.8.1981.

Act of 9.7.1984 reinforcing personal rights relating to detention on remand and implementation of court orders (this came into force on 1.1.1985).

General pardon on 14.7.1985.

Federal Republic of Germany: 1 January was chosen in order to facilitate comparison with other European countries. However, it should be noted that the population at this date is consistently smaller than the annual average.

— 20th Act of 8.12.1981 amending the Criminal Code: under this Act, which came into force on 1.5.1982, Courts may decide that a prisoner serving a life sentence who has served 15 years in prison may have the rest of the sentence suspended and be put on probation.

— Act of 28.7.1981 amending the legislation on drugs (deferring the sentence for drug offences if the persons convicted agree to undergo detoxication treatment).

Given the small numbers of persons concerned, these acts have probably had no influence on overall changes in prison population.

23rd Act of 13.4.1986 extending the scope for the early release.

Greece: Reference date: 1 December

— DL 106/1973: statutory limitation on prosecution of certain crimes.

— DL 59/1974: legalisation of the Communist Party.

— DL 519/1974: amnesty.

— 4th motion of the 5th Constitutional Review Chamber of 1975: criminal proceedings against the instigators of the 21.4.1967 coup d'état.

— L.233/1975: statutory limitation on prosecution of punishable offences.

— L.1289/1982: repeal of Acts 375/1936 and 942/1946 against crimes of espionage etc.

— L.1240/1982: conditional limitation on and termination of prosecution for certain punishable offences, and conditional release of prisoners.

— L.1419/1984: commutation of custodial sentences.

Ireland: Here an average has been taken.

The increase in prison population may partly be explained by the rise in serious crime, as reflected by the increasing numbers of persons imprisoned and the increasing length of sentences. However, statistics on known crime for 1984, 1985 and 1986 show a reduction whereas over the same period population has considerably increased.

Italy: Amnesties: 22.5.1970, 4.8.1978, 18.12.1981, 16.12.1986.

— Act No. 7 of 25.1.1985 establishing shorter periods of detention on remand.

Malta: General amnesties: 13.12.1974, 13.12.1976, 29.3.1979, 30.3.1982, 29.1.1987.

These amnesties have had no significant influence on general trends.

Portugal: "Amnesty and pardon": 16.6.1974, 22.10.1976, 13.3. 1981, 2.7.1982, 11.6.1986.

Spain: General pardons: 23.9.1971, 25.11.1975, 14.3.1977;

Amnesties: 30.7.1976, 15.10.1977.

Act 7/83 of 23.4.1983 modifying the periods of detention on remand.

Sweden: Reference date: 1 October (when the number of prisoners approximates to the annual average).

1.7.1974: new legislation on prison institutions.

1.7.1983: introduction of automatic conditional release midway through sentence for persons serving sentences of between two months and two years.

Turkey: Act of 13.7.1975 on execution of sentence.

Amendments to the Act on execution of sentence: 1.6.1978 and 11.3.1986.

England and Wales: Reference date = annual average.

— 1972 Criminal Justice Act: Section 35 of the Act came into force on 1.1.1973, making provision for larger numbers of prisoners to be released on parole at the recommendation of the Local Parole Review Committee, without referral to the Parole Board.

— 1972 Prison Rules (amendment): Rule No. 2, which came into force on 1 January 1973, amended the Prison Rules by stipulating that the whole period spent in detention (including detention prior to sentence) be taken into account for sentence remission.

Refer to "Prison Statistics, England and Wales", 1985 for analysis of legislation over the period 1974-1985.

Appendix 1. Data on prison population in Finland

Situation at 1 February 1987

a. Total prison population	4,474
b. Rate of detention per 100,000 inhabitants	90.0
c. Percentage of unconvicted prisoners	10.8
d. Rate of unconvicted prisoners	9.8
e. Proportion of women prisoners	3.2
f. Percentage of young prisoners (21 years)	6.2
g. Percentage of foreign prisoners	0.4

Laws, bills, regulations

The titles of laws which have come into force in the past year, bills and regulations relating to prison affairs which are likely to be of particular interest to the prison administrations of other member States will be given in this section. In certain cases, the titles are followed by a brief summary.

Belgium

Ministerial circulars Nos. 1510 of 9 December 1986 and 1512 of 15 December 1986 oon the new type of identity card.
The procedure for replacing identity cards is now under way and will soon concern the age groups into which the prison population falls. These two circulars specify the details.

