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Correspondence

All correspondence should be addressed to the Directorate of Legal affairs, Division of Crime Problems,
Council of Europe
F - 67075 Strasbourg Cedex

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Editorial and production team

Chief Editor: Wolfgang Rau
Assistant: Jean-Pierre Geiller
Responsible Editor: Guy De Vel
Cover illustration: Jean-Rémi Schleifer
Designed and produced by the Publishing and Documentation Service

Recent developments in the probation service in England and Wales

**by
Mr Graham Smith
HM Chief Probation Inspector
(United Kingdom)**

The Probation Service in England and Wales is experiencing major change in its delivery of services to the criminal justice system and is faced with competing challenges, opportunities and dangers. Its current recent developments tell a fascinating story, important because they reflect, represent and replicate most of the current dilemmas facing criminal justice systems throughout Europe.

The probation service's primary duty is now unquestionably to increase public protection from crime. It is also required to reduce or at the least contain and constrain crime in those offenders with whom it works. Failure to achieve either of these objectives is increasingly seen as not tolerable by the general public.

Amongst its other tasks the service also provides facilities to reduce unnecessary remands in custody through pre-trial work and to resettle released prisoners into their communities as law-abiding citizens. In addition pre-sentence reports, which assess seriousness, risk of further offending and risk management issues are written for courts of all levels. Such a report provides an information source to the sentencer, which is valued, because it is separate from and independent of both prosecution and defence.

The service also offers an essentially befriending and counselling service to minor offenders; the chaotic, the hopeless, the inadequate, the mentally ill; whose offending represents a nuisance rather than a menace to the community. This plethora of duties and responsibilities has to be delivered as economically as possible acknowledging that the original reason for establishing a probation service in the early nineteenth century was as much driven by utilitarian motives as it was humanitarian ones.

Finally I must not forget that approximately 10% of the service's work is in family court welfare. Here the task is to help the courts serve the needs of children whose parents are involved in separation or divorce, or whose families are involved in disputes in private law.

The result has been to make the probation service in England and Wales the most comprehensive in its range of tasks in the world and also one of the oldest, having formally started life in 1876 in London, although its recorded history goes back even earlier to 1840. The probation service in England and Wales is large by any standard, having an annual budget of £400 million, 16,500 staff, supervising 180,000 offenders and producing some 240,000 reports every year for courts. It deals with more offenders than any other Agency in the criminal justice system, has key contacts with all of the other "players" and was characterised as recently as the early nineties as being "centre stage" in the implementation of criminal justice policy.

The probation service in England and Wales operates under separate area probation committees. The Home Secretary sets policy aims and priorities for the service and the standards to which the services work should be carried out. These are assessed by an Inspectorate of Probation, an independent statutory body, which reports to the Home Secretary.

The probation service itself comprises 54 different services. Each has an employing committee/board accountable to the Home Secretary for strategic direction and overall performance. In the rich tradition of the United Kingdom, these committees are proud of their Area identity and cherish and nourish their independence in terms of operational management and service delivery.

Of the current developments within the service this paper will specially highlight the new work with victims, an area which until recently has been mostly ignored. This has meant a new focus and a moving of some of the traditional boundaries within which the probation service has usually operated. It is work, which is popular with the community, welcomed by political overseers and courts but presents real operational difficulties. At the other

extreme of the service delivery spectrum are its new duties in respect of electronic monitoring which serves to emphasise the complex range of issues confronting the management and staff.

Critical to the success of the probation service in the future will be for it to understand the implications on practice and strategic management of the "What Works" methodology. In my judgement this is the most important development facing the service and success in implementing its principles will assure the effectiveness of the probation service. There are many encouraging examples of successful practice but also obstacles to progress which have been experienced in the UK and elsewhere.

A further recent development has been the increasing emphasis given to users views and "lay" perspectives as a key test of quality of the probation service. This has been a fascinating development; it is based on sound management principles and demands from probation services that they regularly canvass the views of all their users and stakeholders and publish the results for all to see. It also suggests that each probation service is then required to respond to any negative critical perspectives that are observed and change them for the better. Almost all probation services now regularly canvass the views of their users, and questionnaires are increasingly sophisticated. One encouraging result of this focus is that courts, offenders' victims, local communities seem to be mostly satisfied with the service they are getting. These favourable results are often in direct conflict with many of the "alleged" public expressions of disapproval. But there are no grounds for complacency and although the majority of offenders say they have been helped by the probation service, they also too often describe a relaxed, somewhat undemanding supervision which is worrying. However only a few years ago the various probation services could provide no information in this area. It has been a significant and enriching transformation.

The user-focus has naturally led on to multi-partnership programme initiatives, which make the most of alliances and new co-working arrangements between sometimes very disparate and competitive organisations.

The paper addresses some of the achievements and opportunities obtained from these recent developments together with the strains and tensions that have been caused to the organisation. There are strategic lessons to be learned which I shall endeavour to highlight.

I would describe the service in England and Wales as currently having to cope with supervising increasing numbers of offenders, who are significantly more dangerous and more likely to be recidivist, against a climate of increased public hostility and fewer overall resources.

Furthermore it exists in an environment which demands rigorous proof of achievement and must respond to new mechanisms such as national standards and performance indicators against which it will be held to account. It is certain that the English and Welsh probation services have never faced more rapidly changing times, creating almost a revolution in its impact on staff and organisation.

As a consequence the probation service is currently somewhat fretful and anxious, certainly more accountable and transparent and probably less popular; yet it is also a service which is more specialised, efficient and effective.

In fact it is a probation service which should be able to offer some useful lessons concerning the growth and development of community-based sanctions in Europe. A recent description of it arising out of Robert Harris' recent book¹ was that it tended to be traditionally libertarian in an authoritarian age, offender-centred rather than community-centred, anti-oppressive and experiencing difficulty with a more control-orientated environment; altogether in fact, presenting an image of a "middle aged" service, suffering perhaps from some hardening of the arteries, whose best years will be behind them unless it adapts to the new environment in which it lives. I have no doubt that it can.

To begin the story it is necessary to briefly consider the history of the service in England and Wales.

It came into existence for two reasons, firstly a humanitarian concern for minor offenders who were appearing in courts, and secondly a utilitarian one that it was perceived to be cheaper and at least as effective as more expensive disposals such as prison.

Its origins in the United Kingdom stem from 1820 when Warwickshire Magistrates combined the common law surety and recognisance system by releasing young offenders into the charge of an employer. This was more

¹ Probation Round the World, edited by K Hamai, R Ville, R Harris, M Hough and V Zvekic, 1995, Routledge.

formalised when Matthew Davenport-Hill who was Recorder of Birmingham from 1839 to 1865, began releasing young offenders into the guardianship of a member of the community. Hill's practice of using a confidential officer to make periodic enquiries and of keeping a record of whom he had released and how they had fared in order that repeat offenders could be dealt with especially firmly was an early step towards the creation of the Probation Service.

The religious organisations became powerful exponents of this movement and in 1876 the Church of England Temperance Society appointed two police court missionaries to work in London at Southwark and shortly after at Bow Street Magistrates Court. Their primary focus in those early days was the heavy drinker, vagrant and prostitute, a category of offenders that presented the courts with particular difficulties. Invariably the system involved supervision of these individuals in lieu of sentence.

The accounts of those times kept meticulously by the early missionaries were remarkable for their shrewdness of assessment, compassion and able supervision although there is no doubt that the courts use of such individuals was not motivated particularly by the same humanitarian spirit. Quite simply the courts did not know what to do with these offenders appearing before them, they were frequent attenders at court, unaffected by any sentence passed on them and already creating a serious nuisance to a prison service experiencing over-crowding. Also apparent from those early records, is the degree of mental illness associated with this group, causing problems which seemed as resistant to solution then, as they do now.

Nevertheless the remarkable success of these early Probation Officers meant that by the Probation of Offenders Act in 1907, the statutory recognition of the need for a probation order and a body to organise it was recognised. Its unique characteristics of combining a suspension of judgement in lieu of sentence, for a specific period of time, under supervision and with consent, meant that the court had the most flexible, adaptable sentencing instrument that had ever existed.

The founding father of criminology in the United Kingdom, Leon Radcinowicz said of the probation order that it was the single most important rehabilitative sentence of the 20th century and the United Nations similarly commended it as an absolutely essential element in any successful criminal justice system. It is not surprising that the probation order or its equivalent has spread throughout the world.

During the course of the next 100 years, the probation service additionally developed an assessment, and investigative arm expressed in its report writing to courts.

But until the late 1960s the probation service was still essentially an organisation which dealt with minor offenders and although the skills of risk assessment were gradually developing, the knowledge base for action was essentially focused on juvenile and family casework theory, within a social work base.

By the early 1970s however the position was changing. It is hard to identify a particular issue or event which transformed the Probation Service to its current set of duties and responsibilities; as with much radical change, its causation was multi-faceted and uneven and not particularly driven by any strategic or co-ordinated intelligence.

Concerns about the increasing prison population in the sixties and the inadequate aftercare facilities saw the probation service move a section of its workforce directly into institutions, exposing it more directly to the most serious and dangerous offenders that existed. The introduction of life licences and parole supervision as responsibilities of the probation service accelerated this movement.

Associated with this was legislation² in 1969 which transferred the supervision of juvenile offenders increasingly to Social Service Departments based on the philosophy that they were children first and offenders second. This left the Probation Service with a more correctional focus and somewhat separate from the general social work theory that, up till then, had been, its primary source of inspiration and identity. Supervising new orders of the court, community service and combination orders and the direct managing of hostels for the first time, placed the service further into a role which contained major surveillance and enforcement features.

With the introduction in the seventies of mandatory pre-sentence reports to the court, the die was cast, there was no category of offenders the service did not supervise, no offence, however serious, that it did not deal with. It

² Children and Young Persons Act 1969, HMSO, Home Office

became an integral part of the criminal justice process with close working links with all its various elements; perhaps more than any other of the players in the system.

As of this moment, the service works directly with the sentencer, the Crown Prosecution Service, the Defence Advocate, the psychiatric world, the prison, the police, social services, education, health and the private sector.

This has caused a massive shift in purpose and ideology.

The primary expressed and acknowledged purpose of the probation service is now the protection of the public. In a recent study of dangerousness by the Inspectorate of Probation³, an attempt was made to record the number of serious offenders it was supervising at any particular time. Taking the offences of homicide, armed robbery, wounding, rape, sexual offences against children, kidnapping, holding a hostage, terrorism and arson, and other violent offences, it was estimated that there were 14,000 people currently being supervised by the probation service whose offences could be categorised as being dangerous and a risk to the public.

This information further showed, at least 13.5% of all murders reported to the Home Office were being committed by offenders under the supervision of the probation service, on court orders, licences and parole supervision. It was also known that because of under-reporting that figure was almost certainly significantly higher.

The probation service had become a major player in the field of assessment and management guidance of risk and dangerousness. This role was reinforced by the introduction of national standards in 1995 which required assessments procedures to be followed both for report writing and in supervision. This created a management imperative to ensure compliance and consistency and stressed the services overall primary accountability to the public at large.

Additionally, an increased public sensitivity and concern about personal safety in response to rising levels of recorded crime, and arguably the coverage given by the media to crimes of violence caused the government to realise it must be seen to be acting to protect the public. This was further reinforced by failures in the public sector organisations to treat or manage some dangerous people. The service would never be the same again. It was now in the "front line" of crime reduction and control and if it could not help to achieve these objectives it would not flourish or deserve to survive.

The "golden age" for the England and Wales probation service had passed. For 40 years from the ending of the Second World War it had experienced mostly continuous growth, it had extended its operations massively beyond its original remit, it had absorbed many voluntary organisations, it produced mandatory pre-sentence reports, it worked in prisons, it acted as parole agents, it managed and ran hostels. It led the world in the range of community penalties, it had developed and exported the community service order and had won for itself a monopoly social work entry base. It was also popular and valued by political overseers.

This could not last. Its philosophical underpinning was being undermined by new theories which said "nothing worked" and by a new language taken from management consultancy which emphasized the merits of the market, of privatisation, of national standards, of regulation and effective tests of performance and the supremacy of the customer. In addition the expert was to be challenged, the public sector reduced and many professional monopolies and traditions increasingly scrutinised.

These streams of consciousness, based as they were sometimes, on opposing philosophies had a surprising ability to merge into a single, apparently coherent policy expression. It would have a destructive effect. Andre Kuhn⁴ describes this situation when analysing the more extensive use of incarceration in the USA and Britain as compared with the rest of Western Europe.

³ HM Inspectorate of Probation *Dealing with Dangerous People: The Probation Service and Public Protection. Report of a Thematic Inspection (1995)* ISBN.1 85893 479 6

⁴ Paper for Council of Europe - Penological Committee, Prison Overcrowding in Europe and USA October 1996 - Andre Kuhn (unpublished).

He presents an anglo-saxon criminal justice system which in the late 1960s was still confident that it could rehabilitate offenders and that imprisonment was expensive and made people worse. But a number of things went wrong which dramatically altered that perception.

Several highly publicised cases involving miscarriages of justice, dramatic rises in the crime rate, and the research methodology of the 70s, as characterised by Martison, suggested that rehabilitative programmes such as probation had no impact on recidivism, educational and employment achievement, on drug and alcohol addiction or on significant attitude change and community-orientated adjustment. It was a devastating blow to confidence and belief in the probation service. The "Nothing Works" school was founded. The word treatment could no longer be used by the probation service, and as a chief probation officer I myself, abandoned or cancelled rehabilitative programmes.

There was a rush to fill the vacuum. If nothing worked, civil and individual rights had to be protected above all and comfort was sought in pursuing a more political and sociological explanation for crime. In this scenario the offender could be seen as the "victim of society" and solutions to crime could be met by political decisions relating to situational improvement and anti-poverty policies.

The "just deserts" sentencing philosophy emerged which formed the basis of the Criminal Justice Act of 1991 in the UK. The right wing of this school of criminology emphasised deterrence and retribution. From it came the argument that incarceration would deter and that long sentences would keep serious offenders out of circulation. The merits of longer and longer sentences and for more and more offenders became respectably based for an increasingly fearful public.

The response to this more punitive emphasis, from the liberal wing of the "just deserts" school stressed that punishment should be proportionate to the crime itself, which would restrain the worst excesses of over-long sentences. As "nothing worked" offenders should be sentenced for the crime they actually committed rather than their social background. This school of thought

wished to do away with discretionary sentencing, perceiving it as essentially unfair. They encouraged consistency in sentencing something which increasingly occurs in the UK. One unintended result was that the drive for consistency based on proportionality, caused sentence lengths to increase. It has also severely disadvantaged community-based sentencing which is too complex to be easily able to respond to just deserts, based as it is on responding to differential needs amongst offenders, and the use of discretion by the sentencers.

The public had by now also become increasingly agitated and fretful about crime, fearful of its consequences and increasingly convinced that it was personally vulnerable. Although hard to measure, the media appeared more concerned to emphasise and illustrate the horror stories of crime; was less restrained in its reporting and turned the criminal justice system into the most popular form of mass entertainment from which it gained large profits. It was an environment in which rational and objective discussion about crime finds it hard to flourish. In this setting, the probation service came to be seen as drab and defensive, favouring the offender, certainly not as exciting as prisons and police, and not concerned sufficiently about protection of the community from crime. The label "permissive do-gooders" too often seemed to become attached to its image.

Alongside this and infecting the debate was a political dynamic which emphasised choice, and the primacy of the customer and the market. The whole process was driven by an economic rationality, costs became crucial and transparency and accountability were introduced as imperatives for the public sector and thereby the probation service.

In effect the probation service became exposed to increased controls and innovation, a relentless drive for increased output and effectiveness and an irresistible move for more openness and consumerism which exposed everything the probation service did more fully to the public gaze. It was clear that those forces would neither go away nor relax and the service had to respond to them.

The new language used phrases such as targeting, contracts, audit trawls, harm reduction strategies, risk-management techniques, national standards, performance indicators, phrases of enormous power and meaning allied to developments in new technology, computers and information systems which made testing and regulation of these activities possible.

The probation service like everybody else took some time to come to terms with this revolution in attitudes and perspectives. Nevertheless it contained ideas and concepts whose time had clearly come. Its impact on the service cannot be overstated and it has had to transform its management and service delivery to respond appropriately.

The degree of change required from the service, the trauma that the turmoil of this debate caused within its rank cannot be underestimated and makes the subsequent turn around by the service all the more impressive. Nevertheless the virus of the 'nothing works' school still lives in the probation service today, hidden but destructive.

Because nothing the probation service could do really makes a difference the fugitive skill of the probation officer, the casework relationship, was downgraded. The critical importance of risk assessment inventories and methodologies were rubbished because behaviour could not be predicted and unfair and false labels could be attached. Minimal intervention and "setting up

people to fail" became phrases and concepts which influenced programme design with offenders. They were essentially pessimistic and negative philosophies depressing the probation officers delivery of services.

During this period between the 70s and 80s a number of key strategies were lost or subverted. The key justification for the work of the probation service could be legitimised as providing an alternative to imprisonment. This was well recorded by a piece of recent research on juvenile offenders produced by Tony Bottoms⁵. He described a large percentage of practitioners judging the success of their work with offenders on the basis that they were providing an alternative to custody. The objective of protection of the public and reducing offending became subordinate to this overall aim. This was disastrous.

The probation service also became anxious about the definition of the word punishment and resistant to a number of the new ideas in criminal justice system development. Anxieties were expressed about working with victims about electronic monitoring and the merits of some intensive supervision programmes all because they might infringe unreasonably an individual offenders civil rights.

Today barely 3-4 years later I judge the probation service to be transforming itself and vital again. It has probably not won back its previous public esteem nor that of its political masters. It also still feels, within its ranks, anxious and fretful about reduced resources, new external competitors and a value and training base which requires major adjustments.

However, the transformation is real and establishing itself on solid foundation. What was the catalyst for change?

Substantially it has been to do with the increased awareness that the research evidence on which the "nothing works" school was based, was not only flawed methodologically but in the conclusions drawn from it. Its main protagonist Martison never said the words attributed to him and regretted for the rest of his life, his association with such a negative pessimistic perspective.

Although "nothing works" still drives much of criminal justice policy, there is a deep desire in the political leadership, in the judiciary, in the police, the prisons to believe that rehabilitation programmes following certain principles can reduce offending. It is the probation service's most powerful weapon in restoring the communities belief and regard.

It is necessary to consider briefly what the "What Works" principles say because it is that movement which is certain to create the conditions and momentum for the future development of probation services throughout Europe.

Put at its simplest and based on exclusive wide ranging research across Western Europe and North America in particular, it says that certain community programmes involving the same population significantly out-perform custodial sentences and that others can clearly reduce offending. It shows that there is a beginning understanding of what makes those programmes successful.

⁵ A Bottoms - Intensive Community Supervision for Young Offenders: Outcomes, Process and Cost. 1995. Institute of Criminology, University of Cambridge.

Importantly it also noted that "what works" principles were neutral. In other words, if prison programmes observed "what works" principles, they could rehabilitate also. It showed that confrontational and punitive techniques did not work; it stressed the importance of good targeting of developing employment, educational and skills opportunities, active intervention, and of partnership with relevant other individuals or organisations. It set the key signposts that probation services in their strategic thinking needed to observe.

James Bonta⁶ describe these key principles in the following way. I choose them because they are expressed simply and can be easily turned into good practice development against which legitimate judgements can be made.

The first principle is known as the risk principle. This says an effective treatment programme must be able to differentiate offenders in their risk to reoffend and then match their risk to the level of service. Higher risk offenders require more intensive services while the lower risk offenders require very little or no services. In fact it is suggested that there is evidence that intensive levels of service with low risk offenders either has no effect or may even increase recidivism.

The second principle is the needs principle and it claims that there are two types of offender needs, criminogenic and non-criminogenic. Criminogenic needs are the offender's needs which when changed are associated with reduction in recidivism. There are plenty of other needs in offenders but if they do not correlate with offending they should not be targeted, it is a waste of time and resources.

The third principle is the responsivity principle. These are certain personalities and cognitive behavioural characteristics of the offender that influence how responsive he or she is to types of treatment and how that treatment is delivered. In general it is suggested cognitive behavioural treatments are the most effective.

The fourth principle is professional discretion, which says that some offenders present unique characteristics and situations that are not adequately considered by the other three principles, for example, some offenders eg serious sex offenders can score low risk on many objective risk instruments.

And finally the fifth principle is called programme integrity. This means conducting the treatment programme in a structured manner according to the principles outlined and with enthusiastic and dedicated staff.

One of the troubling features to the "what works" research is the evidence which suggests that in spite of the enthusiasm, belief and appetite for its promotion, there has been as yet, disappointingly limited progress in implementation. There are examples of good innovative work which meet the what works criteria, but such have always existed. The problem seems to be the difficulty of absorbing the methodology into the organisation in a way which would make the basic principles and good practice an automatic reflex for all staff. This is, in itself, difficult enough to achieve but there are other external problems as well.

The first of these is that despite the appetite and incentive to make "what works" succeed there is a key play maker who for a variety of reasons, has not been included in "the game". That is the sentencer who provides the raw material, the offender, with which the service fashions and designs its programmes. "What works" calls for consistency and clear purpose in community penalty sentencing. But this is difficult if not impossible for the probation service to control. I think it is just as difficult, if not impossible for the sentencer to control.

Sentencing should always contain a major discretionary element but recent legislative changes in the UK have also made it apparent how increasingly complex passing a community sentence is. In contrast, awarding a prison sentence is a simple straight forward activity, increasingly so with mandatory maxima and minima and with more guideline appeal-court decisions. This has gone in the opposite direction from community penalties. Probation and community supervision orders possess more conditions, the potential for failure has increased, the discretion of the supervisor likewise. Purpose can sometimes be difficult to fathom. One has only to consider the modern complexity of supervising a drug addict, on a probation order which possesses a strict enforcement condition, when you are also pursuing a harm-reduction strategy. This increasing complexity also has a significant, unfortunate, long term feature. It is likely to make it more difficult to produce forecasts based on historical sentencing which of course is one of the corner stones of an accurate risk assessment and classification system.

⁶ The Practicalities of Planning, Operating and Sustaining Successful Programmes - James Bonta. Paper Presented to CEP September 1996, Edinburgh.

Who else has control over "what works" implementation? I take it for granted that management should but in the culture of the English and Welsh probation service so does the individual practitioner. Their permitted and traditional degree of autonomy with cases leaves them in control of many of the key critical decisions on which "what works" is based. I see this most vividly in the immense range and variety of service delivery, assessment and performance criteria not just between services but within areas themselves. It makes strategic management and increasingly important, monitoring and evaluation, extraordinarily difficult to achieve.

I am not suggesting that there is a single transferable model of "what works", quite the contrary, for there is an imperative to have diverse programming to suit the range of different needs that sophisticated assessment should throw up. But "what works" won't work if there is no common purpose and agreement amongst all the players and partners in the criminal justice system. "What works" emphasises inter-disciplinary involvement. It has a knowledge base with which we all need to be familiar.

As Chief Inspector of Probation services in England and Wales, my Inspectorate have been stressing a number key issues for implementing the what works ideas and philosophy. These are quite simple principles. The first of which, and often a neglected one, is to make an organisational commitment to the value of offender rehabilitation. "What works" would involve some key training input and some diversion of current resources, neither easy to achieve at any time let alone when there are reductions. I have observed that where "what works" programmes exist they are often under-utilised; treatment programmes exist on paper but not in practice. Services must be able to identify the higher risk offenders who require the more intensive services. On the face of it, this is unremarkable but too few jurisdictions can conduct state of the art offender risk- assessments. Another key feature is the need to target criminogenic needs in offenders but this too is often absent in programme design.

I judge that only a very small handful of English probation services can say that they have a strategic management framework for "what works". Too many programmes lack a sound conceptual base or have supporting evaluation evidence or have identified the scale of provision needed. Staff were sometimes trained and supported in the delivery of these programmes but there was little systematic evaluation provided. Services, not surprisingly, seemed better at developing new programmes than systematically implementing them. Overwhelmingly "what works" was also concentrated on group work programming with very little on individual, one to one work. The diversity of evaluation which was based, sometimes on reconviction, sometimes on attitude measures, sometimes on offender feedback is also a key problem area. It was often lacking altogether.

On the face of it I am describing a depressing picture and yet there is a strong movement for change and the probation service appears determined to absorb the "what works" principles into all of its activities.

To maintain a quality of service delivery any probation service must constantly maintain an innovative focus. For the remainder of the paper I am going to concentrate on seven recent developments in the probation service. The list is not exhaustive, it ignores for example the creative specialised work being produced in dealing with sex offenders, drugs and drink driving. I will not mention some excellent new programmes focusing on burglary. Instead I want to emphasise the difference and complexity of the service's work in order to demonstrate the essential range of which any probation service must be capable, if it is to meet the community's expectation of it. In part therefore the seven subject areas represent a possible blueprint for the future.

The first grouping of developments emanate from "what works" but initially I pose a question. What sets the probation service apart, that justifies, validates, explains and secures its existence? In other words why might a community or a country lacking a probation service, require one. The harsh competitive world we live in, starved of resources will not want a service if it is too expensive, irrelevant or ineffective in protecting it from crime.

The "what works" research in particular emphasizes that the public can be protected if there is appropriate targeting of offenders by the probation service. Good targeting is a fugitive skill which only flourishes where there is training, constant practice and a consistency of approach.

One powerful current development in England and Wales is the service's progress in producing a risk assessment and risk management inventory that all services can use. A number of areas supported by the Home Office, are developing a risk assessment and risk management inventory for their staff.

The targeting inventory will need to establish clear eligibility criteria appropriate to the offender's needs which are linked to his/her offending and match the risk level that forms the basis of the work that will be addressed by the supervision plan. It sounds complex but in fact the best inventories seem able to encompass these requirements.

The one I personally favour and which is being tested in a number of probation areas is the LSI-R⁷. This assessment is good on criminogenic needs, on the risk of offending the individual represents, and should also trigger questions about dangerousness. It covers both personality and situational factors, is strong on motivation and encourages regular review and up-dating.

In a sense however it matters less what final inventory or assessment tool is chosen, but much more that one is eventually arrived at, is commonly used, and can be evaluated. Many probation services in England and Wales and Europe use various types of assessment scales but they vary widely, are frequently adapted and adjusted by local practitioners, are mostly based on subjective judgements, and although often surprisingly accurate, prevent replication or evaluation.

The result is we learn little from these assessment tools which we can hand on to the next generation and accordingly tend to re-invent the wheel time and time again.

The second major area of development I wish to mention is the continued dramatic growth in the use of the community service order. It has recently metamorphosed in a new community sentence called the combination order which is a mix of a traditional probation order and community service. The community service has now overtaken every other form of community supervision disposal and is the flagship of community penalties. It shows no signs of flagging.

It represents better than anything else at the moment the essentially dynamic, adaptive, imaginative, quality of community penalties.

The community service order now operates in more than 40 countries worldwide and in 13 European countries. Between 1976 when 8,000 orders for all offences were made in England and Wales, it has grown by 1995 to 57,370 people being sentenced to a period of community service. 8% of all adult male offenders are sentenced to community service, 4% of all adult women. It is a sentence which contains an element of rehabilitation through self-improvement and support but is also punitive and reparative, a unique combination of qualities. Since 1991 it has been joined by the combination order a new sentence which combines elements of community service with the probation order. This particular sentence, since its inception, has been the fastest growing of all.

Nevertheless although it is an immensely popular disposal and has virtually no antagonists, it is still underused. Originally it was intended as an alternative to a prison sentence but this philosophy restricted and hampered its development and was soon dropped. As its best community service provides a demanding and taxing environment and offers work to the offender that they themselves can see is beneficial to the community. It must also be offered outside of normal working hours and at weekends so that the employed can take advantage of it.

These basic principles concerning community service are observed around the world. Currently in England and Wales, it can be said that the community service order supports and maintains the probation order and other community penalties. It can be argued that some of the expensive intensive probation orders are able to be maintained because of its existence. In 1986 the Council of Europe described the community service order as "probably the most progressive alternative measure introduced in European criminal law in the last 10 years".

In terms of effectiveness, it is the most successful of the community penalties as well as being arguably the cheapest to organise and maintain. Its other massive strength is its ability to incorporate key networks and individuals in local communities who act as an indirect support system for the probation service.

Currently in England and Wales combinations of conditions in community penalties are increasingly being considered. Its flexibility is one of its outstanding features and it has been recently suggested as a means by which the problem of imprisonment for fine default can be dealt with.

There are problems in using community service in that way but it emphasizes its adaptability. Although it is a sentence that continues to expand, the increasing use of imprisonment is drawing into its ranks many who do not need it. Community service has the ability to move up and down the sentencing tariff. This can sometimes create confusion but the number of hours ordered, and the type of work, can create the necessary disciplining framework in terms of seriousness and suitability. It seems possible that community service could reasonably be expanded

7 LSI-R The Level of Service Inventory - Revised - D A Andrews and James L Bonta, MHS. Manual

into crime prevention and as reinforcements to other forms of supervision in the community. The possibilities are considerable and deserve development.

A third area of development has been in the increasing use of partnerships by the probation service with a diverse range of private and voluntary bodies. Partnership offers many opportunities to a probation service. It offers a location for "low tariff" work which does not justify more expensive intensive supervision time. It provides new money for stretched probation service budgets from organisations who themselves see a direct benefit from such collaboration. It widens the networks and groups with whom the probation service normally works. Meeting employment and educational needs, both of them criminogenic, can be assisted and improved by partnership. The opportunities are unlimited. In 1992 the Government's enthusiasm for privatisation gave considerable impetus to this development. After wide consultation with probation services and the independent sector they decided that money and other resources should be offered to the independent sector through partnership contracts. Each probation service was obliged to offer 5% of their revenue budget to partnership schemes and that percentage is likely to increase in the future.

The results were immediate in that much more partnership activity with the private and voluntary sector was established. With few exceptions the voluntary bodies were pleased with the results and praised their probation services. There were some difficulties with the "drawing up" of legal contracts and complaints they were too one-sided and favouring the probation service. There were also anxieties about the process of competitive tendering to which many were unused. Against this, we all inhabit an environment which is more commercial and market orientated than it was, and new ways of promoting relationships in the criminal justice sector need to be developed.

Overall however the initial reaction has been good and a range of partnership contracts have been signed between probation services and independent bodies which offer drugs advice and support, education and employment opportunities, mediation and mental health facilities to mutual benefit. The use of volunteers by probation services also seems to have received a boost by these partnerships.

The contracts themselves can involve a single purchaser-provider agreement where some aspects of service delivery is handed over to the private organisation. It can involve a collaborative arrangement where staff from different organisations can share the delivery of a service. It can mean two statutory agencies such as probation and health employing a private organisation to run a scheme for mentally ill offenders. It can provide a mixture of all three.

In a recent study⁸ other variants were observed. One was the giving of grants by probation services to a voluntary body to run an important if speculative pilot project on a drugs programme. It was perceived that the voluntary body could legitimately "take more risks" in assessing the validity of the programme than the publicly funded probation service. There was also noticed the ability to generate inwards investment into the probation service by other agencies wishing to support specific probation programmes. One fascinating example was the willingness of a health authority to pay for probation officers to work with drugs/HIV work.

The partnership story is a continuing one. At its best, it has improved relationships between different public bodies and the private and independent sector. It has extended networks and ideas and created a much more rigorous accounting base. Above all it has emphasized the need for all organisations engaged in the rehabilitation of offenders to prove their effectiveness.

This leads naturally to my fourth new development which may, to some readers, sit uncomfortably in my list of seven. The others, whatever their virtues and defects, are directly concerned with service delivery. This new development is about ensuring a quality service is maintained and emphasizes evaluation and monitoring. It is the means by which a probation service can prove it is meeting its objectives. Why has this become so important?

Quite separate from the What Works agenda was an impetus towards mechanisms which could successfully hold the service to account, render its activities more visible to the whole community and test it for efficiency and effectiveness in terms of its use of public money. Central Government created a series of devices to achieve these aims and they figure largely in the recent developments of the probation service. An inspectorate which reports direct to Government ministers, had its terms of reference and powers extended and was required to openly

⁸ HM Inspectorate of Probation - Working in Partnership - Increasing Impact and Value for Money. Report of a Thematic Inspection 1996, HMSO 185893 6675

present all of its inspection reports of probation services to the media and local press. New technology provided more sophisticated benchmarking which allowed more easy comparisons in terms of effectiveness and efficiency between different probation services. A set of key performance indicators were established against which each service was required to measure itself and report on deficiencies. All of this was set inside a three year plan⁹ for the programme service, reviewed annually.

The key performance indicators that were established are important because they accurately relate to the tasks of the service but are set in a manner which allows quantification and observation and requirements for improvement. KPIs as they are known, if not necessarily with affection require an elaborate, comprehensive and interrelated information collection system.

There are nine key KPIs the first three of which are concerned with crime and supervising offenders effectively. They require services to provide information which informs central government of predicted and actual rates of offending by community order type, compared with reconviction rates for custody and fines. The second and third KPIs count the number of community orders which run full term and complete their requirements and the number of licences from prison which do the same. There are usually higher performance targets set by central government for probation services the following year.

These KPIs are published, the Inspectorate tests services on them and compares one service with another. They are powerful indicators for change. For one probation area to be compared unfavourably with its equivalent is an unhappy experience and a motivation for improvement.

There are further KPIs which relate to providing high quality information assessment to courts and other users. These indicators measure timeliness, backlogs of work and the promotion of understanding and confidence in the service's work. National time periods are set for the production of reports and each year performance-improvement targets are set. User satisfaction is tested through questionnaires and again it is expected that courts, offenders and other partners will express improvements in approval rates.

A third set of KPIs refer to improving value for money and maintaining high standards of equity. These KPIs require unit costs to be ascertained by each service, projected workload to be achieved within financial provision and facilities such as hostels to meet high occupancy levels. Once more these figures are compared between probation areas by the Inspectorate and analysis offered.

None of this monitoring and evaluation is possible without one all embracing information system. Until recently the 54 probation services had no common approach to information gathering and no national system for measuring its case work. They were unable to satisfactorily communicate with each other, nor with other parts of the criminal justice system. By 1999 this will have changed. There will be in existence a national case management system.

Evaluation and monitoring of probation service performance and delivery, has been consistently the weakest part of its functioning; its best work has not been replicated and partnership and collaboration between other parts of the criminal justice system has been unpredictable and unreliable at best and totally non-existent at worst.

When a survey in 1992 was made of the use of information in probation services it reflected 54 largely autonomous areas, with no national system, no documented technical standard and little sharing of intelligence and "know how". It was an expensive use of resources.

I suspect however that these same weaknesses are a feature of many European criminal justice systems. If they cannot speak to each other, there will be no easy sharing between prisons, prosecutors, police, voluntary bodies, probation and all the other parties which are dealing with crime.

However the most interesting and powerful of these new mechanisms has been the introduction of a set of national standards¹⁰ which encompass all of the activities and service delivery of the probation service. There are three separate publications relating to community supervision, through care from prisons and family court work.

⁹ Three year plan for the Probation Service 1996-1999 - Home Office Probation Service Division.

¹⁰ National Standards for the Supervision of Offenders in the Community. Published by Home Office, 1995.
National Standards for Probation Service Family Court Welfare Work.
National Standards for the Throughcare of Offenders in Custody

The standards are widely circulated, all of the users of probation services possess them, are encouraged to read and know them and they form the basis of many of the complaints of negligence and shortfall registered against the service which individuals and groups believe they have experienced.

They were designed for the general public and victims of crime and for the separate employing committee of probation services. They were designed for sentencers and private and voluntary sector partners. They belong to offenders who should know what is expected of them and what action will be taken if they fail to comply with the requirements of the standards but also what they can expect from the probation service and the way they are being supervised. Finally it is for all the other parts and players in the criminal justice system with which the probation service becomes involved.

It has been a powerful weapon in enabling Government to hold probation services better to account but the same opportunity is true for the management of each probation service. This in itself would be of limited importance if national standards were only a bureaucratic exercise in assessing costs and the general efficiency of the service.

But they are much more than that. They are based on many of the key principles underlying "what works" practice. In the pre-sentence report section, the standards emphasize amongst other things good assessment, the impact on the victim, the verification of key facts, risk to the public of reoffending; and if the court was minded to make a community disposal under the probation service, what that individual could expect and have demanded of him plus his or her suitability.

Where the proposal envisages a probation, supervision or combination order, the PSR should include an outline of the supervision plan a description of the desired outcome of the proposed sentence and the methods and activities likely to be undertaken to achieve them. A timescale for achieving each objective is established, the intensity of supervision envisaged and the likely effect on other members of the family must also be considered.

The same sorts of conditions relate to other types of order and supervision. The rules of enforcement and levels of contact are also established. They are powerful, comprehensive all embracing documents.

After 3 years of development, national standards are now accepted in the probation service. It is probably true that management favour them more than practitioners. Some probation officers feel somewhat oppressed by them but this is less so and is partly cultural and is changing.

There are problems to be resolved between those national standards which are totally within service control and those that are in the control of others. Examples of this may occur in the timeliness standards, where courts may set a different timescale for completion of work or in completing working hours in community service where bad weather, ill health, transport problems, can affect the meeting of the standard.

There are also some national standards which require judgement and therefore are not easy to quantify, and there are others which are easily responsive to statistical appraisal. In the near future there will almost certainly be a need to consider which national standards have a higher priority than others and adjust accordingly.

However, overall these problems are minor and the gains made from possessing a set of national standards which cover the entire probation service in all its different sizes and localities is immense. I believe it is bound to improve and restore the service's good reputation.

A fifth recent development worth mentioning but currently suffering from severe resource constraint and some lack of current affection and support, are the pre-trial services that the probation service have promoted within the last 15 years. These schemes were established by the probation service in response to problems created by the over-use of remands in custody, pending trial. Some of these remands were clearly unnecessary, and resulted in increased overcrowding in prisons and pressure on the institutions to cope with unconvicted individuals.

Bail information schemes provide verified information about defendants to the crown prosecution service with a copy to the defence in order to assist the courts to make better informed bail decisions. The key word in this description is verified. Information can only be handed in if it is verified by the probation service and factual. The bail information officer does not offer his opinion on bail and his report goes to the crown prosecutor who decides what action he will recommend to the court on whether the individual can remain in the community whilst awaiting

trial. The Crown Prosecution Service is a keen supporter of the scheme; it provides independent information, it would not otherwise have.

The bail information officer does not discuss the offence or plea and the interviews must be with consent of the defendant. Sometimes during the interview information will emerge that indicates there are implications for public safety. These will be disclosed to the prosecutor.

These bail information schemes have been successful in reducing the use of custody and have resulted in no increased offending. They are welcomed by the courts and there has been no additional risk to the public.

Bail information schemes are a good example of the ability of probation services to offer inexpensive schemes which have a direct effect on reducing overcrowding in prisons. Its potential is considerable. In England and Wales an experiment has been started in identifying those offenders for whom it is not in the public interest, to take to court. There are a surprising number of defendants who fall into these categories of minor offenders; elderly people, the physically ill, the mentally confused. Too often criminal justice systems go to unnecessary expense to bring them to justice but with no value to anyone.

The sixth new development, and a controversial one for many in the probation service, has been the introduction of electronic monitoring¹¹ or "tagging" as it is better known in England and Wales. Electronic monitoring has been extensively used in North America and more recently in Sweden. Its development has been bedeviled by ignorance, it has been caught up in the deterrence, retributive debate and exposed to confusion in its use, by a tendency in many jurisdictions, to sweep up too wide a range of offenders, capturing both serious and minor offenders in its embrace.

In England it was introduced following the Criminal Justice and Public Order Act 1994 as a curfew order and was piloted in three probation areas, Greater Manchester, Norfolk and Berkshire. The areas were chosen to give the widest possible range of geographical type from inner city to sparsely populated rural areas. There had been an earlier experiment in 1989 using electronic monitoring as a condition of bail. The results had been inconclusive; there was some resistance from probation officers and the technology itself at that time carried a number of defects which some offenders exploited. In turn the media enjoyed some humour at the expense of the trials, regaling the public with stories of individuals selling their tags and overall there were too many false alarms, which diminished the scheme in many people's eyes.

However the early technical hitches seem now to be solved and the equipment is relatively inexpensive and can be unobtrusive. It is interesting how in England having a tag which is small, light and not noticeable is seen as a virtue. I am aware in North American jurisdiction they prefer to use "a tag" which although technically identical to the English version, is much more cumbersome and visible and made deliberately so.

The current electronic monitoring pilots involved the court making a new sentence, a curfew order for over 16 year olds. Offenders sentenced to the new order can be required to remain at a place or places specified by the court for a minimum of 2 and a maximum of 12 hours per day for a period of up to 6 months. The minimum sentence would therefore be for 2 hours and the maximum more than 2,100 hours.

The implementation of the sentence has required a close relationship between the probation services and private companies who bid under competitive tender to provide the equipment. There were some inevitable teething difficulties but they were mostly ironed out and it has become quite clear that the present state of technological knowledge means that even more sophisticated and wide-ranging monitoring and surveillance opportunities are available to the service. From North America it also became apparent that large populations and high risk offenders can be handled in this way.

The pilots have worked generally well and seem, in the right circumstances, to provide a worthwhile addition to the range of community penalties available to sentencers. There are also some interesting issues to consider and lessons to learn in future development.

¹¹ Curfew Orders with electronic monitoring - Home Office Research Study 163. ISBN 1 85893 765.5.