Denmark

Bekendtgørelse om regulering af erstatningsbeløb i henhold til lov om erstatning fra staten til ofre for forbrydelser.
Bkg. Nr. 84 af 23. februar 1987. Government order concerning the adjustment of compensation given to victims.

Cirkulaere af 22. januar 1987 om anvendelse af handjern over for indsatte.
Guidelines of January 22 1987 about the use of handcuffs in the prison system.

Lovforlag om udvidelse af omradet for varetaegtsfaengsling. Lovforslag nr. L 135 fremsat den 17. december 1986 af justitsministeren
Draft legislation on the use of custody before trial.

France

Laws:

Act No. 86-1004 of 3 September 1986 on identity checks.

Act No. 86-1021 of 9 September 1986 on sentence enforcement.

Decree:

Decree No. 87-1987 of 25 March 1987 amending Decree No. 86-74 of 15 January 1986 on membership of the advisory committee on permanent audiovisual judicial archives.

Circulars:

Circular of 7 January 1987 No. AP-01 GI-701 on the imprisonment of women with their children.

Circular of 15 January 1987 No. Ap 87-02 G1 on the application of Act No. 86 1019 of 9 September 1986 on combating crime and Act No. 86-1021 of 9 September 1986 on sentence enforcement.

Circular of 22 January 1987 No. A 81 JPA/AS on provisions for the implementation of international conventions on the transfer of sentenced persons.

Circular of 2 February 1987 No. 126 GH2 on the programme to extend work release schemes for young offenders.

Circular of 2 February 1987 No. 127 GH2 on the programme to extend work release schemes for young offenders.

Circular of 4 February 1987 CRIM AP No. 86-772 B F 22 on the keeping of probation committee accounts.

Circular of 10 March 1987 No. AP 77-04 H3-GH1 on the keeping of probation committee accounts.

Circular of 12 March 1987 K3 on the mangement of appropriations for socio-educational measures.

Circular of 25 February 1987 No. AP 87-03 G2 on the socio- educational service in prisons.

Federal Republic of Germany

The first Act to improve the Status of the Victim in Criminal Proceedings (Victim Protection Act of 18 December 1986 (Bundesgesetzblatt I page 2496) entered into force on 1 April 1987.

The Act makes individual provision as follows:

1. The avenues of information for all victims—irrespective of the criminal offence committed against them—concerning the state of proceedings against the offender have been improved. All victims have been given a statutory right to inspect the files and to be informed about the course and the outcome of proceedings.

2. Statutory provision is made in the Criminal Procedure Code for all victims to be able to have the assistance of a lawyer who will also support them when the court examines them as witnesses.

3. Victims of serious offences—for instance of rape, of serious bodily injury, of serious cases of unlawful deprivation of liberty and of attempted homicides—have been given more extensive rights:

a. they can, as accessory prosecutors, participate directly and actively in proceedings against the offender. They can make their own applications during the trial and defend themselves against defamatory questioning and allegations of guilt;

b. a lawyer can be assigned to assist them at state expense, i.e. already during investigation proceedings.

4. Protection of the victim's personal sphere in court has been improved. Victims have been given the right generally to object to questions concerning their personal sphere. To a greater extent than was previously possible the public can be excluded from the main court hearing where strictly personal matters are being discussed.

5. Reparation for the damage suffered by the victim as a result of the criminal offence has been improved by:

a. facilitation during the criminal trial itself of the assertion of the victim's claims to compensation from the offender;

b. priority for the victim's compensation claims over stat e claims to fines and court costs. Offenders first have to make reparation for the damage suffered by the victim.

Italy

Act No. 663 of 6 October 1986 amending the Act on prison rules and the enforcement of measures involving deprivation and restriction of liberty.

This is an "extensive" reform relating to some of the main rules introduced under the Act of 1975. It deals chiefly with alternative measures and those introducing new arrangements such as, for example, privileges for good conduct (introduction of special leave).

Tougher rules for the most dangerous prisoners, including the introduction of special surveillance subject to very stringent court supervision are also planned.

Radical changes have been made to the rules governing work inside and outside prisons. From now on prisoners who work may be offered paid leave of absence to attend courses of instruction or vocational training.

The Act has introduced "special leave" (45 days per annum) which may be granted to prisoners for good conduct and who have "shown a constant sense of responsibility and reformed personal behaviour both in their work and during cultural activities organised in prison".

Sections 11 to 16 of the Act make changes to the system of alternative measures (probation and semi-detention). The limitation in Section 47 (2), which ruled out the application of the said measures to persons convicted of aggravated theft, extortion, aggravated extortion, sequestration of a person for the purposes of extortion and association with the mafia or a similar organisation, has been deleted.

Probation is granted only after one month's observation of the person in question who must be serving a sentence of no longer, than three years.

Semi-detention may be granted today in place of a custodial sentence when the convicted person has shown that he wishes for social rehabilitation. Normally this measure is granted after half of the sentence has been served (20 years for prisoners serving a life sentence), save in the case of sentences of less than 3 years, when it may be granted after a period of brief observation in prison.

Section 47 ter introduces a further alternative measure: *detention in the home.*

This measure concerns sentences of less than two years in prison "even if they represent the remainder of a much longer setence".

Act No. 743 of 7 November 1986 amending the rules on detention on remand.
This Act establishes new time limits for the detention on remand of persons accused of very serious crimes.

Act No. 905 of 22 December 1986 increasing prison staff by 2,000 members.
This Act has increased the strength of prison warders by 2,000. Consequently, the total number of prison staff, (warders, junior officers and officers) now works out at 25,522.

Act No. 43 of 16 February 1987, published in Official Journal No. 46 of 25 February 1987, on the adjustment of the salaries of health staff working in remand centres and prisons who are not members of the prison administration service.
This Act adjusts the salaries of doctors who are not civil servants and increases the remuneration of doctors working in island prisons.

Act No. 56 of 28 February 1987, published in the supplement to Official Journal No. 51 of 3 march 1987 on rules concerning the organisation of the labour market.
Section 19 of this Act lays down that local employment committees shall take steps to determine the arrangements for and encourage the offer of employment by firms to prisoners. Co-operation is thus established with the prison authorities responsible for the treatment of prisoners.

Furthermore, this Act determines the principles of unemployment benefits for prisoners and their registration at job centres.

Legislative decree No. 164 of 29 April 1987, published in Official Journal No. 99 of 30 April 1987 on emergency measures concerning the staff of the prison administration service.
This legislative decree increases the number of administrative directors, directors of the social services, instructors and welfare officers by 108, 20, 155 and 210 members respectively. A further 2,000 prison warders are to be recruited and an additional 27 prison officers. Moreover, the allowances of the staff of the prison administration service are being adjusted.

Netherlands

As per *1 January 1987 the bill* announced in Bulletin No. 6 (December 1985) letter and *concerning conditional release which became unconditional early release, came into force.*

As per *18 March 1987* a *new regulation was enforced by which extra days claimed by convicts on home leave because of "unexpected illness", will have to be served in prison, thus pushing the release date a corresponding number of days ahead.*

This measure has caused a severe drop in the number of illness days during home leave.

On *7 April 1987 the State Secretary for Justice announced in an official letter to the House of Commons a number of new policy measures in order to repress drugs in prison.* It contains proposals about the establishment of so-called "drug free sections" in a number of prisons.

Norway

On *12 June 1987*, the minimum age for criminal responsibility was raised from 14 to 15 years. It is not yet decided when this act will come into force.

Portugal

Legislative decree No. 78/87 of 7 February introducing the Code of Criminal Procedure to replace the 1929 Code.

The new Code came into force on 1 June 1987.

One provision (that concerning remand in custody) entered into force immediately.

Legislative decree No. 477/82, which has now been abolished, listed a substantial number of crimes for which no bail was allowed. As a result, all the cases in which remand on custody has been granted on the basis of the new legislative decree, were referred to the courts which has 15 days to decide whether someone had to be kept in prison or could be provisionally released.

531 prisoners have been provisionally released under this procedure.

Circular No. 25/87 of 17 February on preliminary reports drafted by the education services of each prison.

Sweden

A Government bill on amendments to the Swedish Penal Code has been presented to Parliament (Prop. 1986/87:106).