There has already been some independent research of the schemes. On the positive side most offenders and their families were relatively positive about being tagged. Whilst it was seen as a significant restriction of their liberty, consent had been given and imprisonment was seen as a far more unpleasant alternative.

Courts in the pilot areas were initially slow to use the order partly because they were unsure as to where it belonged on the sentencing tariff. The same difficulty was experienced by the probation service which through pre-sentence reports was making the initial recommendation. There was no central government guidance for whom the order was designed but this is not unusual in terms of UK criminal justice policy. Sentencers however, particularly liked the immediacy of enforcement, because a breach was instantly triggered by the technology. There is no doubt that overall an initially sceptical group of sentencers and probation officers have been persuaded there is merit and value in extending this opportunity.

Costs of electronic monitoring are hard to establish. Pilots tend, by their nature, to be expensive but the curfew order is obviously cheaper than the use of custody and probably not much dearer than the more intensive forms of probation supervision.

What are the early lessons to be learned from these pilots and how might they best be extended? The first is the need to place it appropriately in the sentencing tariff. Undoubtedly it provides a significant restriction on an individual's freedom, is transparently a significant punishment and should be for the higher risk and more serious community penalties. I see no reason why it cannot be also combined with a probation order where some element of counselling and treatment could be usefully added.

What needs to be avoided is its use indiscriminately across the sentencing board. This would cheapen the exercise and make it impossible to evaluate in terms of its most suitable use.

It could obviously be valuable for pre-release and home leave arrangements from prisons and consideration is being given to expansion in this area. I am also interested in its use with high risk sex offenders who are being supervised in the community. The technology allows a fairly sophisticated form of tracking to be achieved, and with public protection, the probation service's primary purpose, this must have merit.

In Sweden and North America drink driving offenders have also been usefully targeted and this is a group of offenders which, research suggests, benefits from both increased surveillance provided by the tag and education provided by the probation service.

One interesting observation from the trials in the UK and elsewhere is that there appears to be a maximum length of time that an offender can tolerate the wearing of a tag. It will be interesting to do more work on this and avoid an unnecessary plunge in effectiveness, so common a feature when programming goes on too long, and focus is lost.

With the pilots having proved their value, electronic monitoring will certainly be further extended. It would seem important for the English and Welsh probation services to overcome their remaining suspicions and it already seems apparent that this is happening. Throughout Europe, I see electronic monitoring as growing in popularity, and likely to be increasingly introduced. The lessons that we all need to learn essentially revolve around clarity of purpose, its place in the sentencing tariff and the optimum length of order to avoid unnecessary abuse of the disposal.

The last of the new developments and arguably the most interesting, is the probation services increasing role with victims. The history of the probation service from its earliest days always involved some direct contact with victims. It was inevitable because it was always apparent that many victims were inextricably entangled and involved with offenders be it geographically, emotionally or situationally. Indeed some of the earliest victim support schemes in the UK were started by the probation service.

However the era of professionalism, the mystique of casework, the monopoly social work entry, tended to create a movement of separation from victims. The service never stopped being concerned about them but somehow imagined a potential conflict of interest and a blurring of the necessary focus on the offender, if the worker got too close to the victim. In part of course they were right, exposure to victims can and does affect the work with the offender. It may make him or her less sympathetic to the offender, complicate the relationship and disturb previous balances and boundaries. In some North American jurisdictions where the PSR writer must interview the victim, defence advocates have begun to complain that the probation officers report is increasingly unsympathetic to their client. On occasion I am sure this occurs, but the PSR was never intended to be a defence advocates document, it

is written for and belongs to the sentencer. In this respect, work with victims may provide a long needed corrective to the too-often held view that the probation service leans too far towards the offender.

The need for the victim to have a powerful voice in the criminal justice system has been a powerful movement in the UK in the past twenty years. It has won universal support from all sectors in the community. It was reinforced by fear of crime and some very public horror stories and miscarriages of justice in which the victim seemed doubly-punished. The horrors of such offences as rape, domestic violence, aggravated burglary seemed underplayed and even diminished in a criminal justice system which seemed to many to have become trivialized.

It received its most visible expression in the court process where the rules of evidence could cause the victim to experience in some real way, the original mischief all over again and in addition prevent or impede the true quality of what they had suffered being available to the sentencing tribunal. It was a double jeopardy.

There was a second issue. Victims having been excluded from the sentencing decision were also separated from its consequences. They were unaware of what in real terms a prison sentence might mean, nor were they ever informed of when an individual who had caused great fear and suffering to them would be returned to their community. The proposition was never that all victims automatically should have such information whether they wanted it or not; for most offences, particularly where victims and offenders are strangers or the offence was coincidental, this was not necessary, but the victim should be able to choose and protect themselves.

Finally it became increasingly apparent that the most effective work with offenders could only occur if the victim perspective was known and internalised into the attitudes and understanding of the work with the offender. The what works movement made this understanding an imperative in the best programme design, delivery and case management.

The result was the Victims Charter¹² produced by the Government in 1990. The Charter set out for the first time what sort of service victims of crime should expect and asked how the agencies who make up the criminal justice system should improve the treatment of victims.

Government had learned in listening to victims that they wanted more information on what was going to happen and to be kept up to date with developments in their case. They wanted to be treated with respect when they attend as witnesses and to know their interests were being taken into account.

For the probation service this victims charter was followed by national standards for involving victims which they were required to follow, a probation circular 61/1995 which established consistency and accountability and a further victims charter (1996). The probation service now had a duty to strengthen and develop its work with victims, placing it at the core of service delivery within a framework of restorative justice. The development of this new work placed a requirement on the probation service to extend and develop further its partnership arrangements.

The service delivery of its work with victims has taken four main developments.

The first is in pre-sentence activity. The probation service is now required to deliver within its pre-sentence report a victim perspective of what occurred, their interests, and an assessment of the offender's attitude to them. At the moment no direct contact with the victim is required; such a perspective is gathered from the prosecution documentation. Where this is lacking the court should be informed.

This is arguably a sensible and cautious start to a complex development. Personally however, I am in no doubt that it will develop from this beginning, to some degree of assessment as to the loss or harm suffered by specific victims and could include specific and direct interviewing. This will not be easy and as I have already indicated, where it has occurred may have disturbed the boundaries between the role of prosecutor, defender and probation officer as report writer.

The second activity involves the probation service is ensuring there is a strong victim perspective in all its programmes. Attitudes to victims are a key component of good risk assessment and subsequent management. Improved victim awareness work can reduce offending. Mediation, reparation, key components in any effective

¹² Home Office - The Victims Charter 1990.

programme can benefit unmeasurably from a victim focus. One test of the quality of any community programme is the degree to which the victim perspective is taken into account.

Direct work between offender and victim has become a larger part of the probation service repertoire and some of the community service programmes, in meeting its reparation function, could be directly linked to victims. Some progress has been made in this area.

The third activity concerns pre- and post-release of offenders from prison. The probation service acts as a parole agent in England and Wales and also supervises life sentences and other forms of statutory release. Probation circular 61/1995 gives guidance on release issues and defines a two stage process of contact within two months of sentence and if the victim so wishes, when release, including temporary release, is being considered.

The guidance applies currently to all cases where offenders are sentenced to four years or more for serious sexual or other violent offences and to life imprisonment for any offence. However, the guidance also recommends that the same procedures should follow in serious cases, where a shorter custodial sentence has been given. This latter category requires judgement and is within the discretion of the local service. It also requires sound local knowledge by that probation service, if this additional group of victims is to be properly targeted and supported.

The probation service's duties in these cases is to give and seek information. It will necessitate local arrangements with voluntary victim support groups which are now rapidly developing across the country. The role of the victim support schemes is to provide, where necessary, emotional support to victims, information about personal and home security and advocacy on behalf of victims. They also forward letters from the service and attend joint visits with the probation service and other liaison at the victims request.

It is an excellent development.

In conclusion the probation service in England and Wales is experiencing a period of massive change and development.

It also faces a challenging environment which is more unfriendly and unsympathetic to its core work and values and overall resource restrictions which are hampering it and will test its management and administrative capabilities to the full. However these are dilemmas that increasingly face every probation service within Western Europe.

However, no criminal justice system can flourish and meet its responsibilities of justice and protecting the public unless it has a powerful community based organisation such as a probation service. Research confirms that at its best probation service programmes can reduce offending, protect the public and rehabilitate offenders. It can achieve this whilst also being economic.

But a nervous public and sceptical political and administrative overseers need more than brave words, they need evidence of effectiveness and in this respect the probation service has not been particularly competent. Far too many of its best activities, programmes and skills lack independent and longitudinal research that would confirm the value of what it does.

The implications of "What Works" research offer a critical break-through for services but some of its findings appear to be counter cultural and even counter intuitive to many practitioners trained to a different set of imperatives and knowledge. These will need to be overcome if its lessons are to be fully absorbed.

Those European countries who are without probation services are right to be interested in their introduction and development. They are sensible, because as my paper illustrates, the probation service can operate services from "cradle to grave" in the criminal justice process, by diverting offenders from unnecessary prosecution, reducing remands in custody awaiting trial, providing verified and independent information to courts, supervising orders made by the court and ensuring improved resettlement of individuals leaving prisons.

It is an incredible armory to have available, causing a recent senior Home Office Minister in the UK to say that if we did not have a probation service we would need to invent one.

But nothing can be taken for granted. Only a small percentage of crime, about 3%, results in a conviction or caution. As the probation service only supervises those who plead or are found guilty, its caseload only represents

a small proportion of those who commit crime. The sentencing of known offenders cannot be the only or main method of reducing the volume of crime in society.

The probation service also needs to have a crime prevention focus as well. This is not easy; it tends not to win resources and when added to the service's many core tasks, can easily become a very minor feature.

The merits of specialisation, of achieving expertise in certain offence categories such as sex offenders, drug abuse, and aggravated burglary is a developing trend as is the move away from individual ownership of cases to a more team-based orientation. All this can cause worry and apprehension to practitioners in the field; change is rarely achieved without some significant degree of loss.

It is in this context that the strategic development of partnership with the community and its private and voluntary organisations becomes so important.

Set against this varied menu, it is not surprising that many probation services in England and Wales are finding it difficult to choose priorities and assess quality issues and value for money. Some are also bewildered that their improved evaluation and information facilities are currently more likely to expose weaknesses than strengths; which combined with their greater visibility and transparency makes them subject to increased public criticism. No wonder many service leaders and staff feel uncertain.

Nevertheless the probation service in England and Wales has responsibility for the most highly convicted and potentially dangerous caseload of any other Agency in the country. No one else comes near to it. My view as Chief Inspector has shown that overall, it is now a more effective and efficient organisation responding to the demands on it, by being more innovative, accepting more varied types of work, is more aware and responsive of what its users and customers require and beginning to be able to prove it can rehabilitate. It is winning back its confidence.

The probation service is a necessary part of any criminal justice system. To survive and flourish within it, it needs to know at what it is uniquely good, translating that knowledge into a responsive organisation and being able to win and maintain public approval. It must also always assume it will never have sufficient resources to achieve its objectives.

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The Issue of Motivation in Prison Education
by
Kevin Warner,
Co-ordinator of Prison Education,
Ireland¹³

Introduction

The question of how to motivate prisoners to take part in education seems to come up with surprising frequency. The Council of Europe wrote into the terms of reference of the Select Committee on Prison Education that it should study "arrangements for encouraging prisoners to educate themselves ...". And here we are once more making a conference theme of "how to motivate inmates to acquire education".

The danger is that we will think in terms of what the Select Committees report called "static" motivation, seeing the problem as being in the prisoners ("they won't come to classes ... they are inadequate"), rather than adapt a 'dynamic' concept of motivation which includes a questioning of whether the education we offer is sufficient to meet the prisoners' needs. Sometimes prison education is like a poor restaurant that offers only one type of food in unimaginative ways (and often in enormous indigestible quantities) - and then we wonder why the customers are not motivated to come and take part with us! Rather, if we wish to entice them in, we need to reflect critically on whether we offer such things as a comfortable setting, and about the quality of the food, and the flexibility and extent of the menu.

So, in this talk, I want to turn the question of prisoners' motivation back on ourselves and offer a framework within which we can question the appropriateness of the education we offer. This may help to point to some ways in which prison education can be made more attractive.

What can Prison Education Offer?

One factor which may limit people's use of a restaurant is if it offers a limited menu. Likewise, if education does not cater for a wide range of needs with different kinds of offerings it will draw in fewer people. One way of categorising the different educational needs of prisoners could be as follows:

1. Qualifications:
 - . Vocational,
 - . Secondary,
 - . Other certification.

2. Living Needs:
 - . Health Education (e.g. Aids),
 - . Relationships,
 - . Expression (as through the Arts),
 - . Leisure (e.g. sport).

3. Needs arising for Imprisonment:
 - . Release of tension,
 - . Keeping the mind active,
 - . Maintaining family contact,
 - . Community contact (e.g. visiting speakers or performers)
 - . Self-worth.

This is but a brief listing and could, of course, be done differently or more extensively. But it is sufficient to make the point that many prisons and prison systems offer a very restricted menu. Some confine educational provision almost entirely to offering qualifications, at times even confine it to vocational qualifications. Other aspects of life outside go unaddressed, such as those grouped above under 'Living Needs', and these are often the very things that go deepest into the individual and set some positive development in motion.

Prison education can also serve an important function under the third heading above, meeting needs people have as a direct result of imprisonment. There is wide recognition now, not least in the thinking behind the

¹³ Talk given at the Second Conference of European Directors of Prison Education, Estonia, September, 1996

European Prison Rules, that imprisonment in itself almost invariably damages people. Education can hardly expect to eliminate such damage but it can certainly limit and minimise it. In particular, it can give an outlet for physical and mental energy, can contribute an element of normality, and above all can offer some experience of respect (and self-respect) in a setting where degradation and humiliation are widely experienced.

Thinking in terms of these other two categories, 'Living Needs' and 'Prison Needs', is simply a way of being more realistic about prisoners and about prison life. The fact that the educational system on the outside may not address such problems is no excuse for the prison system not trying to develop educational courses and activities in these areas. If the education touches prisoners' lives in a realistic and positive way, they will start to take part more. But the point must be made that this development does involve more complex organisation and greater flexibility - for example, in allowing part-time education to those who want it in a situation where education was previously only available full-time. In introducing new food that may seem strange, the restaurant must allow people just to take small portions at first, if they wish. Sometimes, even, they may only want a cup of coffee!

Dynamic Motivation and the Prison System

The Council of Europe Select Committee on Education in Prison, (very much led by Danish ideas) adopted the concept of 'dynamic motivation' already referred to:

"Motivation must, therefore, be seen as a dynamic concept, with what appears as low motivation among prisoners understood as a result of past experience (in school and elsewhere). For prison teachers to adopt a static concept of motivation (where the low responsiveness is attributed to inadequacy in the personality of the individual) would be both an injustice to their clients and a tactical error." (4.4)

The thinking here is that, if prisoners are not participating in education, we turn the spotlight on the providers: we ask not what is wrong with prisoners, but what can we do, what can we change, to get them involved. And such questioning can be applied to the Prison System as well as to the Education System.

When we turn attention to the prison system we often find clear factors which discourage prisoners from participating in education. Three such factors could be mentioned:

1. Unequal Payments. It is hard to expect prisoners to join education if they are likely to experience serious financial loss for doing so. Yet this is the situation one finds in many countries in Europe (east and west, north and south!), in clear contradiction of both the European Prison Rules (No. 78) and the Recommendation [R(89)12] on Education in Prison.
2. Unequal Status. Just as much a disincentive can be the fact that education often has a marginal or lowly status within the prison and this can be reflected in many ways - in the sneering of some staff at those who join education, in the poorer facilities given to education, in leave being given more to those in work than in education, etc.
3. Inflexible Organisation. To promote education demands imagination and flexibility from the administration. Without doubt, education tends to complicate life for administrators. It tends to create far more 'comings and goings'. Allowing part-time classes and a variety of activities (where this is what the educational needs require), rather than following easier routines that have become 'institutionalised', can have an important bearing on the level of participation.

Dynamic Motivation and Education

If people who work in a restaurant want to draw in many customers, they must think about giving good quality, about being flexible, offering a good atmosphere and a wide menu. It is similar for us in education and the dynamic concept of motivation makes us think about several factors within the education sector in prisons which might be addressed in order to get more prisoners involved:

1. A Good Atmosphere. Education should take place somewhere that is a bit different from the rest of the prison - and maybe also a bit different from schools outside, if these have been negative places for our clients. I recall the Governor of Harku women's prison, in Estonia,

stressing this: he saw his education area (quite correctly in my judgement) as offering the inmates both respect and a break from the prison culture.

2. Adult Education Methods are much more appropriate to adults. They are more geared to the individual prisoner's needs, offer the student real participation in shaping the education, draw in the students' life experiences.
3. Organisational Flexibility applies to educational administrators, as well as prison administrators. Educational organisers may need to think more in terms of many individual programmes and a greater range of time components for education - things which address students' needs better, although they certainly make administration more complicated.
4. Acceptance of Low Motivation at first. Sometimes the customer may come into the restaurant just for a cup of coffee, or to meet the waiter or waitress, or to get in from the cold, or for the company of other customers. If we accept him in on this basis we may get him more seriously involved over time, after he relaxes and gains confidence. If we put him outside the door at that stage, we will never get him back.
5. Wide Menu. We have to keep thinking of what we offer and whether it meets as many needs as possible of our many different clients. And we have to keep changing it to try to meet those needs more fully (needs which themselves will change over time). The categorising of needs described earlier is one way of thinking about whether the menu is wide enough. I think it is worth looking at the curriculum set out in Education in Prison as another way of exploring this question.

The Wide Curriculum

The report, Education in Prison, proposed a wide curriculum to address the needs of 'the whole person'. A further reason for having a wide curriculum, from which people can pick and choose, is that different areas of education will attract different groups of prisoners, who may, at first at least, only want to attend for one kind of learning. For example, they may only want to join Art, or Physical Education, or Woodwork, or Computers. In time, as they gain confidence, they are likely to widen their choice to other subjects and activities.

The Council of Europe report envisaged this wide curriculum as being like an orange, seeing different aspects of education as different segments. Prison education was seen to comprise:

- General Education (including Basic Education)
- Library Services
- Social and Health Education
- Physical Education
- Vocational Education
- The Arts (or 'Creative Activities')

All prisoners should have access, if they want it, to any of these learning opportunities. Two critically important factors which affect the motivation of prisoners to take part in education are the extent and the quality of the curriculum. I will now select just one of the segments and hope to show in more detail how quality and extent influence how many prisoners take part. The segment I choose is Physical Education, but I believe many of the points I make about it could be made also about any other area: Art, Libraries, Literacy or whatever.

Maximising What the Segments Can Offer: an Example from Physical Education

The point I have made about widening, and deepening, the quality of the whole curriculum so as to make it attractive to prisoners can be made also about particular areas of education. For example, physical education in prison often means little more than body building, i.e. the development of muscular strength and endurance. But it should be about other components of physical education also: cardio-vascular endurance, flexibility, body composition. Further, there are dimensions other than fitness that should be developed in the study of this subject such as skills, knowledge and attitudes.

Other sources of potential development in physical education are: devising individualised programmes for the students, following certified courses for those who wish this, integrating P.E. with other subjects, and especially through promoting adult education methodology, whereby students participate in shaping all aspects of the learning. When all those features are attended to the study of PE becomes a very rich activity indeed. Yet, often, only a very limited part of the subject is provided.

Conclusion:

My point here is not so much to promote physical education, (although I am very happy to see that happen!) as to argue that any element of education in prison can be widened, deepened and made richer. But it is important to recognise that not everything can be made perfect at once. For many years we knew P.E. was generally in a very poor state in prisons in Ireland. More recently, we have had the opportunity to set about changing and improving it, but this will take a long time. In other systems there may be opportunities to work on other openings, to do something about other segments of education such as art or literacy or vocational education or library services or social education.

I might sum up the message of this talk by saying that if education is of good quality and adjusted to the needs and interests of the prisoners, they will participate. The question of motivation is not 'why won't the prisoners join in?', but rather a set of questions thrown back on ourselves as educators:

- What can we do to meet their needs more?
- How can we widen the curriculum?
- How can we widen and deepen particular segments of the curriculum?
- How can we improve the quality?

I believe there is much evidence for the view set out in the chapter on motivation in the Council of Europe report: "... where imaginative approaches are adopted and education is given sufficient scope within regimes, there will be high levels of involvement and achievement by prisoners".

Council of Europe Annual Penal Statistics

SPACE: 1995 survey

This report contains the results of the fourth survey carried out in accordance with the SPACE procedure. Part I covers the state of prison populations at 1 September 1995 and committal flows in 1994 (Questionnaire I). In addition to the usual data, this part gives, for the first time, a breakdown of convicted prisoners by **length of sentence** ordered (topic chosen for the variable part). Part II deals with certain community measures and sanctions ordered in 1993 (Questionnaire II).