The Bill proposed that a form of treatment on contract shall be introduced as a form of non-institutional treatment and as an alternative to imprisonment. Treatment on a contract basis will mainly be introduced for persons misusing alcohol, narcotic drugs or other drugs, or for persons where any other circumstances demand care or treatment, and which have been directly instrumental in criminal activity. If the defendant agrees to undergo suitable treatment in accordance with an individual treatment plan and treatment is possible to arrange, the proposed form of sanction shall be used. The court shall pronounce contract treatment as a form of regulation included in the probation sentence.

The Government Bill 1986/87:112 proposes amendments to the rules of criminal procedure concerning forms of deprivation of liberty such as seizing, arrest and remand into custody.

The amendments include i.a. the conditions for decisions on remand into custody and arrest including the time-limits granted before the case has to be brought before the court. The Bill proposes for example that the rules of the court trial of the above-mentioned forms of deprivation of liberty will be adjusted to the practice developed from the interpretation of the European Convention on the Protection of Human Rights. It proposes that the public prosecutor presents the court with a request for remand into custody on the day for his decision on arrest or the day after at the latest. If exceptional reasons exist the prosecutor may wait until the third day after the arrest. In accordance with the principal rule the court procedure on remand into custody must be held the same day or the day after the prosecutor's request. The court procedure may not be held later than four days after the day for the deprivation of liberty. The proposal includes a considerable reduction of the current time limits for the court trial.

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Titles of recently published books on specific aspects of penology which might be of use to all those concerned with prison affairs will be given in this section. In certain cases the titles are followed by a brief summary.

Belgium

Berg Mirjam: Detention on remand in the member States of the Council of Europe plus Finland. Both reports are available in English and French from: the Quaker Council for European Affairs, 50 Square Ambiorix, 1040 Brussels, Belgium. Price first report: 500 BF; second report: 250 BF. post and package excluded.

Introduction: Nick McGeorge, joint representative of QCEA

The Quaker Council for European Affairs was set up in 1979 to further the concerns of the Religious Society of Friends (Quakers) in the European context. QCEA represents the interests of Quakers in Ireland, Great Britain, France, Belgium, the Netherlands, Denmark, Norway, Sweden and Finland, the Federal Republic of Germany, Austria and Switzerland. This non-governmental organisation has consultative status with the Council of Europe.

The Society came into being during the 17th century in England and suffered persecution with thousands of Quakers being imprisoned. As a consequence Quakers have always been interested in prison conditions and prison reform. The obvious problems caused by the ever-growing numbers of people being held in custody awaiting trial throughout Europe caused QCEA to undertake a two part study. The first part is concerned with the laws relating to putting people into detention to await their court hearing, the second consists in an examination of the conditions under which such people are held and the rules and regimes of remand prisons.

The main purpose of the study is to encourage public awareness of the problem with the aims of reducing the numbers of such prisoners and improving their conditions.

* * *

The study was undertaken by Mirjam Berg, who is Dutch with a French law degree and now practising in Paris. She was encouraged in her investigation by Angele Kneale, the QCEA representative from 1983-86, who had successfully stopped birching being used as a judicial punishment by the Isle of Man through a judgment of the European Court of Human Rights, and Nicholas McGeorge, now joint QCEA representative and former head of the psychology unit in Britain's largest remand prison.

Awaiting justice

The study on remand systems which concerns 22 European countries and lasts from October 1984 until May 1986, was divided into two parts, both resulting in a report of which you find hereafter a brief description.

Part I — Legislation

A summary of the national laws applicable to detention on remand in 19 of the 21 member States of the Council of Europe, plus Finland, and a comparison between them and with the Council of Europe's Recommendation R (80) II.

The main points of comparison were:

— the *applicable Acts and planned reforms*. It is worth noting that many countries feel the need to reform and that some have recently introduced changes in their laws.

— the *offences* for which detention on remand may be ordered. In some countries, remand is in theory possible for any criminal offence. In others, only if the penalty incurred exceeds a certain minimum thus excluding remand in cases where a person is suspected of a minor offence.

This legal "threshold" and the principle of proportionality may limit the use of detention on remand.

— the *grounds justifying remand* which are in almost all countries the danger of absconding, of collusion or destroying evidence, or of committing a (further) offence. The danger of absconding is often legally deemed to exist if the suspect is a non-resident. As a rule, the national laws are less demanding where non-residents are concerned: no need to give grounds for the decision, no minimum of the offence required.

— the *procedure* which includes: police powers of arrest and detention (as far as information was available), authorities who may order detention on remand, right to appeal and to obtain the assistance of a defence council, legal maximum length (which rarely exists unfortunately).