Although the statistical survey has been in existence for some time, we are still encountering a number of difficulties in processing the questionnaires returned to us by the administrations of the member States:

1. The time taken to reply is sometimes very long. It was requested that the questionnaires be returned by 5 April 1996. The last one arrived, by fax, on 2 September 1996. Some questionnaires were not returned despite several reminders (Albania, Estonia, Greece, Latvia, Moldova, Netherlands, Poland). Some countries replied to Part I but not to Part II: Bulgaria (measures and sanctions not applicable), Spain (reason not known), Iceland (figures not available), "the former Yugoslav Republic of Macedonia" (measures and sanctions not applicable), Czech Republic (reason not known), Slovak Republic (reason not known), Slovenia (reform in progress). In the case of Portugal, the reply to Part II was received but not that to Part I.
2. When figures are missing in replies to the questionnaire, it is not always apparent whether the information is "not available" or whether the question is "not applicable" - which are clearly two different things. One also finds "blanks" and unexplained symbols - (...), (---), (/), etc - despite the fact that we have explicitly asked the prison administrations to make a clear distinction between the two situations for each item.
3. There are often inconsistencies between data within a particular item or between two different items: for example, the sum of the parts turns out not to be equal to the whole. This makes it difficult to establish a breakdown (of the total number of prisoners according to penal situation, of convicted prisoners according to primary offence, etc).
4. The data are not always consistent from one year to the next - for example, orders of magnitude that are difficult to reconcile - which shows that the person completing the questionnaire for a particular year did not consult the questionnaire for the preceding year. In particular, certain measures "applicable" one year are not applicable the next, without any indication that a change in legislation has occurred.
5. We are told that information on a particular item in a breakdown is not available (for example, the number of convicted persons who have appealed), but we are not told under which heading this category, which is not listed separately, has been included (are the convicted persons who have appealed included in the figures for sentenced prisoners or in those for untried prisoners?). This makes it difficult to use the information supplied.
6. Finally, some of the data supplied clearly do not relate to the question asked. For example, instead of indicating the number of unsuspended prison sentences ordered in a given year, the data sent to us in Questionnaire II concern the sentences being served at a given date, which is something completely different.

It is important for the future of SPACE that the administrations concerned ensure a degree of continuity, ie, make sure that the person responsible for completing the questionnaire has copies of the questionnaires sent by his administration in preceding years as well as the statistical reports published in the *Penological Information Bulletin* which highlight the difficulties we have encountered (notes to the tables). If these rules were followed, SPACE would be more comprehensive and therefore more useful to each of the member States.

* In all the tables, three dots (...) indicate that the data are not available or that the information provided could not be used for reasons of consistency. Where the administration has **explicitly** stated that a question is "not applicable", we have used the symbol <***>.

I. PRISON POPULATIONS

I.1 State of prison populations at 1 September 1995

The situation in prisons at a given date ("stock" data) is shown in five tables.

Table 1. Situation in prisons

- a. *total number of prisoners;*
- b. *detention rate (per 100,000 inhabitants): number of prisoners at 1 September 1995 in proportion to the number of inhabitants at the same date;*
- c. *total prison capacity;*
- d. *occupancy rate (per 100 places): number of prisoners in relation to the number of available places.*

The growth rates over the last twelve months are as follows:

Less than -5%: Norway: -10.8%, Denmark: -10.2%, Austria: -9.2%, Northern Ireland: -8.9%.

-5% to +5%: Italy: -3.2%, Spain: -2.5%, Germany: -2.2% (1 July 1994 - 1 September 1995), France: -1.0%, Sweden: -0.2%, Ireland 0.0%, Scotland 1.1%, Finland: 1.5%, Slovak Republic: 1.5%, England and Wales: 3.8%, Malta: 4.8%.

Over 5%: Belgium: 5.9%, Luxembourg: 7.3%, Cyprus: 8.3%, Bulgaria: 8.9%, Czech Republic: 9.0%, Lithuania: 12.3%, Turkey: 14.9%, Iceland: 16.7%.

Remarks

Germany: unlike the surveys prior to 1993, the data provided cover all the Länder as at 30 June 1995.

Austria: annual collective pardon for Christmas, amnesty in 1995 to commemorate the fiftieth anniversary of the restoration of Austria's independence in 1945 and its accession to the European Union.

Belgium: Law of 13 April 1995 and Ministerial Circular 1657/XII of 19 January 1996 on persons convicted of sexual offences against minors.

Denmark: Parliament Resolution B46 of 28 March 1995 on experimental non-custodial measures for drug addicts.

France: Law No. 95-884 of 3 August 1995 on amnesty measures; collective pardon decree of 10 July 1995 granting a reduction of seven days per month or part of a month remaining to be served, up to a maximum of four months' remission.

Hungary: the prison data are for the situation at 31 December 1995.

Ireland: the stock data are for the situation at 15 September 1995.

United Kingdom

England and Wales: the capacity indicated refers to the concept of "standardised capacity", which is defined in such a way that the various premises are not over-occupied. Places in new establishments which cannot yet be used are not counted.

Northern Ireland: all the prison data refer to the situation at 31 August 1995. Remission of Sentence Act in 1995.

Sweden: the number of prisoners indicated corresponds to the number registered. The number of actual prisoners is 5 318. The difference is due to persons serving their sentences outside prison in institutions for the treatment of drug addicts, persons in hospital and escaped prisoners. The detention rate calculated on the basis of prisoners present is 61 per 100 000 inhabitants.

Switzerland: numbers at 3 April 1995. Swiss prison statistics cover only the number of convicted prisoners serving their sentences. Periods of detention on remand or periods in prison for other reasons are not included in these statistics. In order to obtain information on the prison population as a whole in Switzerland, a special survey of prisons is conducted each year. The median age concerns sentenced prisoners only.

Table 2. Demographic structure

- a. *median age at the date of the statistics;*
- b. *prisoners under 21 years of age: number and percentage;*
- c. *female prisoners: number and percentage;*
- d. *alien prisoners: number and percentage.*

Remarks

Ireland: the number of alien prisoners is based on place of birth. All prisoners born outside the Republic of Ireland are regarded as aliens.

Sweden: the median age, the figures for prisoners under 21 years of age and those for aliens relate solely to convicted prisoners (4 695).

Switzerland: the median age relates solely to convicted prisoners.

Table 3.1. Legal structure (numbers)

- a. *sentenced prisoners (final sentence);*
- b. *convicted prisoners who have appealed or who are within the statutory time limit for doing so;*
- c. *prisoners convicted but not yet sentenced;*
- d. *untried prisoners (not yet convicted);*
- e. *other cases.*

Remarks

Germany: it is not known where prisoners in category (b) are recorded. There is no information on the content of category (e).

Austria: (b) and (d) are taken together (1 621).

Belgium: (e) = internees (Social Defence Law), (801); aliens (administrative measures), (267); vagrants, (36); recidivists at the disposal of the Government, (1); minors under 18 years old in provisional custody, (9).

Bulgaria: no information on where prisoners in category (b) are recorded.

Cyprus: figures inconsistent: (a) + (b) + (c) + (d) + (e) = 214 whereas the total number of prisoners is given as 170.

Spain: no figures for (b) and (c); it is not known where these two categories are recorded. The content of category (e) has not been indicated.

Ireland: figures at 15 September 1995; (b), (c) and (e) not available; no further information is provided.

Italy: no information is given on categories (c) and (e); information was provided for the 1994 survey but not this time.

Lithuania: figures inconsistent: (a) + (b) + (c) + (d) + (e) = 14 886 whereas the total number of prisoners is given as 13 228.

Luxembourg: (e) = minors placed in custody by the juvenile court.

"The former Yugoslav Republic of Macedonia": the way in which the questionnaire has been completed is impossible to understand: item 1 gives the total number of prisoners as 1 132. Item 8a gives the number of sentenced prisoners (final sentence) as 1 004. The sum of items 9 and that of items 16 both come to 1 132 instead of 1 004.

Norway: it is not known where heading (b) is recorded.

Slovak Republic: figures inconsistent (the sum of the categories does not equal the total number of prisoners).

Romania: category (e) relates to "petty offences".

United Kingdom

England and Wales: (a) and (b) are taken together. Convicted prisoners who have appealed or who are within the statutory time limit for doing so do not have any special status, so this group of prisoners is not counted separately. They are included under convicted prisoners. (e) relates to "non-criminal prisoners": those imprisoned for non-payment of a fine and "civil prisoners".

Scotland: it is not known where category (b) is recorded. Other cases = aliens, "civil prisoners", those imprisoned by court martial, etc.

Northern Ireland: (a) + (b) + (c) = total number of prisoners. There is no information regarding (b) and (c). (e) comprises 31 persons imprisoned for non-payment of a fine and 1 "civil" prisoner.

Russia: figures inconsistent: (a) + (b) + (c) + (d) + (e) = 1 022 557 whereas the total number of prisoners is given as 1 018 123.

Sweden: (b), (c) and (d) are taken together (1 032). (e) relates to certain prisoners who are drug addicts, special detention for juveniles, unauthorised aliens awaiting extradition, prisoners who have had to be placed in psychiatric establishments and persons who have violated conditions of probation.

Switzerland: the total number of prisoners at 3 April 1995, given under item 1, is 5 655. Under item 8 the number of convicted prisoners is given as 4 129 (no date specified) and the number of unconvicted prisoners as 1 703 (3 April 1995), making a total of 5 832!

Turkey: figures inconsistent: the sum of items 8a to 8e comes to 51 735 whereas the total number of prisoners is given in item 1 as 49 895.

Ukraine: figures inconsistent: (a) + (b) + (c) + (d) + (e) = 200 299 whereas the total number of prisoners is indicated as 203 988.

Table 3.2. Legal structure (rates)

We have selected four indicators for comparing the situation of the various populations:

- a. *percentage of unconvicted prisoners (or proportion of unconvicted prisoners) at 1 September 1995: the number of "unconvicted prisoners" present at that date in relation to the total number of prisoners at the same date (expressed as a percentage). Here "unconvicted prisoners" means all prisoners who have not received a final sentence;*
- b. *pre-trial detention rate at 1 September 1995: number of "unconvicted prisoners" present at that date in relation to the number of inhabitants at the same date, per 100 000 inhabitants;*
- c. *percentage of prisoners awaiting judgment (or proportion of prisoners awaiting judgment) at 1 September 1995: the number of "prisoners awaiting judgment" at that date in relation to the total number of prisoners at the same date (expressed as a percentage).*
- d. *rate of detention of prisoners awaiting trial at 1 September 1995: the number of "prisoners awaiting trial" at that date in relation to the number of inhabitants at the same date, per 100 000 inhabitants.*

Only prisoners included under the heading "untried prisoners" were taken into account in calculating the last two rates.

Table 4. Convicted prisoners: structure according to offence

The offences have been classified under seven headings: homicide, assault, rape, robbery, other thefts, drug offences, other cases.

Remarks

Germany: the classification used in the questionnaire is not compatible with the information gathered in Germany in this area.

Bulgaria: the figures relate to the situation at 1 January 1996 (6 202 convicted persons).

Cyprus: see remark for Table 3.1.

Spain: it is not known where those convicted of assault are recorded.

France: "rape" = rape and indecent assault.

Ireland: figures at 1 January 1993.

Luxembourg: the category "rape" also includes actual and attempted indecent assault.

"The former Yugoslav Republic Macedonia": see remark for Table 3.1.

Slovak Republic: the breakdown according to offence is inconsistent (the sum of the categories is greater than the total number of prisoners)

Russia: it is not known where those convicted for "drug offences" are recorded - probably under the heading "other cases".

Switzerland: figures for 1994, without further details.

Turkey: figures inconsistent: the sum of items 9a to 9g comes to 68 288 whereas the total number of those convicted, indicated in item 8a, comes to 26 928.

Ukraine: it is not known where those convicted for "drug offences" are recorded - probably under the heading "other cases".

Table 5. Convicted prisoners: structure according to length of sentence ordered

Remarks

Germany: the figures given are old, showing the situation at 31 March 1991, and do not include the new Länder.

Belgium: we have added to the category "less than 6 months" 78 prisoners imprisoned only in default (unpaid fines).

Bulgaria: the figures relate to the situation at 31 December 1995 (6 199 convicted persons).

Spain: the second segment is "six months to less than 6 years".

"The former Yugoslav Republic of Macedonia": see remark for Table 3.1.

Russia: sentences of 10 years and more not applicable.

Sweden: figures at 1 October 1995.

Switzerland: figures at 1 September 1994. To these should be added 1353 cases with "length of sentence not stated" and no further details.

Turkey: figures inconsistent: the sum of items 16 is 27 047 whereas the number of convicted persons given in item 8a is 26 928.

Ukraine: sentences of less than six months may not be ordered.

I.2 Committal flow, length of imprisonment, escapes and suicides, in 1994

Table 6. Committal flow

- a. *total number of first committals in 1994;*
- b. *committal rate (per 100 000 inhabitants): the number of committals for 1994 in relation to the average number of inhabitants during the period considered. In view of the information available, the figure actually used was the number of inhabitants at 1 September 1993 supplied by the authorities.*
- c. *first committals before final sentence: number and percentage.*

Remarks

Bulgaria: the question concerning the number of committals was not understood. Figures are given for a date when the question concerns a flow.

Ireland: figures for 1993.

"The former Yugoslav Republic of Macedonia": see remark for Table 3.1.

Slovak Republic: figures inconsistent.

United Kingdom

England and Wales: (a) = only the first committal in 1994 for a given offence has been counted. This means that a person initially remanded in prison before sentencing in 1994 and subsequently admitted in 1994 after sentence for the same offence is counted only once. Similarly, for (c), a person admitted in 1994 before being found guilty and subsequently admitted after being found guilty (awaiting sentence) for the same offence is counted only once.

These figures are therefore based on the concept of person, not on that of committal (the concept to which items 9 and 10 of the questionnaire refer). We have therefore not calculated indicator (b).

Turkey: figures inconsistent: the total number of committals is 57 058 whereas the number of committals before final sentence is 86 182!

Ukraine: figures inconsistent: the number of committals is 94 882 for a stock of 203 988, with an average stated length of 3 months.

Table 7. Indicator of the average length of imprisonment

- a. *total number of days spent in prison in 1994;*
- b. *average number of prisoners in 1994: (b) = (a)/365;*
- c. *indicator of the average length of imprisonment (D): quotient of the average number of prisoners in 1994 (P) by the flow of admissions during that period (E): $D = 12 \times P/E$ - length expressed in months.*

Remarks

Belgium: the Belgian administration gives 9 972 488 days of imprisonment, which leads to an improbable average total of over 27 000 prisoners (the number at 1 September 1995 is 7 561). For the calculation of the indicator of average length of imprisonment, we have therefore taken the number at 1 September 1994 (7 138). We have proceeded in the same way for the rates shown in Tables 8 and 9.

"The former Yugoslav Republic of Macedonia: see remark for Table 3.1.

Malta: for lack of other figures, we have calculated the indicator of average length of imprisonment by using the number at 1 September 1995.

Turkey: figures inconsistent: the total number of committals is 57 058 whereas the number of committals before final sentence is 86 182!

Table 8. Escapes

This table deals only with escapes by prisoners under the supervision of the prison administration from a closed prison or during administrative transfer.¹⁴ In the case of collective escapes, the number of escapes is taken as the number of prisoners concerned.

- a. number of escapes in 1994;
- b. number of prisoners/year in 1994: see Table 7;
- c. rates of escape per 10 000 prisoners: $10\,000 \times (a)/(b)$.

Remarks

"The former Yugoslav Republic of Macedonia": see remark for Table 3.1.

United Kingdom

England and Wales: 149 escapes from a prison, 81 during administrative transfer.

Table 9. Suicides in prison

- a. number of suicides in 1994;
- b. number of prisoners/year in 1994: see Table 7;
- c. suicide rate per 10 000 prisoners = $10\,000 \times (a)/(b)$.

Remarks

"The former Yugoslav Republic of Macedonia": see remark for Table 3.1.

II. COMMUNITY SANCTIONS AND MEASURES ORDERED IN 1993

It should be noted that the questionnaire does not attempt to cover all the non-custodial measures and sanctions which may exist in the various countries. The sanctions and measures included must have been ordered as primary penalties by criminal courts (adults and juveniles taken together). Seven measures and sanctions have been selected:

1. Exemption from punishment following finding of guilt (*Dispense de peine après déclaration de culpabilité*)
2. Passing of sentence deferred following finding of guilt, without committal (*Suspension du prononcé de la condamnation après déclaration de culpabilité*)

¹⁴ A study on all categories of escapes was published in Penological Information Bulletin Nos 19 and 20 (December 1994 -1995) - 1993 Survey

3. Day fine (*Jour-amende*)
4. Community service (*Travail au profit de la communauté*)
5. Prison sentence imposed, with execution being fully suspended (*Sursis total à l'exécution d'une peine d'emprisonnement*)
6. Prison sentence imposed, with part to be served and part to be suspended (*Sursis partiel à l'exécution d'une peine d'emprisonnement*)
7. Other forms of "probation", not including measures and sanctions in the area of juvenile criminal law.

Table 10. Prison sentences

For purposes of comparison, we also asked for the number of prison sentences without full or partial suspension ordered in 1993.

- a. number of sentences;
- b. number of inhabitants (average for 1993);
- c. sentence rate: number of sentences of imprisonment without full or partial suspension ordered in 1993 in relation to the number of inhabitants (per 100 000 inhabitants)

Remarks

Germany: in its reply to the previous survey, Germany consistently distinguished between matters pertaining to the law governing adults and that governing minors. Wherever possible we gave the total of the numbers provided, adding explanatory notes where required. The figures shown in the 1995 survey are not based on this distinction. Consequently, there exist some unexplained distortions between the figures of the two surveys.

Austria: the figures supplied by the administration represent the number of sentences being enforced on 30 November 1994 and not the number of prison sentences ordered in 1993.

Ireland: the question was misunderstood: the reply deals with "committals". Here, as throughout questionnaire II, the reference is to sanctions and measures ordered and not to the enforcement of sentences.

Portugal: number of sentences of less than 3 months not available.

Ukraine: in this part of the questionnaire, the administration states that sentences of "less than 3 months" are not applicable in law and that the figures for sentences of "3 to 6 months" are not available. The latter statement contradicts the assertion in questionnaire I (sentences of less than 6 months not applicable).

Table 11. Prison sentences according to length

These tables also relate to prison sentences ordered in 1993, without full or partial suspension.

Remarks

Tables 16, 17 and 18 give the figures for the various measures and sanctions ordered in 1993.

Table 12. Suspended sentences

Remarks

Belgium: the distinction between full and partial suspension is not available. Of 15 557 suspensions, 14 414 were without supervision and 1143 with supervision. Of 5 835 deferred sentences, 5 254 were measures without supervision and 581 with supervision.

France: partially suspended without supervision, broken down according to the part to be served: total = 7 508; "less than 3 months" = 3 250; "3 to 6 months" = 1 735; "6 months to one year" = 1 382; "one year and over" = 1 141.

- partially suspended with supervision, broken down according to the part to be served: total = 12 716; less than 3 months = 3 583; 3 to 6 months = 3 070; 6 months to one year = 2 896; one year and over = 3 167.

Ireland: the total number of suspended sentences without supervision not recorded; total number with supervision = 12 (High Court); partially suspended sentences without supervision not recorded; partially suspended sentences with supervision = 15 sentences of one year and over (High Court).

United Kingdom

England and Wales: partially suspended sentences were abolished in October 1992 (Criminal Justice Act of 1991).

Sweden: Swedish courts are not empowered to decree whether or not a prison sentence is conditional. All prison sentences are in fact unconditional since they are ordered without the possibility of suspension.

Table 13. Other measures

- a. *exemption from punishment;*
- b. *passing of sentence deferred;*
- c. *day fine;*
- d. *community service.*

We have not included the figures relating to fines, as the information gathered clearly relates to areas which differ widely from one country to another (especially where fines for road traffic offences are concerned).

Remarks

Cyprus: 248 unconditional exemptions from punishment, 4 conditional exemptions without supervision, 37 conditional exemptions with supervision.

Denmark: the figures are for conditional exemptions from punishment with or without supervision.

Finland: the figures are for unconditional exemptions from punishment.

France: the figures are for unconditional exemptions from punishment. A distinction is made between community service (*travail d'intérêt général - TIG*) ordered as a primary punishment (6 242) and full suspension of a prison sentence accompanied by a community service order.

Ireland: only the figures for unconditional exemption from punishment with supervision are available (2 261); no further information concerning exemption from punishment is available. Only the figures for deferred sentences with supervision are available (1 251).