— the *alternative measures* which may be imposed instead of detention on remand. Most laws expressly state that detention on remand is an exceptional measure and that alternatives should be used as often as possible. In practice, this does not always seem to happen.

— the *place of detention*: in theory, prisoners on remand are held in remand centres, local prisons or in a special wing of a prison where several categories of inmates are accommodated. In practice, they may also be kept in prison cells (in England, the Netherlands). As local prisons are often used to hold convicted prisoners, pending their transfer to other establishments, contact between them and prisoners on remand is almost unavoidable. Some think there should be no contact at all between those two categories, but not all remand prisoners are "first offenders", not all convicted inmates "multi-recidivists". The latter distinction seems far more important.

— *isolation*: the legal possibility of keeping a suspect "incommunicado", i.e. forbid all or part of his contacts with the outside world and/or with other inmates (enlarged in second report).

— *deductibility* of the period spent on remand from the sentence imposed. Until their conviction, remand prisoners are presumed innocent and their detention can thus, theoretically, not be considered to be a penalty. However, in practice it is experienced like a real sanction and it has strong effects on the suspects' work, housing and family situation. Where the preparation of their defence is concerned, remand prisoners are also disadvantaged in comparison with suspects released on bail. Therefore, the time spent on remand is, in most countries, deducted from the penalty imposed.

— the *compensation* an ex-remand prisoner may ask if no penalty is imposed at all. A special fund does not yet exist in all European countries despite the Council of Europe's Recommendation. In practice, only a few of the suspects who have spent time in custody before being acquitted or released by Court or the charges against them dropped, ask for compensation (enlarged in second report).

Part II: Practice

A study of the *implementation* of these laws and particularly of the *practical conditions* in which people on remand are held. In order to gather information for this second report, questionnaires have been sent out to the Ministries of Justice of the member States of the Council of Europe, plus Finland (completed by 17 of the 22) and to the non-governmental organisations working in the field of prison and penal reform (completed by 20). Furthermore, (ex) prisoners, members of the Belgian and European Parliaments, prison chaplains and visitors have been approached and, above all, 25 penal institutions in Belgium, England, France, the Federal Republic of Germany, Luxembourg, the Netherlands and Switzerland have been visited in 1985.

The most striking feature of remand in Europe is its variety. Even within the framework of the same legal system, whether national or regional, the practice is very different from one prison to another. The personality of the Governor, the selection and training of the personnel, the practical conditions, the number of inmates all influence the atmosphere. These differences should always be borne in mind and it is intended to generalise.

Neither is it possible to take a "good" system and apply it as such in another country. The remand system is indeed part of a large network of social and penal policies and laws, and reflects society as a whole. This does not mean of course, that to compare different national systems is pointless nor that some positive aspects and initiatives could not be emulated by neighbouring countries or prisons. However, these comparisons should not lead to a classification of systems of "good" or "bad", nor to national self-satisfaction which would allow governments not to act. It is nearly always possible to find a country where detention on remand creates worse problems than in others, but there is always room for improvement.

Here are some of the *most serious problems* the European countries have to face in the remand field.

Overcrowding in remand centres and local prisons is the main problem. In several countries (Belgium, France, the Federal Republic of Germany, Luxembourg, Switzerland and the United Kingdom), remand prisoners have to share cells which were designed for one inmate. Present standards of hygiene and privacy are lacking in establishments where flush toilets and washstands—if available at all—are not separated from the rest of the cell.

The working conditions of the personnel and the quality of their work also suffer from the overcrowding which may stem from several *causes*:

— penal institutions are sometimes unable to accept convicted prisoners assigned to them. While awaiting their transfer, they are kept in local prisons thereby taking places meant for remand prisoners. The holding capacity of existing prisons and remand centres has been increased by re-using for detention cells which had served other purposes (offices, stockrooms, ...). Several governments are having new prisons built or are planning to do so. This has been criticised: prisons would always be full and the more places are available, the more judges would order detention. Another "solution" for overcrowding local prisons is to keep remand prisoners in police cells. The conditions are very poor there and the personnel not suitably trained nor sufficiently numerous to deal with these prisoners. Therefore the use of police cells should be avoided.

In the Netherlands, where all prisoners have a cell to themselves, some suspects whose detention on remand has been ordered by the examining judge are sent home to await their trial.

— detention on remand is ordered too often and not always on legal grounds. This is at least the opinion of many non-governmental organisations, lawyers and members of Parliament in different countries. It has been claimed that detention on remand is used as a means of pressure to confess, or as a punishment. In Belgium and England it has been abused against peace activists and others.

In order to reduce the number of remand orders to the absolute minimum one could:

— fix a high threshold: e.g. detention on remand is only possible if the offence of which the person is suspected carries a legal penalty of 4 years imprisonment.

— introduce the principle of proprotionality.

— let several judges instead of one decide whether detention on remand is necessary (recent reforms in France).

— give those judges sufficient information about the suspect and about alternatives which might be considered in that particular case (release with or without bail, obligations to report to the authorities, ...).

— create/extend the procedure and fund to compensate suspects who were wrongfully arrested and detained.

— speed up the legal procedure (see below) without diminishing the rights of the defence.

At the same time, the number of judges, experts, social workers etc. should be increased, otherwise these measures could have exactly the opposite effect and increase the period people spend on remand.

This increasing length is the second most important problem. In several countries where the law does not provide a time limit, the average length before a case is taken to court tends to increase. It already reaches 90 to 180 days (minor offences) or 18 months to two years (previous offences) in Luxembourg. In Belgium and France, it is not rare for a suspect charged with manslaughter, murder or complicated fraud to wait two years in a local prison before trial. In countries where time limit does exist such as Scotland (110 days from indictment) or the Netherlands (102 days from the arrest), the average length is far shorter. In the Netherlands, for instance, the overall average between arrest and beginning of trial was 54 days in 1983. This does not prevent people from being on remand for longer periods, even in excess of 102 days, because the Courts may ask for "further information" and postpone the hearing. But two years on remand is very rare indeed.

There is also a risk that cases of suspects on remand will be dealt with speedily, but that the suspect released with or without bail has to wait for years before the case comes to trial. The priority given to remand prisoners is perfectly justified but it does not help suspects, victims, witnesses nor the good course of justice if the period between the commital of the offence and the trial is too long.

If the Public Prosecutors and the Courts concentrate on the difficult cases in order to meet the time limit, simple cases may be left until the last possible moment. This would not shorten the total time spent on remand but only shift it from serious cases to the minor ones.

An answer to these objections may be to fix different time limits for the different categories of offences and depending on the suspect's situation (released on bail, on remand, ...). Time limits are always arbitrary and the European Court has refused to "translate into a fixed number of days, weeks or months" the reasonable period in which a suspect has to be brought to trial under the European Convention of Human Rights. Nevertheless, a time limit seems useful. It reminds

the authorities of their obligation to work as speedily as possible and offers some certainty to the suspect it should be sufficiently short but allow the defence to exercise all its rights (counter-expertise, etc.). If it is not met, the suspect is released and the case never tried. It may be useful as well to fix a time limit for the other stages of the procedure as in Italy (appeal, maximum length of detention from arrest until trial by High Court of Appeal).

Here again, the number of judges, experts and social workers needs to be increased. Some changes in the law could be well ineffective if judges and public opinion do not support them. Why would judges apply alternatives more readily if the release of suspects (with or without bail) causes a public outcry and newspapers depict remand prisoners as culprits rather than innocent until proved guilty? Some judges also seem to order detention on remand as to satisfy that part of public opinion which clamours for a more severe justice. Detention on remand, which was conceived as an exceptional measure, should only be applied if there really is no alternative available and should definitely not be confused with severer punishment after conviction.

Above, the *poor material conditions* in which prisoners on remand are held have already ben mentioned. Nonetheless, some people seem to think that prisoners live in a five star hotel. If the prison system costs a lot of money (although the budget is modestly low compared to defence, for instance), it is mostly spent on personnel and security. Admittedly, some of the establishments visited are more comfortable than others, with sports facilities, cells equipped with flush toilets and washstands behind a little wall, sitting and recreation rooms etc., but neither these facilities, nor access to television justify the idea of prisoners living in luxury. Television sets are never given free: they have to be bought or rented. Moreover, it is possible to have a television in a shared cell but no toilet. Older buildings, especially, often lack sports facilities, a sufficient number of showers, proper court yards for exercise, but not all modern buildings are necessarily "good" nor all old buildings "bad".