Lithuania: 2 283 unconditional exemptions from punishments, 1 358 conditional exemptions from punishment without supervision, 1 647 conditional exemptions from punishment with supervision. Deferred sentences are accompanied by supervision.

Norway: exemptions from punishment are unconditional. They are decided by the public prosecutor.

Portugal: exemptions from punishment are unconditional. In the case of deferred sentences, 1 328 measures without supervision and 101 measures with supervision were recorded.

United Kingdom

England and Wales: 1. unconditional exemption from punishment (absolute discharge) = 25 900; 2. conditional exemption from punishment without supervision (conditional discharge) = 111 600; 3. conditional discharge with supervision = not applicable.

Scotland: 1. unconditional exemption from punishment = 17 044; 2. conditional exemption from punishment without supervision = 124; the courts can require the accused to provide a surety as a financial guarantee of a period of good behaviour. At the end of the period, the sum is returned to the accused if he has committed no further offence; 3. conditional exemption from punishment with supervision = 5 592.

Northern Ireland: 1. unconditional exemption from punishment = 693; 2. conditional exemption from punishment without supervision = 2 903; 3. conditional exemption from punishment with supervision = 1 632.

Table 14. Other forms of "probation"

Finally, we have attempted to summarise the situation in Table 15.

Table 15. Weight of the various sanctions and measures

1. *Dots indicate that the statistical information is not available;*
2. *Asterisks indicate that the question is not applicable, as the measure in question does not exist;*
3. *In all other cases we have given the ratio between the number of measures and the number of affirmative prison sentences (expressed as percentage).*

For example, in France, for every 100 affirmative prison sentences (without suspension) ordered, the courts delivered 204 suspended sentences and 13 partially suspended sentences during the same period etc.

This enables the measures most frequently ordered in each country to be highlighted. The reader can then compare the figures for conviction rates with affirmative prison sentences and the breakdown of sentences according to length, ie the prison data set out in Part 1.

Unfortunately, these tables, like those for the preceding year, contain large grey areas which show no sign of diminishing from one survey to the next, despite the fact that the information requested is very general and does not require the use of highly sophisticated statistical procedures.

STATISTICAL TABLES

Table 1. Situation in prisons at 1 September 1995

Reference : Council of Europe, SPACE 95.1

	Total number of prisoners	Detention rate per 100 000 inhabitants	Total prisoner capacity	Rate of occupancy per 100 places
Germany *	66 146	81.0	70 773	93.5
Austria*	6 180	76.0	7 690	80.4
Belgium *	7 561	75.7	6 481	116.7
Bulgaria	9 289	103.2	13 000	71.5
Cyprus	170	26.3	240	70.8
Denmark *	3 438	66.0	3 803	90.4
Spain	40 157	102.4	30 668	130.9
Finland	3 018	59.3	4 095	73.7
France *	53 178	89.0	48 804	109.0
Hungary	12 455	122.0	11 352	109.7
Ireland *	2 054	58.7	2 210	92.9
Iceland	119	44.4	118	100.8
Italy	49 642	87.0	40 562	122.4
Lithuania	13 228	356.0	13 400	98.7
Luxembourg	469	115.3	473	99.2
"The former Yugoslav Republic of Macedonia"	1 132	54.0	2 753	41.1
Malta	196	52.0	220	89.1
Norway	2 398	55.8	2 738	87.6
Slovak Republic	7 899	147.0	9 064	87.1
Czech Republic	19 832	188.0	18 183	109.1
Romania	46 456	206.0	30 600	151.8
United Kingdom	51 265	99.3	50 708	101.1
England and Wales *				
Scotland	5 657	110.0	5 655	100.0
Northern Ireland *	1 740	106.0	2 199	79.1
Russia	1 018 123	694.0	976 693	104.2
Slovenia	648	32.7	1 112	58.3
Sweden *	5 767	66.0	6 192	93.1
Switzerland *	5 655	80.8	6 120	92.4
Turkey	49 895	90.3	73 609	67.8
Ukraine	203 988	392.0	191 881	106.3

(*) see accompanying remarks

Table 2. Population imprisoned at 1 September 1995: demographic structure

Reference: Council of Europe, SPACE 95.2

	Median Age	Prisoners under 21 years of age		Female prisoners		Alien prisoners								
		Number	%	Number	%	Number	%							
Germany	...	...	...	2 698	4.1	...	29.4				
Austria	30.0	...	...	345	5.6	1 662	26.9					
Belgium	27.0	866	11.5	382	5.1	3 098	41.0							
Bulgaria	33.9	...	...	269	2.9	...	...					
Cyprus	31.5	19	11.2	6	3.5	64	37.6							
Denmark	...	...	...	219	6.4	472	13.7				
Spain	31.6	1 073	2.7	3 865	9.6	6 211	15.5							
Finland	33.0	140	4.6	127	4.2	72	2.4							
France	30.1	5 507	10.4	2 256	4.2	15 144	28.5							
Hungary	...	332	3.7	460	5.2	234	2.6							
Ireland *	28.0	540	25.3	36	1.8	132	6.4							
Iceland	32.6	11	9.2	6	5.0	1	0.1							
Italy	35.0	2 172	4.4	2 172	4.4	8 641	17.4							
Lithuania	...	...	...	709	5.4	104	0.8				
Luxembourg	33.0	29	6.2	29	6.2	253	53.9							
"The former Yugoslav Republic of Macedonia"	32.0	154	13.6	27	2.4	184	16.3							
Malta	...	8	4.1	8	4.1	51	26.0							
Norway	...	154	6.4	...	...	338	14.1					
Slovak Republic	32.0	1 201	15.2	272	3.4	165	2.1							
Czech Republic	29.5	837	4.2	687	3.5	3 130	15.8							
Romania	...	5 347	11.5	1 699	3.7	409	0.9							
United Kingdom	28.0	8 707	17.0	1 969	3.8	4 015	7.8							
England and Wales														
Scotland								...	726	12.8	182	3.2	23	0.4
Northern Ireland								...	268	15.4	30	1.7
Russia	...	...	...	50 358	4.9	...	...					
Slovenia	33.0	26	4.0	24	3.7	76	17.0							
Sweden *	34.0	171	3.6	330	5.7	1 201	25.6							
Switzerland *	31.0	...	...	383	6.8	3 253	57.5					
Turkey	...	11 063	22.2	1 798	3.6	364	0.7							
Ukraine	32.3	...	...	10 873	5.3	2 285	1.1					

(*) see accompanying remarks

Table 3.1. Population imprisoned at 1 September 1995: legal structure (numbers)

- (a) Sentenced prisoners (final sentence)
- (b) Sentenced prisoners who have appealed or who are within the statutory time limit for doing so
- (c) Prisoners convicted but not yet sentenced
- (d) Untried prisoners (not yet convicted)
- (e) Other cases

Reference: Council of Europe, SPACE 95.31

	(a)	(b)	(c)	(d)	(e)
Germany *	42 834	...	19 913		3 399
Austria *	4 011	...	***	1 621	548
Belgium *	4 043	538	***	1 866	1 114
Bulgaria *	6 398	...	1 651	1 260	0
Cyprus *	...	...	...	...	...
Denmark	2 574	181		635	48
Spain *	29 854	...	...	9 930	373
Finland	2 700		318		
France	31 236	1 996	***	19 602	344
Hungary	...	...	...	...	...
Ireland *	1 873	...	...	181	...
Iceland	113	0	***	6	0
Italy *	27 831	9 113	...	12 698	...
Lithuania *	...	...	...	...	...
Luxembourg *	312	28	***	127	2
"The Former Yugoslav Republic of Macedonia" *	...	...	...	...	...
Malta	101	***	***	95	***
Norway *	1 884	...	...	514	...
Slovak Republic *	...	...	...	...	...
Czech Republic	11 398	***	***	8 434	***
Romania *	25 421	7 625		11 147	2 263
United Kingdom					
England & Wales *	38 939		2 912	8 396	1 018
Scotland *	4 568	...	103	898	88
Northern Ireland *	1 358	...	...	350	32
Russia *	...	...	...	...	...
Slovenia	402	45	99	43	59
Sweden *	4 695		1 032		40
Switzerland *	...	...	...	...	...
Turkey *	...	...	...	...	...
Ukraine *	...	...	...	...	...

(*) see accompanying remarks

*** not applicable

Table 3.2. Population imprisoned at 1 September 1995: legal structure (rates)

- (a) Percentage of unconvicted prisoners
- (b) Pre-trial detention rate (per 100 000 inhabitants)
- (c) Percentage of prisoners awaiting trial
- (d) Rate of provisional detention awaiting trial (per 100 000 inhabitants)

Reference: Council of Europe, SPACE 95.32

	(a)	(b)	(c)	(d)
Germany	35.2	28.5	...	...
Austria	35.1	26.7	26.2	19.9
Belgium	46.5	35.2	24.7	18.7
Bulgaria	31.3	32.3	17.8	18.3
Cyprus	...	...	...	...
Denmark	25.1	16.6	18.5	12.2
Spain	27.4	31.4	24.7	30.3
Finland	10.5	6.2	...	...
France	41.3	36.7	36.9	32.8
Hungary	...	...	...	...
Ireland	8.8	5.2	8.8	5.2
Iceland	5.0	2.2	5.0	2.2
Italy	43.9	38.2	25.6	22.3
Lithuania	...	...	...	...
Luxembourg	33.5	38.6	21.1	31.2
"The former Yugoslav Republic of Macedonia"	...	...	...	...
Malta	48.5	30.1	48.5	30.1
Norway	21.4	12.0	21.4	12.0
Slovak Republic	...	...	...	...
Czech Republic	42.5	80.0	42.5	80.0
Romania	45.3	93.7	24.0	49.4
United Kingdom	24.0	23.9	16.4	16.3
England & Wales				
Scotland	19.3	25.7	15.9	17.5
Northern Ireland	22.0	23.3	20.1	21.3
Russia	...	...	...	...
Slovenia	6.6	2.2	6.6	2.2
Sweden	18.6	12.3	...	...
Switzerland	...	...	...	...
Turkey	...	...	...	...
Ukraine	...	...	...	...

Table 4.1. Breakdown of convicted prisoners according to offence at 1 September 1995 (numbers)

Reference: Council of Europe, SPACE 95.41

	Homicide	Assault	Rape	Robbery	Other theft	Drugs	Other cases
Germany *	...	...	...	...	...	...	...
Austria	...	...	...	...	...	...	...
Belgium	566	592	271	1 382	270	490	472
Bulgaria *	1 308	119	477	917	2 376	...	1 005
Cyprus *	...	...	...	...	...	...	...
Denmark	...	...	...	...	...	...	...
Spain *	1 565	...	1 255	13 285	569	9 327	3 853
Finland	271	586	47	304	602	213	677
France *	2 857	1 962	4 157	2 783	7 180	6 168	6 129
Hungary	1 012	720	380	1 452	2 900	147	2 317
Ireland *	138	140	79	234	484	71	763
Iceland	5	6	10	8	46	16	22
Italy	...	...	...	...	...	...	...
Lithuania	962	328	555	1 223	4 358	...	2 596
Luxembourg	46	10	25	49	59	88	35
"The former Yugoslav Republic of Macedonia	...	...	...	...	...	...	...
Malta	12	4	2	3	47	20	13
Norway	...	...	...	...	...	...	...
Slovak Republic*	...	...	...	...	...	...	...
Czech Republic	624	724	330	1 274	5 169	79	3 198
Romania	4 573	692	1 617	2 963	13 064	25	2 487
United Kingdom	3 833	4 076	1 764	5 204	9 410	4 275	10 377
England & Wales							
Scotland	...	...	...	...	...	...	...
Northern Ireland	373	411	51	157	133	37	196
Russia*	...	...	...	...	...	...	...
Slovenia	78	24	37	33	105	28	97
Sweden	234	330	158	379	814	766	2 014
Switzerland*	204	128	43	271	898	1 332	1 265
Turkey*	...	...	...	...	...	...	...
Ukraine*	16 564	24 565	9 102	10 630	67 769	...	31 513

(*) see accompanying remarks

Table 4.2. Breakdown of convicted prisoners according to offence at 1 September 1995 (in %)

Reference: Council of Europe, SPACE 95.42

	Homicide	Assault	Rape	Robbery	Other theft	Drugs	Other cases
Germany	...	...	...	...	...	...	...
Austria	...	...	...	...	...	...	...
Belgium	14.0	14.6	6.7	34.1	6.7	12.2	11.7
Bulgaria	21.1	1.9	7.7	14.8	38.3	...	16.2
Cyprus	...	...	...	...	...	...	...
Denmark	...	...	...	...	...	...	...
Spain	5.2	...	4.2	44.6	1.9	31.2	12.9
Finland	10.0	21.7	1.7	11.3	22.3	7.9	25.1
France	9.1	6.3	13.3	8.9	23.1	19.7	19.6
Hungary	11.3	8.1	4.3	16.3	32.4	1.6	26.0
Ireland	7.2	7.3	4.1	12.3	25.4	3.7	40.0
Iceland	4.4	5.3	8.8	7.1	40.7	14.2	19.5
Italy	...	...	...	...	...	...	...
Lithuania	9.6	3.3	5.5	12.2	43.5	25.9	...
Luxembourg	14.7	3.2	8.0	15.7	18.9	28.3	11.2
"The former Yugoslav Republic of Macedonia"	...	...	...	...	...	...	...
Malta	11.9	4.0	2.0	3.0	46.4	19.8	12.9
Norway	...	...	...	...	...	...	...
Slovak Republic	...	...	...	...	...	...	...
Czech Republic	5.5	6.4	2.9	11.2	45.2	0.7	28.1
Romania	18.0	2.7	6.4	11.7	51.3	0.1	9.8
United Kingdom							
England & Wales	9.8	10.5	4.5	13.4	24.2	11.0	26.6
Scotland	...	...	...	...	...	...	...
Northern Ireland	27.5	30.2	3.8	11.6	9.8	2.7	14.4
Russia	11.0	11.1	6.2	15.5	36.6	...	19.6
Slovenia	19.4	6.0	9.2	8.2	26.1	7.0	24.1
Sweden	5.0	7.0	3.4	8.1	17.3	16.3	42.9
Switzerland	4.9	3.1	1.0	6.5	21.7	32.3	30.5
Turkey	...	...	...	...	...	...	...
Ukraine	10.3	15.3	5.7	6.6	42.4	...	19.7

(*) see accompanying remarks

Table 5.1. Breakdown of convicted prisoners according to length of sentence (ordered), at 1 September 1995 (numbers)

Reference: Council of Europe, SPACE 95.51

	Less than 6 months	6 months to one year	1 to 3 years	3 to 5 years	5 to 10 years	10 years and more	Life sentence
Germany *	...	...	...	...	...	...	...
Austria	...	...	...	...	...	...	...
Belgium*	210	266	985	1 106	1 195		281
Bulgaria*	429		1 778	1 453	1 158	1 381	0
Cyprus	...	...	...	...	...	...	...
Denmark	...	...	...	...	...	...	...
Spain*	3 958		15 488		6 889	3 519	...
Finland	392	400	866		1 003		39
France	4 873	5 028	7 575	3 851	5 146	4 310	453
Hungary	681	751	3 079	1 779	1 822	655	161
Ireland	...	...	...	...	...	...	...
Iceland	33	22	43	7	2	6	0
Italy	1 631	2 439	6 380	5 417	6 633	4 844	487
Lithuania	0	349	3 386	3 449	2 375	442	24
Luxembourg	9	29	102	46	15	90	21
"The former Yugoslav Republic of Macedonia"	...	...	...	...	...	...	...
Malta	22	13	29	17	7	11	2
Norway	...	...	...	...	...	...	...
Slovak Republic	650	1 346	1 970	628	1 349		8
Czech Republic	800	2 339	4 148	1 717	1 700	686	8
Romania	1 756		6 323	9 338	4 909	3 072	23
United Kingdom							
England & Wales	2 901	3 882	10 959	7 365	7 968	2 619	3 245
Scotland	...	...	...	...	...	...	...
Northern Ireland	63	87	128	165	285	373	257
Russia*	6 592		239 730	236 635	210 164	34 021	227
Slovenia	31	43	153	75	62	38	0
Sweden*	1 241	838	1 270	620	723	194	65
Switzerland*	1 002	144	742	400	301	174	22
Turkey*	...	...	...	...	...	...	...
Ukraine*	***	4 647	42 678	51 368	47 730	13 720	***

(*) see accompanying remarks

*** not applicable

Table 5.2. Breakdown of convicted prisoners according to length of sentence (ordered), at 1 September 1995 (in %)

Reference: Council of Europe, SPACE 95.51

	Less than 6 months	6 months to one year	1 to 3 years	3 to 5 years	5 to 10 years	10 years and more	Life sentence
Germany *	...	...	...	...	...	...	...
Austria	...	...	...	...	...	...	...
Belgium*	5.2	6.6	24.4	27.3	29.6		6.9
Bulgaria*	6.9		28.7	23.4	18.7	22.3	0.0
Cyprus	...	...	...	...	...	...	...
Denmark	...	...	...	...	...	...	...
Spain*	13.2	51.9		23.1	11.8	...	
Finland	14.5	14.8	32.1	37.1		1.4	
France	15.6	16.1	24.2	12.3	16.5	13.8	1.5
Hungary	7.6	8.4	34.6	19.9	20.4	7.3	1.8
Ireland	...	...	...	...	...	...	...
Iceland	29.2	19.5	38.0	6.2	1.8	5.3	0.0
Italy	5.9	8.8	22.9	19.5	23.8	17.4	1.7
Lithuania	0.0	3.5	33.8	34.4	23.7	4.4	0.2
Luxembourg	2.9	9.3	32.8	14.7	4.8	28.8	6.7
"The former Yugoslav Republic of Macedonia"	...	...	...	...	...	...	...
Malta	21.8	12.9	28.7	16.8	6.9	10.9	2.0
Norway	...	...	...	...	...	...	...
Slovak Republic	10.9	22.6	33.1	10.6	22.7		0.1
Czech Republic	7.0	20.5	36.4	15.1	14.9	6.0	0.1
Romania	6.9		24.9	36.8	19.3	12.1	18.9
United Kingdom							
England & Wales	7.5	10.0	28.1	18.9	20.5	6.7	8.3
Scotland	...	...	...	...	...	...	...
Northern Ireland	4.6	6.4	9.4	12.2	21.0	27.5	18.9
Russia*	0.9		33.0	32.5	28.9	4.7	0.0
Slovenia	7.7	10.7	38.0	18.7	15.4	9.5	0.0
Sweden*	25.1	16.9	25.7	12.5	14.6	3.9	1.3
Switzerland*	36.0	5.2	26.6	14.4	10.8	6.2	0.8
Turkey*	...	...	...	...	...	...	...
Ukraine*	***	2.9	26.6	32.1	29.8	8.6	***

(*) see accompanying remarks

*** not applicable

Table 6. Committal flow in 1994

Reference: Council of Europe, SPACE 95.6

	Total number of first committals	Committal rate (per 100.000 inhabitants)	First committals before final sentence	
			Number	%
Germany	169 490	208.0	...	...
Austria	...	...	...	...
Belgium	17 353	157.5	10 706	61.7
Bulgaria *	...	...	...	...
Cyprus	321	50.5	...	...
Denmark	34 560	650.0	...	...
Spain	...	...	...	...
Finland	8 711	172.8	1 626	18.7
France	88 754	149.1	68 180	76.8
Hungary	...	...	...	...
Ireland *	10 457	296.4	...	...
Iceland	287	107.5	69	24.0
Italy	...	...	...	...
Lithuania	...	...	...	...
Luxembourg	652	162.6	503	77.1
"The former Yugoslav Republic of Macedonia" *	...	...	...	...
Malta	255	80.7	...	...
Norway	...	...	...	...
Slovak Republic *	...	...	...	...
Czech Republic	...	...	...	...
Romania	...	...	...	...
United Kingdom				
England & Wales *	126 120	...	68 345	54.2
Scotland	16 806	327.5	14 922	88.8
Northern Ireland	4 897	299.8	2 043	41.7
Russia	...	...	...	...
Slovenia	...	...	...	...
Sweden	...	...	...	...
Switzerland	...	...	...	...
Turkey *	...	...	...	...
Ukraine *	...	...	...	...

(*) see accompanying remarks

Table 7. Indicator of average length of imprisonment (1994)

Reference: Council of Europe, SPACE 95.7

	Total number of days spent in prison	Average number of prisoners	Indicator of average length of imprisonment (in months)
Germany	24 617 836	67 446	4.8
Austria	2 523 245	6 913	...
Belgium *	...	...	4.9
Bulgaria	...	...	...
Cyprus	61 865	169	6.3
Denmark	1 323 782	3 627	1.3
Spain	...	...	...
Finland	1 195 375	3 275	4.5
France	20 227 570	55 418	7.5
Hungary	...	...	...
Ireland	774 895	2 123	2.4
Iceland	39 223	107	4.5
Italy	...	...	...
Lithuania	...	...	...
Luxembourg	167 389	459	8.4
"The former Yugoslav Republic of Macedonia" *	...	...	...
Malta *	...	...	9.2
Norway	...	...	4.9
Slovak Republic	2 705 380	7 412	...
Czech Republic	...	...	...
Romania	...	...	...
United Kingdom			
England & Wales	17 180 000	48 795	...
Scotland	2 038 623	5 585	4.0
Northern Ireland	...	1 911	4.7
Russia	...	...	...
Slovenia	...	...	...
Sweden	...	...	...
Switzerland	...	...	...
Turkey *	...	...	...
Ukraine	...	...	...