In some of the old establishments repairs and transformations have improved facilities. On the other hand, communication *via* cameras and intercom as in some of the modern prisons is resented by many prisoners as being too impersonal.

These material conditions e.g. size of cell, whether single or shared, absence of flush toilet in cell, take on far more importance if the inmates are locked in all day than if a programme of activities, daily visits, sports and exercise is available. It is true that the turnover of the remand population complicates the organisation of activities and work, but the example set by some of the European countries show it is feasible.

The regime varies—here again—from one country to another and its implication in each institution. *Important elements* are *visits* and other contacts to the family; the disciplinary measures which the governor (or the judge) may impose and which range from a reprimand to detention in a punishment cell for up to 45 days (in France); and the other restrictions on contacts with the outside world or with other inmates. These may be ordered by the prosecuting authority for reasons of the investigation, and in some countries by the prison Governor as a disciplinary measure or for security. When a suspect is placed "incommunicado", all or part of the contacts with the family and friends are forbidden, and in Belgium even with the defence counsel (reforms have been proposed on this point). The restrictions on communication with other inmates mean the suspect cannot work, take part in sport or other activities and must take his exercise alone (sometimes in a cage) or by walking behind others without speaking. In most countries these restrictions can only be applied for a limited period of time, but in the Netherlands it may last as long as the detention or remand itself (102 days). In the author's view, such restrictions should be ordered only when the danger of collusion is imminent (and then only with regard to those people the suspect might influence or use to destroy evidence). It should be borne in mind that they also effect the suspect's family.

In all the European countries, the *regime* applied to remand prisoners is different from the one for convicted inmates. *In theory*, it is *more lenient*: remand prisoners are allowed more visits, may wear their own clothes, are not obliged to work and sometimes food may be brought to them.

But in practice, because of lack of personnel and facilities these rules are not always fully implemented. Moreover, restrictions may be imposed (see above) and visits are often held in visiting rooms with a glass partition which prevents all physical contact and sometimes even proper communication between remand prisoners and their visitors. The problem of overcrowding, lack of work for the inmates, shortage of personnel, poor material conditions are often most serious in local prisons.

It is generally agreed that imprisonment should only consist of the deprivation of liberty and that additional sanctions such as the denial of the most elementary hygiene, occupation and privacy should not exist. If this is true for convicted prisoners, how can we accept the contrary for people on remand some of whom will be found not guilty?

Governments seem aware of the problems and efforts have been made to improve the living conditions: construction of visiting rooms without a glass partition in France, addition of showers in Lausanne and Brussels, renovation of cells in France, the Federal Republic of Germany and the Netherlands, and so on. Hopefully, more works will be carried out in the near future.

In all European countries, prisoners may *file a complaint* about their treatment with the prison authorities, the Minister of Justice, the prison's overseeing body, members of Parliament etc. In the Netherlands, a special complaints procedure has existed since 1977, which some cite as an example of what should be done, and others of what should be avoided. It seems positive and certainly reveals a different attitude towards prisoners.

All these elements, together with information about the training of prison officers, compensation awarded for unlawful arrest and detention, bodysearch of visitors and inmates. AIDS, suicide and drugs in prison, a description of different strip, isolation and punishment cells and of visiting rooms, can be found in the report. *Fourteen tables* are annexed to it, giving the *governments' answers* concerning the number of visits per week, restrictions imposed on "terrorists", religious services, showers, numbers of inmates per cell, sport and other activities, access to phones, televisions, radios, newspapers and libraries, etc.

Other annexes reproduce statistics of the Council of Europe relating to the prison population in the member States in 1984/85, Recommendation R (80) II about detention on remand and Resolution R (73) 5 on standard minimum rules for the treatment of prisoners.

The description of a remand centre for young offenders in the Netherlands where a special regime is applied as for their entry and the witness of former political prisoners in Turkey are also included as annexes.

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Brief notes

Denmark

The Department of Prisons and Probation has in March 1987 finished a report on the experiment with Community Service Orders as an alternative to imprisonment. The report together with other material has been handed over to the Permanent Committee on Penal Law Reform which is supposed to consider draft legislation on the matter.

The Permanent Committee on Penal Law Reform has set up a Committee on an Act concerning treatment of prisoners and probationers etc. Until now this area has mainly been regulated by administrative regulations.