(*) see accompanying remarks

Table 8.

Escapes by prisoners under the supervision of prison administrations from a closed prison or during administrative transfer (1994)

Reference: Council of Europe, SPACE 95.8

	Number of escapes in 1994	Number of prisoners/year	Escape rate per 10 000 prisoners
Germany	250	67 446	37.1
Austria	134	6 913	193.8
Belgium	24	7 138	33.6
Bulgaria	...	...	...
Cyprus	2	169	n.s.
Denmark	50	3 627	137.9
Spain	8	41 169	1.9
Finland	51	3 275	155.7
France	53	55 418	9.6
Hungary	...	...	...
Ireland	...	...	...
Iceland	2	107	n.s.
Italy	...	...	...
Lithuania	0	13 228	0.0
Luxembourg	5	459	n.s.
"The former Yugoslav Republic of Macedonia" *	...	...	...
Malta	6	196	n.s.
Norway	14	2 689	52.1
Slovak Republic	25	7 412	33.7
Czech Republic	7	19 832	3.5
Romania	1	46 456	0.2
United Kingdom			
England & Wales *	230	48 795	47.1
Scotland	16	5 585	28.6
Northern Ireland	0	1 911	0.0
Russia	...	...	...
Slovenia	17	...	...
Sweden	133	6 021	220.9
Switzerland	...	...	...
Turkey	28	49 895	5.6
Ukraine	15	203 988	0.7

(*) see accompanying remarks

n.s. not significant

Table 9. Suicides in prison (1994)

Reference: Council of Europe, SPACE 95.9

	Number of suicides in 1994	Number of prisoners/year	Suicide rate per 10 000 prisoners
Germany	93	67 446	13.8
Austria	16	6 913	23.1
Belgium	13	7 138	18.2
Bulgaria	...	...	...
Cyprus	0	169	n.s.
Denmark	8	3 627	22.1
Spain	23	41 169	5.6
Finland	10	3 275	30.5
France	101	55 418	18.2
Hungary	...	...	...
Ireland	3	2 123	14.1
Iceland	0	107	n.s.
Italy	...	...	...
Lithuania	11	13 228	8.3
Luxembourg	1	459	n.s.
"The former Yugoslav Republic of Macedonia" *	...	...	...
Malta	0	196	n.s.
Norway	1	2 689	3.7
Slovak Republic	4	7 412	5.4
Czech Republic	12	19 832	6.1
Romania	5	46 456	1.1
United Kingdom			
England & Wales	62	48 795	12.7
Scotland	16	5 585	28.6
Northern Ireland	3	1 911	15.7
Russia	...	...	...
Slovenia	1	...	...
Sweden	3	6 021	5.0
Switzerland	...	...	...
Turkey	2	49 895	0.4
Ukraine	66	203 988	3.2

(*) see accompanying remarks

n.s. not significant

Table 10. Prison sentences ordered in 1993 (without full or partial suspension): rates per 100 000 inhabitants

Reference: Council of Europe, SPACE 95.10

	Number of sentences	Number of inhabitants (average for 1993)	Sentence rate per 100 000 inhabitants
Germany *	33 933	80 978 900	41.9
Austria *	...	...	...
Belgium	12 888	10 084 475	127.8
Cyprus	159	718 250	22.1
Denmark	14 520	5 188 628	279.8
Finland	11 538	5 066 450	227.7
France	99 842	57 655 000	173.2
Hungary	9 390	10 300 000	91.2
Ireland *	...	...	...
Italy	...	...	...
Lithuania	4 832	3 800 000	127.2
Luxembourg	415	398 000	104.3
Malta	341	364 704	93.5
Norway	5 956	4 336 500	137.3
Portugal *	...	...	...
Romania	27 252	22 755 260	119.8
United Kingdom			
England & Wales	58 400	51 529 854	113.3
Scotland	15 206	5 126 300	296.6
Northern Ireland	2 288	1 636 769	139.8
Russia	...	...	...
Slovenia	...	...	...
Sweden	14 321	8 718 561	164.2
Switzerland	13 219	6 938 000	190.5
Turkey	54 299	61 722 944	88.0
Ukraine *	...	...	...

(*) see accompanying remarks

Table 11.1. Prison sentences ordered in 1993 according to length (without full or partial suspension): numbers

Reference: Council of Europe, SPACE 95.111

	Total	Less than 3 months	3 to 6 months	6 months to one year	One year and more
Germany	33 933	9 567		11 542	12 824
Austria	...	...	...	...	...
Belgium	12 888	4 389	2 888	2 581	3 030
Cyprus	...	...	...	...	...
Denmark	14 520	11 245	1 591	910	774
Finland	11 538	4 432	3 874	1 239	1 993
France	99 842	38 912	26 588	18 006	16 336
Hungary	9 390	348		768	8 274
Ireland	...	...	...	...	...
Italy	...	...	...	...	...
Lithuania	4 832	0	0	176	4 652
Luxembourg	415	49	64	131	171
Malta	341	100	19	32	190
Norway	5 956	3 337	795	983	841
Portugal	...	...	138	228	6 682
Romania	27 252		9 197		18 055
United Kingdom					
England & Wales	58 400	9 600	16 700	12 900	19 200
Scotland	15 206	5 052	5 808	2 416	1 924
Northern Ireland	2 288	205	541	825	717
Russia	...	...	...	...	...
Slovenia	...	...	...	...	...
Sweden	14 321	6 245	2 671	2 781	2 624
Switzerland	13 219	10 474	808	485	1 452
Turkey	54 299	31 202	3 716	5 922	13 459
Ukraine	...	...	...	...	...

Table 11.2. Prison sentences ordered in 1993 according to length (without full or partial suspension): percentages

Reference: Council of Europe, SPACE 95.112

	Total	Less than 3 months	3 to 6 months	6 months to one year	One year and more
Germany	100.0	28.2		34.0	37.8
Austria	...	...	...	...	...
Belgium	100.0	34.1	22.4	20.0	23.5
Cyprus	...	...	...	...	...
Denmark	100.0	77.4	11.0	6.3	5.3
Finland	100.0	38.4	33.6	10.7	17.3
France	100.0	39.0	26.6	18.0	16.4
Hungary	100.0	3.7		8.2	88.1
Ireland	...	...	...	...	...
Italy	...	...	...	...	...
Lithuania	100.0	0.0	0.0	3.6	96.4
Luxembourg	100.0	11.8	15.4	31.6	41.2
Malta	100.0	29.3	5.6	9.4	55.7
Norway	100.0	56.1	13.3	16.5	14.1
Portugal	...	...	...	...	...
Romania	100.0		33.7		66.3
United Kingdom					
England & Wales	100.0	16.4	28.6	22.1	32.9
Scotland	100.0	33.3	38.2	15.9	12.7
Northern Ireland	100.0	9.0	23.6	36.1	31.3
Russia	...	...	...	...	...
Slovenia	...	...	...	...	...
Sweden	100.0	43.6	18.7	19.4	18.3
Switzerland	100.0	79.2	6.1	3.7	11.0
Turkey	100.0	57.5	6.8	10.9	24.8
Ukraine	...	...	...	...	...

Table 12. Suspended sentences ordered in 1993

Reference: Council of Europe, SPACE 95.12

	Total	Fully suspended		Partially suspended	
		without suspension	with suspension	without suspension	with suspension
Germany	76 496	76 496		***	***
Austria	13 953	12 154		1 799	
Belgium *	15 557	...	...	...	...
Cyprus	...	268		...	...
Denmark	6 357	5 225		1 132	
Finland	15 638	12 871	2 767	***	***
France *	223 948	177 089	26 635	7 508	12 716
Hungary	...	...	...	...	...
Ireland *	...	...	12	...	15
Italy	...	...	...	***	8 276
Lithuania	4 638	0	4 638	***	***
Luxembourg	298	197	28	62	11
Malta	...	...	...	***	***
Norway	...	...	...	...	...
Portugal	7 767	7 129	638	***	***
Romania	...	25 233	...	***	***
United Kingdom					
England & Wales *	3 800	3 600	200	***	***
Scotland	***	***	***	***	***
Northern Ireland	...	2 224	...	***	***
Russia	150 948	***	150 948	***	***
Slovenia	...	...	...	...	...
Sweden *	***	***	***	***	***
Switzerland	40 610	40 476	134	***	***
Turkey	121 495	121 495		***	***
Ukraine	44 867	***	33 612	***	11 255

(*) see accompanying remarks

*** not applicable

Table 13. Other measures ordered in 1993

Reference: Council of Europe, SPACE 95.13

	Exemption from punishment	Passing of sentence deferred	Day - fine	Community service
Germany	4 034	***	577 381	***
Austria	83	721	46 961	...
Belgium	***	5 835	***	***
Cyprus *	289	...	...	...
Denmark *	193	***	...	608
Finland *	1 577	***	363 420	573
France *	8 319	...	4 075	15 165
Hungary	...	...	...	...
Ireland *	2 261	1 251	***	1 759
Italy	***	...	...	...
Lithuania *	2 283	0	***	2 354
Luxembourg	***	0	***	0
Malta	...	***	***	***
Norway *	...	...	...	...
Portugal *	165	1 429	8 957	33
Romania	***	***	...	4 870
United Kingdom				
England & Wales *	137 500	***	***	48 000
Scotland *	22 760	***	***	5 168
Northern Ireland *	5 228	...	25 205	584
Russia	149 140	150 948	***	124 639
Slovenia	...	...	...	...
Sweden	***	***	24 581	361
Switzerland	...	...	786	...
Turkey	***	***	***	***
Ukraine	11 255	18 054	16 246	25 978

(*) see accompanying remarks

*** not applicable

Table 14. Other forms of probation (measures ordered in 1993)

Reference: Council of Europe, SPACE 95.14

Nature of the case	Numbers
Denmark: - suspended sentences/probation without fixed sentence	3 636
Italy: - suspended prison sentence for drug use	189
Luxembourg: - debarment from driving	2 093
England: - "probation order" (young persons 14 to 20 years old) - "probation order" (adults) - "supervision order" (young persons 10 to 17 years old) - "combination order" (young persons 14 to 20 years old) - "combination order" (adults)	11 578 32 200 7 300 2 900 6 000
Sweden: 1. "Ordinary probation" is an independent alternative sanction to imprisonment which simply involves a supervision measure (generally for one year) and a probationary period (three years from the date of conviction). 2. Ordinary probation can also be combined with a prison sentence of up to three months. 3. A special form of probation exists in Sweden. It enables the court to order a probation measure together with mandatory treatment (usually linked with drug addiction). In this case the court is urged in the law to indicate the prison sentence which would have been imposed if probation with mandatory treatment had not been ordered. In other words, the court is not required to stipulate the length of the prison sentence. In practice the courts do so in a large percentage of cases.	6 534 681 707
Ukraine: - "public condemnation"	138

Table 15. Weight of the various sanctions and measures in 1993 compared with prison sentences without suspension (per 100)

- | | | | |
|-----|------------------------------|-----|----------------------------|
| (a) | Total suspension | (e) | Day - fine |
| (b) | Partial suspension | (f) | Community service |
| (c) | Exemption from punishment | (g) | Other forms of "probation" |
| (d) | Deferred passing of sentence | | |

Reference: Council of Europe, SPACE 95.15

	(a)	(b)	(c)	(d)	(e)	(f)	(g)
Germany	225	***	12	***	1 701	***	...
Austria	...	...	...	...	...	...	...
Belgium	...	...	***	45	***	***	***
Cyprus	169	...	182	...	...	...	...
Denmark	36	8	1	***	...	4	25
Finland	136	***	14	***	3 150	5	***
France	204	13	8	...	4	15	***
Hungary	...	...	...	...	...	...	***
Ireland	...	...	...	...	...	...	...
Italy	...	...	...	...	...	...	...
Lithuania	96	***	47	0	***	***	***
Luxembourg	54	18	***	0	***	0	504
Malta	...	***	...	***	***	***	***
Norway	...	...	...	...	...	...	...
Portugal	...	...	...	...	...	...	...
United Kingdom							
England & Wales	7	***	235	***	***	82	103
Scotland	***	***	150	***	***	34	***
Northern Ireland	...	***	228	...	1 102	26	***
Romania	...	***	***	***	...	18	...
Russia	...	...	...	...	...	...	...
Slovenia	...	...	...	...	...	...	...
Sweden	***	***	***	***	172	3	55
Switzerland	307	***	...	...	6	...	***
Turkey	224	***	***	***	***	***	***
Ukraine	...	...	...	...	...	...	...

*** not applicable

INFORMATION ON CANADA

Prison population

The figures concern only prisoners supervised by the Adult Correctional Service of Canada. They cover only persons who have been convicted. As a result, they are difficult to compare with the figures relating to European countries given in SPACE.

Situation at 1 September 1995

Total number of prisoners	13 928
Total number of prisoners per 100 000 inhabitants	47.4
Total prison capacity	12 584
Median age of prison population	33 years
Number of prisoners under 21 years of age	501
Number of female prisoners	189
Number of alien prisoners	650

2

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Appendix: Information on Canada

**Council of Europe annual penal statistics
SPACE: 1996 Enquiry**

This report contains the results of the fifth survey undertaken using the SPACE procedure. Part I deals with the state of prison populations at 1 September 1996 and committal flows in 1995 (Questionnaire I). These standard data are supplemented, for the first time, by information on prison staff (the topic selected for the variable part of the survey). Part II concerns certain community measures and sanctions ordered in 1994 (Questionnaire II).

Although the statistical survey has been in existence for some time, we are still encountering a number of difficulties in processing the questionnaires returned to us by the administrations of member States:

1. Some countries take a very long time to reply. Some have failed to reply at all, despite several reminders: Albania, Estonia, Iceland, Northern Ireland, Russia and Spain. Some have replied to Part I but not to Part II.
2. If figures are missing in the questionnaire, it is not always possible to determine whether the information is "not available" or whether the question is "not applicable, which are clearly two different things. There are also blanks or unexplained symbols - (...), (---), (/) etc - despite our explicit requests to clearly distinguish between the two situations for each item.
3. Furthermore, there are often inconsistencies within a particular item or between two different items: the sum of the parts turns out not to be equal to the whole, for example, which makes it difficult to establish breakdowns (breakdown of all prisoners by penal situation, breakdown of sentenced prisoners by primary offence etc).
4. The data are not always consistent from one year to the next - orders of magnitude that are difficult to reconcile for example - which shows that the person completing the questionnaire did not have the previous year's reply to consult. Hence, some measures described as "applicable" are not applicable the next, without any notification that a change in legislation has occurred.
5. We are informed that information on a particular item in a breakdown is not available (for example for convicted persons who have appealed) but we are not told under which heading this category, which is not listed separately, has been included (are convicted persons who have appealed included in the figures for prisoners who have received a final sentence or in those for untried prisoners?). This makes it difficult to use the information supplied.
6. Finally, some of the data supplied clearly do not relate to the question asked. For example, instead of indicating the number of affirmative sentences ordered in a given year, the data sent to us in questionnaire II concern the convictions being enforced at a given date, which is clearly something completely different.

It is important for the future of the SPACE survey that the administrations concerned ensure a degree of continuity, ie make sure that the person responsible for completing the questionnaire has copies of the replies sent by his administration in the preceding years and as well as the statistical reports published in the *Penological Information Bulletin*, which highlights the difficulties we have encountered (notes to tables). If these rules were followed, SPACE would be a good deal more comprehensive and therefore more useful to each of the member States.

In all the tables, three dots (...) indicate that the data are not available or that the information provided could not be used for lack of consistency. Where the administration has **explicitly** stated that a question is "not applicable", we have used the symbol "****".

I. PRISON POPULATIONS

1.1. State of prison populations at 1 September 1996

The situation of prison populations at a given date ("stock" statistics) is set out in six tables.

Table 1. Situation of the prisons

(a) total number of prisoners (including pre-trial detainees)

(b) detention rate (per 100,000 inhabitants): number of prisoners (including pre-trial detainees) present at 1 September 1996 in proportion to the number of inhabitants at the same date;

(c) total prison capacity;

(d) rate of occupancy (per 100 places): number of prisoners including pre-trial detainees in relation to the number of available places.

The rates of increase are as follows:

Less than -5%: Macedonia (-11%), Lithuania (-9.4%), Denmark (-6.8%), Slovenia (-5.2%), Romania (-6.1%).

Between -5% and +5%: Norway (-4.5%), Finland (-2.2%), Italy (-2.2%), Slovak Republic (-2.1% between 1.9.95 and 31.12.96), Malta (-0.3%), Sweden (0.0% between 1.9.95 and 1.10.96), Hungary (3.8% between 31.12.95 and 30.6.96), Scotland (4.6%).

Over 5%: Czech Republic (5.2% between 1.9.95 and 31.12.96), Ukraine (6% between 1.9.95 and 1.1.97), Ireland (6.2%), England and Wales (8.3%), Austria (9.7%), Turkey (9.8%), Bulgaria (17.4%), Cyprus (38.2%).

Numbers unknown at 1.9.95: Croatia, Greece, Latvia, Moldova, Netherlands, Poland, Portugal, Switzerland.

Table 2. Demographic structure

(a) median age of prison population (including pre-trial detainees) at the date of the statistics;

(b) prisoners under 21 years of age (including pre-trial detainees): number and percentage;

(c) female prisoners: number and percentage;

(d) alien prisoners: number and percentage.

Table 3.1 Legal structure (numbers)

(a) untried prisoners (not yet convicted);

(b) prisoners convicted but not yet sentenced;

(c) sentenced prisoners who have appealed or who are within the statutory time limit for doing so;

(d) sentenced prisoners (final sentence);

(e) other cases.

Table 3.2 Legal structure (rates)

We have selected four indicators for comparing the situation of the various populations:

(a) percentage of unconvicted prisoners (or proportion of unconvicted prisoners) at 1 September 1996: the number of unconvicted prisoners present at that date in relation to the total number of prisoners at the same date (expressed as a percentage). Here "unconvicted prisoners" means all prisoners who have not received a final sentence;

(b) pre-trial detention rate at 1 September 1996: number of "unconvicted prisoners" present at that date in relation to the number of inhabitants at the same date, per 100,000 inhabitants;

(c) percentage of untried prisoners (or proportion of untried prisoners) at 1 September 1996: the ratio between the number of "untried prisoners" at that date in relation to the total number of prisoners at the same date (expressed as a percentage);

(d) rate of detention of untried prisoners at 1 September 1996: number of "untried prisoners" at that date in relation to the number of inhabitants at the same date, per 100,000 inhabitants.

Only prisoners included under the heading "untried prisoners" were taken into account in calculating the last two rates.

Table 4. Convicted prisoners: structure according to offence

The offences have been classified under seven headings: homicide, wounding with intent to harm, rape, robbery with violence, other categories of theft, drug-related offences, other cases.

Table 5. Convicted prisoners: structure according to length of sentence

I.2. Committal flows, length of imprisonment, escapes and suicides in 1995

Table 6. Committal flows

(a) total number of first committals in 1995;

(b) committal rate (per 100,000 inhabitants): the number of committals for 1995 in relation to the average number of inhabitants during the period considered. In view of the information available, the figure actually used was the number of inhabitants at 1 September 1995 supplied by the authorities;

(c) first committals before final sentence: number and percentage.

Table 7. Indicator of average length of imprisonment

(a) total number of days spent in prison in 1995;

(b) average number of prisoners in 1995: $(b) = (a)/365$;

(c) indicator of average length of imprisonment (D): quotient of the average number of prisoners in 1995 (P) by the flow of admissions during that period (E): $D = 12 \times P/E$ - length expressed in months.

Table 8. Escapes

This refers solely to escapes by prisoners under the supervision of the prison administration from a closed prison or during administrative transfer. In the case of collective escapes, it was considered that there were as many escapes as there were prisoners involved.

(a) number of escapes in 1995;

(b) number of prisoners/year in 1995 (see Table 7);

(c) escape rate per 10,000 prisoners: $10,000 \times (a)/(b)$.

Table 9. Suicides in prison

(a) number of suicides in 1995;

(b) number of prisoners/year in 1995 (see Table 7);

(c) suicide rate per 10,000 prisoners: $10,000 \times (a)/(b)$.

II. PRISON STAFF

The objective of this item is to count prison staff in those penal institutions which receive prisoners as counted in Table 1. Only management staff, custodial staff and administrative staff have been covered. Staff exclusively entrusted with training functions, the provision of health care, the management of workshops and social, cultural and sports activities have not been taken into account.

Table 10. Number of statutory working hours per year

- (a) Number of statutory working hours per year for full-time management staff (1996);
- (b) Number of statutory working hours per year for full-time custodial staff (1996);
- (c) Number of statutory working hours per year for full-time administrative staff (1996).

Table 11. Number of staff

In order to take part-time staff properly into account, the authorities were asked to calculate the full-time equivalent. Example: two staff members working at 50% of the normal working time would be counted as one staff member.

- (a) Number of management staff at 1 September 1996;
- (b) Number of custodial staff at 1 September 1996;
- (c) Number of administrative staff at 1 September 1996.

Table 12. Indicators concerning custodial staff

- (a) Rate of supervision of custodial staff by superiors at 1 September 1996;
- (b) Rate of supervision of prisoners by custodial staff at 1 September 1996;
- (c) Comparative rate of supervision of prisoners by custodial staff at 1 September 1996.

This comparative rate of supervision of prisoners by custodial staff takes account of the variations observed in the number of statutory working hours completed by custodial staff during a year. This number varies between T = 1,610 hours in Finland and T = 2,272 hours in Austria. The European average, calculated from available data, is 1,930 hours per annum.

Comparative rate in country A = Rate in country A x European T/T in country A

Thus, for Finland the rate of supervision of prisoners by custodial staff is 1.8. As the number of statutory working hours for one member of custodial staff, for one year, is 1,610 hours, this yields a comparative rate of supervision of prisoners by custodial staff of:

$$1.8 \times 1,930 / 1,610 = 2.2$$

III. COMMUNITY SANCTIONS AND MEASURES ORDERED IN 1994

It should be noted that the questionnaire did not seek to cover all non-custodial measures and sanctions which may exist in the different countries. The sanctions and measures included had to be ordered as primary penalties by criminal courts (adults and juveniles taken together). Seven types of measure and sanction have been included:

1. Exemption from punishment following finding of guilt
(*dispense de peine après déclaration de culpabilité*)
2. Pronouncement of sentence deferred following finding of guilt, without committal

(suspension du prononcé de la condamnation après déclaration de culpabilité, sans mise en détention)

3. Day fine (*jour-amende*)
4. Community service (*travail au profit de la communauté*)
5. Prison sentence imposed, with execution being fully suspended (*Sursis total à l'exécution d'une peine d'emprisonnement*)
6. Prison sentence imposed, with part to be served, and with part to be suspended (*Sursis partiel à l'exécution d'une peine d'emprisonnement*)
7. Other forms of "probation", not including measures and sanctions in the area of juvenile criminal law.

Table 13. Prison sentences

For purposes of comparison, we also asked for the number of prison sentences without full or partial suspension) ordered in 1994.

(a) number of sentences;

(b) number of inhabitants (average for 1994);

(c) sentence rate: number of sentences of imprisonment without full or partial suspension ordered in 1994 in relation to the number of inhabitants (per 100,000 inhabitants).

Table 14. Prison sentences according to length

These tables also relate to prison sentences ordered in 1994, without full or partial suspension.

Tables 15, 16 and 17 give figures for the various measures and sanctions ordered in 1994.

Table 15. Suspended sentences

Table 16. Other measures

(a) exemption from punishment

(b) pronouncement of sentence deferred

(c) day fine

(d) community service

We have not included the figures relating to fines, as the information gathered clearly relates to areas which differ widely from one country to another (especially where fines for road traffic offences are concerned).

Table 17. Other cases of probation

Finally, we have attempted to summarise the situation in Table 18.

Table 18. Weight of the various sanctions and measures

1. Dots indicate that the statistical information is not available.
2. Asterisks indicate that the question is not applicable as the measure in question does not exist;
3. In all other cases we have given the ratio between the number of measures and the number of affirmative prison sentences (expressed as a percentage).

For example, in France for every 100 affirmative prison sentences (without suspension) ordered, the courts delivered 190 suspended sentences and 24 partially suspended sentences during the same period.

This makes it possible to highlight the measures most frequently ordered in each country. The reader can then compare the figures for conviction rates with affirmative prison sentences and the breakdown of sentences according to length or the penal data set out in part I.

Unfortunately, these tables, like those for the preceding year, contain large grey areas which show no sign of diminishing from one survey to the next, despite the fact that the information requested is very general and does not require the use of highly sophisticated statistical procedures.

STATISTICAL TABLES

Table 1. Situation of prisons at 1 September 1996

Reference : Council of Europe, SPACE 96.1

	Total number of prisoners (inc. pre-trial detainees)	Detention rate per 100,000 inhabitants	Total prison capacity	Rate of occupancy per 100 places
Germany	67 677	82,6	71 270	95,0
Austria (*)	6778	84,0	7 900	85,8
Belgium (*)	7 656	75,6	6 862	111,6
Bulgaria	10 903	126,4	13 000	83,9
Cyprus	235	35,1	240	97,9
Croatia	2 156	45,0	...	...
Denmark (*)	3 203	61,0	3 684	86,9
Finland	2 952	57,8	3 897	75,8
France (*)	54 014	89,9	49 128	109,9
Greece (*)	5 304	51,0	4 332	122,4
Hungary (*)	12 923	129,0	11 262	114,7
Ireland (*)	2 182	62,3	2 251	96,9
Italy	48 545	85,0	41 049	118,3
Latvia	10 161	405,0	9 760	104,1
Lithuania	11 980	323,0	13 400	89,4
Luxembourg	431	104,4	473	91,1
Macedonia (*)	1 007	50,0	2 463	40,9
Malta	190	62,0	260	73,1
Moldova (*)	9 812	263,0	...	...
Norway (*)	2 290	52,4	2 738	83,6
Netherlands	11 578	75,2	11 949	96,9
Poland	57 320	148,5	65 185	87,9
Portugal (*)	14 177	140,0	8 999	157,5
Slovak Rep. (*)	7 734	144,0	9 232	83,8
Czech Rep. (*)	20 860	202,0	18 701	111,5
Romania (*)	43 609	194,0	30 222	144,3
United Kingdom				
England (*)	55 537	106,8	53 210	104,4
Scotland (*)	5 916	101,0	5 760	102,7
Northern Ireland	...	...	...	...
Slovenia	614	31,0	1 112	55,2
Sweden (*)	5 768	65,0	6 155	93,7
Switzerland (*)	6 047	85,4	6 906	87,6
Turkey	54 801	87,4	74 335	73,7
Ukraine (*)	216 248	425,0	197 555	109,4

(*) see remarks *infra*

Remarks - Table 1.

Austria : annual collective pardon at Christmas.

Belgium : 19 September 1996 : ministerial circular setting out the requirements to be met by prisoners for provisional release pending a pardon.

Denmark : the figures shown do not concern "*institutions for imprisoned asylum applicants*".

France : Law no. 95-884 of 3 August 1995 granting an amnesty ; decree on collective pardon of 10 July 1995 remitting 7 days per month or part thereof remaining to be served, subject to a maximum pardon of 4 months.

Greece : detention rate calculated on the basis of the number of inhabitants at 1 January 1995 (10,400,000 inhabitants).

Hungary : the prison data relate to the situation at 30 June 1996.

Ireland : the stock data concern the situation at 16 September 1996.

Macedonia : collective pardon (59).

Moldova : the data relate to the situation at 1 October 1996. Data concerning the "Left Bank region" of Moldova is not included. Parliament passed an amnesty law in 1996 under which 1,047 prisoners were freed.

Norway : prisoners transferred to outside establishments for treatment are not included in the "total number of prisoners". One new prison (160 places) officially opened in February 1997 is not included in the "total capacity" figure.

Portugal : situation at 31 December 1996.

Czech Republic : situation at 31 December 1996.

Slovak Republic : situation at 31 December 1996.

Romania : Law no. 137 - 1997 concerning a remission of sentence; 2,248 persons were released.

United Kingdom

England and Wales : the number of places indicated reflects the notion of "Certified Normal Accommodation (CNA)" defined to avoid overcrowding in the different establishments. Places in new establishments which cannot yet be used are not included.

Scotland : the total prison capacity does not include the cells which are unusable for various reasons.

Slovenia : 21 prisoners were granted a pardon by the President of the Republic.

Sweden : The number of prisoners indicated corresponds to the number of prisoners recorded at 1 October 1996. It includes persons serving sentences outside prison in institutions for the treatment of drug addicts, persons in hospital and escapees.

In August 1994, Sweden began to experiment with electronic tagging. The measure may be applied to those sentenced to less than two months imprisonment. In 1994, it was applied to 84 convicted persons. For 1995, the figure was 449 and, for 1996, 500.

Switzerland : Numbers at 24 April 1996. Swiss prison statistics cover only those serving sentences. Stays in remand custody or stays in prison for other reasons are not included in these figures. A special

survey is run among prison establishments each year in order to gather information on Switzerland's entire prison population.

Ukraine : The data relate to the situation at 1 January 1997.

20 February 1996 : decree of the President of the Republic granting the release of a number of women and young offenders.

16 April 1996 : decree of the President of the Republic granting an amnesty on the 10th anniversary of Chernobyl.

27 June 1996 : decree of the President of the Republic granting an amnesty on the 5th anniversary of the independence of Ukraine.

26 June 1997 : amnesty for the 1st anniversary of the Ukrainian Constitution.

Table 2. Prison population at 1 September 1996 : demographic structure

Reference : Council of Europe, SPACE 96.2

	Median age	Prisoners under 21 years of age		Female prisoners		Alien prisoners	
		Number	%	Number	%	Number	%
Germany	...	...	...	2 768	4,1	...	...
Austria	29	...	...	367	5,4	1 798	26,5
Belgium	30	536	7,0	378	4,9	3 085	40,3
Bulgaria (*)	31	253	3,6	326	3,0	70	0,6
Cyprus	30	3	1,3	15	6,4	123	52,3
Croatia	38	45	2,1	67	3,1	209	9,7
Denmark (*)	...	...	...	191	6,0	404	12,6
Finland	34	106	3,6	141	4,8	89	3,0
France	30	5 396	10,0	2 165	4,0	15 267	28,3
Greece	45	387	7,3	187	3,5	1 887	35,6
Hungary	32	1 295	10,0	706	5,5	513	4,0
Ireland (*)	26	540	24,7	48	2,2	183	8,4
Italy	35	2 165	4,5	2 098	4,3	9 025	18,6
Latvia	34	...	...	449	4,4	...	...
Lithuania (*)	31	1 531	15,9	474	4,0	71	0,6
Luxembourg	32	24	5,6	26	6,0	229	53,1
Macedonia	30	47	4,7	29	2,9	82	8,1
Malta	...	15	16,7	9	4,7	50	26,3
Moldova	31	1 515	15,4	337	3,4	159	1,6
Norway	31	155	6,8	130	5,7	373	16,3
Netherlands	31	876	7,6	424	3,7	3 676	31,7
Poland	32	...	...	1 432	2,5	1 286	6,1
Portugal	33	828	5,8	1 281	9,0	1 659	11,7
Slovak Rep.	33	928	12,0	273	3,5	142	1,8
Czech Rep.	...	2 760	13,2	768	3,7	3 679	17,6
Romania	30	7 100	16,3	1 626	3,7	418	1,0
United Kingdom							
England (*)	28	9 763	17,8	2 299	4,1	4 230	7,6
Scotland	...	1 112	18,8	202	3,4	10	0,2
Northern Ireland	...	...	...	...	...	...	...
Slovenia	31	57	9,3	23	3,7	135	22,0
Sweden (*)	34	174	3,7	321	5,6	1 251	26,5
Switzerland (*)	32	169	4,2	378	6,3	3 271	54,1
Turkey	...	10 160	18,5	2 130	3,9	474	0,9
Ukraine	29	11 181	5,2	13 019	6,0	2 627	1,2

(*) see remarks *infra*

Remarks - Table 2.

Bulgaria : the data on prisoners under 21 years of age concern only convicted prisoners.

Denmark : the figures given do not concern "institutions for imprisoned asylum applicants".

Ireland : the number of aliens is based on the place of birth. All the prisoners born outside the Republic of Ireland are considered as aliens.

Lithuania : the data on prisoners under 21 years of age concern only those having received their final sentence (9,616).

United Kingdom

England and Wales : the number of "prisoners under 21 years of age" includes those aged 21 who began serving their sentence while under 21 years of age and who remained in establishments for young offenders. It does not include « non-criminal prisoners ». The figures for alien prisoners are estimates : they include all those not holding British nationality (including all the prisoners whose nationality was not recorded but whose country of birth was recorded as being outside the United Kingdom).

Sweden : the median age and the data concerning prisoners under 21 years of age and alien prisoners relate solely to the population of convicted prisoners (4,714).

Switzerland : the median age relates solely to convicted prisoners.

**Table 3.1 Prison population at 1 September 1996 : legal structure
(numbers)**

- (a) untried prisoners (not yet convicted);
 (b) prisoners convicted but not yet sentenced;
 (c) sentenced prisoners who have appealed or who are within the statutory time limit for doing so;
 (d) sentenced prisoners (final sentence);
 (e) other cases.

Reference : Council of Europe, SPACE 96.31

	(a)	(b)	(c)	(d)	(e)
Germany	19 897	***	44 774		3 006
Austria	1 626	***	4 629		523
Belgium (*)	1 743	***	510	4 387	1 016
Bulgaria	1 770	2 197	6 936		0
Cyprus (*)	...	...	...	...	...
Croatia (*)	...	...	...	...	...
Denmark (*)	652	181	2 349	21	
Finland		264		2 688	0
France (*)	19 539	***	2 100	32 055	320
Greece	...	...	...	...	...
Hungary (*)	2 510	620	***	9 440	344
Ireland	243		1 939		...
Italy (*)	12 253	***	7 707	28 585	0
Latvia	2 414	174	641	6 932	0
Lithuania (*)	...	...	...	...	...
Luxembourg (*)	122	***	23	280	6
Macedonia	43	35	78	840	11
Malta	102	***	***	88	***
Moldova	1 355	***	423	8 034	***
Norway (*)	554	***	1 648		88
Netherlands	3 971	***	6 290		1 317
Poland	14 504	***	42 181		635
Portugal	4 977	***	8 897		303
Slovak Rep. (*)	...	...	...	...	...
Czech Rep. (*)	...	...	...	...	...
Romania (*)	450	10 445	6 874	23 344	2 496
United Kingdom					
England (*)	8 398	3 280	43 225		634
Scotland	911	99	4 894		12
Northern Ireland	...	...	...	...	...
Slovenia (*)	58	86	22	394	54
Sweden (*)		1 015		4 714	39
Switzerland	1 623	***	***	4 026	398
Turkey (*)		25 420		29 381	0
Ukraine (*)	...	...	...	...	...

(*) see remarks *infra*

*** : not applicable

Remarks - Table 3.1

Belgium : (e) = internees (Social Defence Law) - (809), aliens (administrative measure) - (163), vagrants (28), minors under 18 years of age in provisional custody (16).

Cyprus : figures inconsistent (a) + (b) + (c) + (d) + (e) = 248 whereas the total number of prisoners is given as 235.

Croatia : figures inconsistent (a) + (b) + (c) + (d) + (e) = 2,320 whereas the total number of prisoners is given as 2,156.

Denmark : the figures given do not concern "*institutions for imprisoned asylum applicants*".

France : (e) = civil imprisonment and prisoners awaiting extradition.

Hungary : (e) = 128 prisoners undergoing forced medical treatment , 215 imprisoned under administrative measures, 1 person in detention.

Italy : 5,563 prisoners have appealed against the first-instance decision and 2,144 have appealed on points of law.

Lithuania : figures inconsistent (the sum of categories does not match the total number of prisoners - 13,401 versus 11,980).

Luxembourg : (e) = minors placed in custody by the juvenile court.

Norway : (e) = imprisoned as a restrictive measure, imprisoned for non-payment of fines.

Czech Republic : figures inconsistent (the sum of categories does not match the total number of prisoners - 24,874 versus 20,860).

Slovak Republic : figures inconsistent (the sum of categories does not match the total number of prisoners - 9,529 versus 7,734).

Romania : "other cases" = sanctions for administrative/regulatory offences.

United Kingdom

England and Wales : (c) and (d) are taken together. Convicted prisoners who have appealed or who are within the statutory time limit for doing so do not have any special status and are therefore not counted separately. They are included under convicted prisoners. (e) relates to non-criminal prisoners: persons imprisoned for non-payment of fines and "civil prisoners".

Slovenia : "other cases" : the prison authorities are also responsible for persons sentenced under court procedure pertaining to juveniles having committed minor offences and serving their sentence in an approved centre or correctional home.

Sweden : "other cases" relates to certain prisoners who are drug addicts, special detention for juveniles, unauthorised aliens awaiting extradition, prisoners who have had to be placed in psychiatric establishments and persons who have violated conditions of probation.

Ukraine : figures inconsistent (a) + (b) + (c) + (d) + (e) = 205,543 whereas the total number of prisoners is given as 216,248

Table 3.2 Prison population at 1 September 1996 : legal structure (rates)

- (a) percentage of unconvicted prisoners (%)
 (b) pre-trial detention rate (per 100,000 inhabitants)
 (c) percentage of untried prisoners (%)
 (d) rate of provisional detention of untried prisoners (per 100,000 inhabitants)

Reference : Council of Europe, SPACE 96.32

	(a)	(b)	(c)	(d)
Germany	...	...	29,4	24,3
Austria	...	...	24,0	20,2
Belgium	29,4	22,2	22,8	17,2
Bulgaria	...	...	16,2	20,5
Cyprus	...	...	...	...
Croatia	...	...	...	...
Denmark	26,0	12,4	...	...
Finland	8,9	5,2	...	...
France	40,1	36,0	36,2	32,5
Greece	...	...	...	...
Hungary	24,2	31,2	19,4	25,1
Ireland	...	...	...	...
Italy	41,1	34,9	25,2	21,5
Latvia	31,8	128,7	23,8	96,2
Lithuania	...	...	...	...
Luxembourg	33,2	34,6	28,3	29,6
Macedonia	15,5	7,7	4,3	2,1
Malta	53,7	33,3	53,7	33,3
Moldova	18,1	47,7	13,8	36,3
Norway	...	...	24,2	12,7
Netherlands	...	...	34,3	25,8
Poland	...	...	25,3	37,6
Portugal	...	...	35,1	49,1
Slovak Rep.	...	...	...	...
Czech Rep.	...	...	...	...
Romania	46,5	90,2	1,0	2,0
United Kingdom				
England & Wales	...	...	15,1	16,2
Scotland	...	...	15,4	15,6
Northern Ireland	...	...	...	...
Slovenia	27,0	8,4	9,4	2,9
Sweden	17,6	11,4	...	...
Switzerland	26,8	22,9	26,8	22,9
Turkey	46,4	40,5	46,4	40,5
Ukraine	...	...	...	...

Table 4.1. Convicted prisoners: structure according to offence at 1 September 1996 (numbers)
Reference : Council of Europe, SPACE 96.41

	Homicide	Wounding with intent	Rape	Robbery with violence	Other theft	Drug-related	Other cases
Germany	...	...	...	...	...	...	...
Austria	...	...	...	...	...	...	...
Belgium	580	713	254	1 439	352	502	547
Bulgaria (*)	1 236	118	481	1 021	2 760	25	1 158
Cyprus	5	28	2	3	26	23	131
Croatia	486	32	97	30	349	75	318
Denmark	...	...	...	...	...	...	...
Finland (*)	575	345	40	300	506	280	560
France (*)	2 777	1 985	4 353	3 153	5 930	6 136	7 721
Greece	...	...	...	...	...	...	...
Hungary	1 338	748	458	2 092	2 962	45	1 797
Ireland (*)	133	173	101	289	422	95	739
Italy	...	...	...	...	...	...	...
Latvia	760	1 655	232	860	3 022	140	263
Lithuania	1 158	324	603	1 032	4 651	1 848	
Luxembourg (*)	41	12	27	36	43	88	33
Macedonia	119	...	34	51	387	44	205
Malta	...	...	...	...	...	...	...
Moldova	1 350	753	748	1 034	3 167	144	838
Norway	133	103	28	69	381	467	467
Netherlands (*)		2 139			1 887	944	1 320
Poland (*)	2 891	1 960	1 288	8 281	9 229	7 461	
Portugal	985	104	281	1 440	2 585	2 566	936
Slovak Rep. (*)	...	...	...	...	...	...	...
Czech Rep.	...	...	...	...	...	...	...
Romania	4 620	590	1 587	2 785	10 963	26	2 773
United Kingdom							
England & Wales (*)	4 109	460	1 929	5 715	11 545	5 755	13 542
Scotland	...	...	...	...	...	...	...
Northern Ireland	...	...	...	...	...	...	...
Slovenia	88	14	36	43	96	22	95
Sweden (*)	258	360	139	369	817	814	1 957
Switzerland	...	...	...	...	...	...	...
Turkey (*)	6 443	7 270	2 172	7 460		1 053	4 983
Ukraine (*)	...	...	...	...	...	...	...