Netherlands

In the Netherlands there are actually ± 50 penal institutions with about 4,900 cell places. They are of three types: high security—medium security—and low security, for three separate categories, women, adult-men and young adolescents from 18 to 25 years.

The number of cells has increased by 500 places during the last three years. The occupation of the cells has been about 98% over the last years. By renovation and building of 5 high security prisons the overall capacity will slowly rise to 7,000 places by the years 1990/1991.

In each of these 5 new prisons of each 252 one man cells a special section will be created for those who are to be considered dangerous both in general terms as in terms as being likely to run away. Instead of keeping them together in one highly secure prison they will be regularly transferred from one to another prison, once these new prisons are built.

The *average* number of prisoners rose, as the cell capacity went up, from 3,224 in 1980 to 4,599 in 1986 and 4,682 in the first quarter of 1987.

Norway

Community service is meant to be established in all counties.

List of directors of prison administrations of the member states of the Council of Europe

Austria: Dr. Helmut Gonsa, Director of the Prison Administration (responsible at international level), Ministry of Justice, Museumstrasse, 7, 1016 Vienna.

Belgium: M. Julien de Ridder, Directeur Général de l'Administration Pénitentiaire, Ministère de la Justice, Avenue de la Toison d'Or, 55, 1060 Bruxelles.

Cyprus: Mr I. Iacovides, Director of the Prison Department, Nicosia.

Denmark: Mr A. Troldborg, Direktor for Kriminalforsorgen, Justitsministeriet, Klareboderne, 1, 1115 Copenhagen K.

France: M. Arsène Lux, Directeur de l'Administration Pénitentiaire, Ministère de la Justice, 13, Place Vendôme, 75042 Paris Cedex 01.

Federal Republic of Germany: Dr. Klaus Meyer, Ministerialrat, Bundesministerium der Justiz, Heinemannstrasse, 6, Postfach 200650, 5300 Bonn 2.

Greece: M^{me} Fotini Tzerbi, Directeur de l'Exécution des Peines, Ministère de la Justice, Section des Relations Internationales, 2, rue Zinonos, Athènes.

Iceland: Mr. Thorsteinn A. Jonsson, Head of the Division of Correction, Ministry of Jutice, 101 Reykjavik.

Ireland: Mr. M.J. Mellet, Head of Prisons, Department of Justice, 72-76 St Stephen's Green, Dublin 2.

Italy: M. Nicolo Amato, Direttore Generale per gli Istituti di Prevenzione e Pena, Ministero di Grazia e Giustizia, Via Silvesti, 252, 00164 Rome.

Luxembourg: M. Pierre Schmit, Avocat Général Délégué du Procureur Général d'Etat pour la Direction Général des Etablissements Pénitentiaire et Maisons d'Education, Parquet Général, Côte d'Eich, 12, Luxembourg.

Malta: Mr Ronald C. Theuma, Director of Prisons, Prisons Department, Valletta Road, Paola.

Netherlands: Mr H.B. Greven, Director of the Prison Administration, Ministry of Justice, Schedeldoekshaven, 100, 25-0 The Hague.

Norway: Mr Rolf B. Wegner, Director General, Department of Prisons, Probation and After-Care, Ministry of Justice, P.O. Box 8005 Dep., 0030 Oslo 1.

Portugal: M. Fernando Duarte, Directeur Général de l'Administration Pénitentiaire, Ministerio de Justica, Travessa da Cruz do Torel No. 1, 1198 Lisbonne.

Spain: M. Andrés Marquez, Directeur Général des Institutions Pénitentiaires, Ministerio de Justicia, San Bernardo, 45, Madrid 8.

Sweden: Mr Ulf Larsson, Director General, National Prison and Probation Administration, Kriminalvärdsstyrelsen, 601 80 Norrkoping.

Switzerland: M. Andrea Baechtold, Chef de la Section Exécution des peines et mesures, Office fédéral de la Justice, Département fédéral de Justice et Police, 3003 Berne.

Turkey: M. Cahit Ozdikis, Directeur Général des Etablissements Pénitentiaires, Ministère de la Justice, Adalet Bakanligi, Bakanliklar, Ankara.

United Kingdom: Mr. Christopher J. Train, Director General of the Prison Service, Home Office, HM Prison Service Headquarters, Cleland House, Page Street, London SW1P 4LN.