(*) see remarks *infra*

Remarks

Bulgaria : the figures relate to the situation at 1 January 1997 (6,799 convicted prisoners).

Finland : the figures relate to the situation at 1 October 1996.

France : "rape" = rape and indecent assault.

Ireland : figures at 1 January 1994 (1,952 convicted prisoners).

Luxembourg : "rape" includes attempted rape and indecent assault.

Netherlands : these are estimates : violent offences = 2,139, offences against property = 1,887.

Poland : the figures relate to the situation at 31 December 1996 (41,110 convicted prisoners).

Slovak Republic : inconsistent figures for types of offence (the sum of categories is greater than the total number of prisoners - 11,109 versus 6,085).

United Kingdom

England and Wales : figure at 1 June 1996. Number of homicides includes attempted murder.

Sweden : figures at 1 October 1996.

Turkey : "rape" includes all sexual assaults. There is no distinction between theft and theft with violence.

Ukraine : inconsistent figures for types of offence (the sum of categories is greater than the total number of prisoners - 118,703 versus 167,234).

Table 4.2 Convicted prisoners: structure according to offence at 1 September 1996 (in %)

Reference : Council of Europe, SPACE 96.42

	Homicide	Wounding with intent	Rape	Theft with violence	Other theft	Drug-related	Other cases
Germany	...	...	...	...	...	...	...
Austria	...	...	...	...	...	...	...
Belgium	13,2	16,3	5,8	32,8	8,0	11,4	12,5
Bulgaria	18,2	1,7	7,1	15,0	40,6	0,4	17,0
Cyprus	2,3	12,8	0,9	1,4	11,9	10,6	60,1
Croatia	35,0	2,3	7,0	2,2	25,2	5,4	22,9
Denmark	...	...	...	...	...	...	...
Finland	22,2	13,2	1,5	11,5	19,4	10,7	21,5
France	8,7	6,2	13,6	9,8	18,5	19,1	24,1
Greece	...	...	...	...	...	...	...
Hungary	14,2	7,9	4,9	22,2	31,3	0,5	19,0
Ireland	6,8	8,9	5,2	14,8	21,6	4,9	37,8
Italy	...	...	...	...	...	...	...
Latvia	11,0	23,9	3,3	12,4	43,6	2,0	3,8
Lithuania	12,0	3,4	6,3	10,7	48,4	19,2	
Luxembourg	14,6	4,3	9,6	12,9	15,4	31,4	11,8
Macedonia	14,2	...	4,0	6,1	46,1	5,2	24,4
Malta	...	...	...	...	...	...	...
Moldova	16,8	9,4	9,3	12,9	39,4	1,8	10,4
Norway	8,1	6,2	1,7	4,2	23,1	28,4	28,3
Netherlands		34,0			30,0	15,0	21,0
Poland	7,0	4,8	3,1	20,1	46,9	18,1	
Portugal	11,1	1,2	3,2	16,2	29,1	28,7	10,5
Slovak Rep.	...	...	...	...	...	...	...
Czech Rep.	...	...	...	...	...	...	...
Romania	19,8	2,5	6,8	11,9	47,0	0,1	11,9
United Kingdom							
England & Wales	9,5	1,1	4,5	13,3	26,8	13,4	31,4
Scotland	...	...	...	...	...	...	...
Northern Ireland	...	...	...	...	...	...	...
Slovenia	22,3	3,6	9,1	10,9	24,4	5,6	24,1
Sweden	5,5	7,6	2,9	7,8	17,3	17,3	41,6
Switzerland	...	...	...	...	...	...	...
Turkey	21,9	24,7	7,4	25,4		3,6	17,0
Ukraine	...	...	...	...	...	...	...

Table 5.1 Distribution of convicted prisoners by length of sentence (ordered) at 1 September 1996 (numbers)

Reference : Council of Europe, SPACE 96.51

	Less than 6 months	6 months to less than 1 year	1 year to less than 3 years	3 years to less than 5 years	5 years to less than 10 years	10 years and over	Life
Germany	...	...	...	...	...	...	...
Austria (*)	745	574	1 416	664	594	415	146
Belgium (*)	144	201	1 092	1 211	1 386		292
Bulgaria (*)		484	2 023	1 643	1 303	1 344	2
Cyprus	...	...	...	...	...	...	...
Croatia	75	90	399	235	398	190	*
Denmark	...	...	...	...	...	...	...
Finland (*)	434	485	1 642				45
France	4 679	5 205	7 577	3 980	5 230	4 915	469
Greece	...	...	...	...	...	...	...
Hungary	616	839	3 045	1 762	2 263	735	180
Ireland (*)	84	281	720	311	368	118	70
Italy	1 505	2 357	6 709	4 877	7 039	5 488	610
Latvia	0	38	1 594	2 604	2 353	340	3
Lithuania	0	337	3 056	3 494	2 181	516	32
Luxembourg	8	20	99	45	47	41	20
Macedonia	175	99	252	145	125	44	...
Malta	...	...	...	...	...	...	...
Moldova	0	118	1 322	2 579	2 924	1 070	21
Norway (*)	890	109	355	152	81	61	...
Netherlands	1 584	891	1 838	926	1 045		6
Poland (*)	...	...	...	...	...	...	...
Portugal (*)	150	139	1 837	1 936	3 299	1 436	***
Slovak Rep.	354	1 230	2 167	767	1 128	428	11
Czech Rep.		1 011		1 587	1 692	691	11
Romania	1 689		14 173		4 123	3 331	28
United Kingdom							
England & Wales	...	...	...	...	...	...	...
Scotland	...	...	...	...	...	...	...
Northern Ireland	...	...	...	...	...	...	...
Slovenia (*)	26	35	143	82	66	42	***
Sweden (*)	1 188	848	1 095	591	706	217	69
Switzerland (*)	1 015	206	826	452	367	225	25
Turkey	1 737	2 036	5 823	3 943	4 670	9 894	1 278
Ukraine (*)	*	4 336	42 517	53 910	52 426	14 045	***

(*) see remarks *infra*

*** not applicable

Remarks - Table 5.1

Austria : the figures relate to the situation at 30 November 1995 (4,554 convicted prisoners).

Belgium : we have not included the persons imprisoned in default (unpaid fines) : 61, ie 1.4 %.

Bulgaria : the figures relate to the situation at 31 December 1995 (6,799 convicted prisoners).

Finland : the figures relate to the situation at 1 October 1996. "1 year to 2 years" = 596, "2 years to 4 years" = 528, "4 years to 8 years" = 441, "8 years or more" = 77. Sentences of over 20 years cannot be ordered. Life sentences = 45.

Ireland : figures at 1 January 1994 (1,952 convicted prisoners).

Norway : estimates.

Poland : inconsistent figures (the sum of categories does not match the total indicated).

Portugal : the total does not correspond to the total in table 4. (8,870 versus 8,897). We have not included indeterminate sentences in the table (73, ie 0.8 %).

Slovenia : the minimum sentence is 15 days and the maximum sentence 15 years. A sentence of 20 years may be ordered only for the most serious kinds of crime ("first degree" murder, genocide, war crimes) but it is exceptional. There are no sentences of over 20 years or life sentences in the criminal code.

Sweden : figures at 1 October 1996.

Switzerland : figures at 1 September 1995 (3,116).

Ukraine : sentences of less than six months may not be ordered. There is no life sentence either.

Table 5.2 Distribution of convicted prisoners by length of sentence (ordered) at 1 September 1996 (in %)

Reference : Council of Europe, SPACE 96.52

	Less than 6 months	6 months to less than 1 year	1 year to less than 3 years	3 years to less than 5 years	5 years to less than 10 years	10 years and over (at term)	Life
Germany	...	...	...	...	...	...	...
Austria	16,4	12,6	31,1	14,6	13,0	9,1	3,2
Belgium	3,3	4,6	24,9	27,6	31,5		6,7
Bulgaria	7,1		29,7	24,2	19,2	19,8	0,0
Cyprus	...	...	...	...	...	...	...
Croatia	5,4	6,5	28,8	16,9	28,7	13,7	*
Denmark	...	...	...	...	...	...	...
Finland	16,7	18,6	63,0				1,7
France	14,6	16,2	23,6	12,4	16,3	15,3	1,5
Greece	...	...	...	...	...	...	...
Hungary	6,5	8,9	32,2	18,7	24,0	7,8	1,9
Ireland	4,3	14,4	36,9	15,9	18,9	6,0	3,6
Italy	5,3	8,2	23,5	17,1	24,6	19,2	2,1
Latvia	0,0	0,5	23,0	37,6	33,9	4,9	0,1
Lithuania	0,0	3,5	31,8	36,3	22,7	5,4	0,3
Luxembourg	2,9	7,1	35,4	16,1	16,8	14,6	7,1
Macedonia	20,8	11,8	30,0	17,3	14,9	5,2	0,0
Malta	...	...	...	...	...	...	...
Moldova	0,0	1,5	16,5	32,1	36,3	13,3	0,3
Norway	54,1	6,6	21,5	9,2	4,9	3,7	0,0
Netherlands	25,2	14,2	29,2	14,7	16,6		0,0
Poland	...	...	...	...	...	...	...
Portugal	1,7	1,6	20,7	21,8	37,2	16,2	***
Slovak Rep.	5,8	20,2	35,7	12,6	18,5	7,0	0,2
Czech Rep.	7,8	25,7	35,9	12,2	13,0	5,3	0,1
Romania	7,2		60,7		17,7	14,3	0,1
United Kingdom							
England & Wales	...	...	...	...	...	...	...
Scotland	...	...	...	...	...	...	...
Northern Ireland	...	...	...	...	...	...	...
Slovenia	6,6	8,9	36,2	20,8	16,8	10,7	***
Sweden	25,2	18,0	23,2	12,5	15,0	4,6	1,5
Switzerland	32,6	6,6	26,5	14,5	11,8	7,2	0,8
Turkey	5,9	6,9	19,8	13,4	15,9	33,8	4,3
Ukraine	***	2,6	25,4	32,3	31,3	8,4	***

*** : not applicable

Table 6. Committal flow for 1995

Reference : Council of Europe, SPACE 96.6

	Total number of first committals	Committal flow per 100,000 inhab.	First committals before final sentence	
			Number	%
Germany	146 644	179,6	...	...
Austria	...	...	...	...
Belgium	16 320	163,4	10 287	63,0
Bulgaria	...	...	...	...
Cyprus	685	106,0	...	...
Croatia	...	...	...	...
Denmark	...	...	...	...
Finland	7 725	151,8	1 572	20,3
France	85 604	143,3	65 003	75,9
Greece	...	...	...	...
Hungary	...	...	...	...
Ireland (*)	9 844	281,3	...	...
Italy	93 051	163,1	75 736	81,4
Latvia (*)	13 730	547,3	...	...
Lithuania	...	...	...	...
Luxembourg	685	168,4	472	68,9
Macedonia	1 273	60,7	33	2,6
Malta	300	79,6	132	44,0
Moldova	...	...	...	...
Norway	11 102	258,3	3 465	31,2
Netherlands	...	...	...	...
Poland	...	...	...	...
Portugal (*)	8 871	87,6	7 622	85,9
Slovak Rep.	...	...	22 232	...
Czech Rep.	...	...	...	...
Romania	...	...	...	...
United Kingdom				
England (*)	125 654	...	...	...
Scotland	19 011	370,0	14 253	75,0
Northern Ireland	...	...	...	...
Slovenia	508	25,6	122	24,0
Sweden	10 263	117,5	...	...
Switzerland	...	...	...	...
Turkey	82 716	149,7	22 984	27,8
Ukraine	...	...	...	...

(*) see remarks *infra*

Remarks - Table 6.

Ireland : the total number of first committals is a provisional figure.

Latvia : in the absence of figures for 1995, the committal flow has been calculated on the basis of the number of prisoners and the detention rate at 1 September 1996.

Portugal : in the absence of figures for 1995, the committal flow has been calculated on the basis of the number of prisoners and the detention rate at 1 September 1996.

United Kingdom

England and Wales : only the first committal in 1995 for a given offence is counted, which means that a person initially remanded to prison in 1995 and subsequently admitted after sentence in 1995 for the same offence is counted only once. Similarly, for committals before final sentence, a person found guilty in 1995 and subsequently admitted after being found guilty - awaiting sentence - for the same offence is counted only once.

These figures are therefore based on the concept of person rather than committal (the concept to which items 11 and 12 of the questionnaire refer).

Table 7. Indicator of average length of imprisonment (1995)

Reference : Council of Europe, SPACE 96.7

	Total number of days spent in prison	Average number of prisoners	Indicator of average length of imprisonment (in months)
Germany	24 801 355	67 949	5,6
Austria	2 473 970	6 778	...
Belgium	2 793 932	7 655	5,6
Bulgaria	...	...	...
Cyprus	68 163	187	3,3
Croatia	898 265	2 461	...
Denmark	1 269 361	3 478	5,0
Finland	1 185 500	3 248	5,0
France	21 124 080	57 874	8,1
Greece (*)	...	...	...
Hungary	...	...	...
Ireland	769 785	2 109	2,6
Italy (*)	...	49 642	6,4
Latvia (*)	...	10 161	8,9
Lithuania	...	13 228	...
Luxembourg	165 925	455	8,0
Macedonia	428 123	1 173	11,1
Malta (*)	...	196	7,8
Moldova	...	...	...
Norway	911 334	2 497	2,7
Netherlands	3 519 512	9 642	...
Poland	...	...	...
Portugal (*)	...	14 177	19,2
Slovak Rep.	2 864 155	7 847	...
Czech Rep.	...	...	...
Romania	...	...	...
United Kingdom			
England & Wales	18 600 000	50 959	...
Scotland	2 053 490	5 626	3,6
Northern Ireland	...	...	...
Slovenia	317 092	869	20,5
Sweden	2 008 960	5 504	6,4
Switzerland	2 075 583	5 687	...
Turkey (*)	...	49 895	7,2
Ukraine	...	203 988	...

(*) see remarks *infra*

Remarks - Table 7.

Italy : in the absence of other data, the indicator of average length has been calculated on the basis of the number at 1 September 1995.

Latvia : in the absence of other data, the indicator of average length has been calculated on the basis of the number at 1 September 1996.

Malta : in the absence of other data, the indicator of average length has been calculated on the basis of the number at 1 September 1995.

Portugal : in the absence of other data, the indicator of average length has been calculated on the basis of the number at 1 September 1996.

Turkey : in the absence of other data, the indicator of average length has been calculated on the basis of the number at 1 September 1995.

Table 8. Escapes by prisoners under the supervision of the prison administration from a closed prison or during administrative transfer (1995)

Reference : Council of Europe, SPACE 96.8

	Number of escapes in the year	Number of prisoners/year	Escape rate per 10,000 prisoners
Germany	228	67 949	33,6
Austria	109	6 778	160,8
Belgium	25	7 655	32,7
Bulgaria (*)	38	9 289	40,9
Cyprus	1	187	53,5
Croatia	9	2 461	36,6
Denmark	80	3 478	230,0
Finland	35	3 248	107,8
France	21	57 874	3,6
Greece (*)	47	5 304	88,6
Hungary (*)	28	12 455	22,5
Ireland	10	2 109	47,4
Italy	14	49 642	2,8
Latvia	8	10 161	7,9
Lithuania	1	13 228	0,8
Luxembourg	9	455	197,8
Macedonia	75	1 173	639,4
Malta	5	196	255,1
Moldova (*)	10	9 812	10,2
Norway	41	2 497	164,2
Netherlands	22	9 642	22,8
Poland (*)	19	57 320	3,3
Portugal (*)	77	14 177	54,3
Slovak Rep.	1	7 847	1,3
Czech Rep. (*)	5	19 832	2,5
Romania (*)	28	46 456	6,0
United Kingdom			
England & Wales	122	50 959	23,9
Scotland	16	5 626	28,4
Northern Ireland	...	...	...
Slovenia	25	869	287,7
Sweden	88	5 504	159,9
Switzerland	...	5 687	...
Turkey	46	49 895	9,2
Ukraine (*)	17	203 988	5,7

(*) see remarks *infra*

Remarks - Table 8.

Bulgaria : in the absence of available information for prisoners/year, the number at 1 September 1995 has been used.

Greece : in the absence of available information for prisoners/year, the number at 1 September 1996 has been used.

Hungary : in the absence of available information for prisoners/year, the number at 31 December 1995 has been used.

Moldova : in the absence of available information for prisoners/year, the number at 1 September 1996 has been used.

Poland : in the absence of available information for prisoners/year, the number at 1 September 1996 has been used (the number at 1 September 1995 is unknown).

Portugal : in the absence of available information for prisoners/year, the number at 1 September 1996 has been used.

Czech Republic : in the absence of available information for prisoners/year, the number at 1 September 1995 has been used.

Romania : in the absence of available information for prisoners/year, the number at 1 September 1995 has been used.

Ukraine : in the absence of available information for prisoners/year, the number at 1 September 1996 has been used.

Table 9. Suicides in prison (1995)

Reference : Council of Europe, SPACE 96.9

	Number of suicides in the year	Number of prisoners/year	Suicide rate per 10,000 prisoners
Germany	104	67 949	15,3
Austria	10	6 778	14,8
Belgium	15	7 655	19,6
Bulgaria (*)	2	9 289	2,2
Cyprus	...	187	...
Croatia	3	2 461	12,2
Denmark	4	3 478	11,5
Finland	3	3 248	9,2
France	107	57 874	18,5
Greece (*)	3	5 304	5,7
Hungary (*)	3	12 455	2,4
Ireland	3	2 109	14,2
Italy	50	49 642	10,1
Latvia	5	10 161	4,9
Lithuania	4	13 228	3,0
Luxembourg	0	455	0,0
Macedonia	0	1 173	0,0
Malta	1	196	51,0
Moldova (*)	8	9 812	8,2
Norway	6	2 497	24,0
Netherlands	14	9 642	14,5
Poland (*)	22	57 320	3,8
Portugal (*)	15	14 177	10,6
Slovak Rep.	5	7 847	6,4
Czech Rep. (*)	7	19 832	3,5
Romania	3	46 456	0,6
United Kingdom			
England & Wales	59	50 959	11,6
Scotland	16	5 626	28,4
Northern Ireland	...	...	...
Slovenia	3	869	34,5
Sweden	4	5 504	7,3
Switzerland	6	5 687	10,6
Turkey	16	49 895	3,2
Ukraine (*)	69	203 988	3,4

(*) see remarks *infra*

Remarks - Table 9.

Bulgaria : in the absence of available information for prisoners/year, the number at 1 September 1995 has been used.

Greece : in the absence of available information for prisoners/year, the number at 1 September 1996 has been used.

Hungary : in the absence of available information for prisoners/year, the number at 31 December 1995 has been used.

Moldova : in the absence of available information for prisoners/year, the number at 1 September 1996 has been used.

Poland : in the absence of available information for prisoners/year, the number at 1 September 1996 has been used (the number at 1 September 1995 is unknown).

Portugal : in the absence of available information for prisoners/year, the number at 1 September 1996 has been used.

Czech Republic : in the absence of available information for prisoners/year, the number at 1 September 1995 has been used.

Romania : in the absence of available information for prisoners/year, the number at 1 September 1995 has been used.

Ukraine : in the absence of available information for prisoners/year, the number at 1 September 1996 has been used.

Table 10. Number of statutory working hours per year per full-time post (1996)

Reference : Council of Europe, SPACE 96.10

	Management staff	Custodial staff	Administrative staff
Germany	...	...	...
Austria	...	2 272	...
Belgium	1 699	1 699	1 699
Bulgaria	1 760	1 760	1 760
Cyprus	1 950	1 950	1 950
Croatia	1 880	1 880	1 880
Denmark	1 924	1 924	1 924
Finland	1 545	1 610	1 550
France	1 713	1 755	1 713
Greece	1 980	1 848	1 980
Hungary	2 080	2 080	2 080
Ireland	...	...	...
Italy	1 916	1 916	1 916
Latvia	...	...	...
Lithuania	2 088	2 088	2 088
Luxembourg	1 784	1 784	1 784
Macedonia	2 096	2 096	2 096
Malta	...	...	...
Moldova	2 027	2 027	2 027
Norway	1 792	1 673	1 792
Netherlands	...	...	...
Poland	1 856	1 856	1 856
Portugal	...	...	...
Slovak Rep.	2 210	2 210	2 210
Czech Rep.	...	...	...
Romania	2 472	2 832	2 220
United Kingdom			
England & Wales	...	...	...
Scotland	...	...	...
Northern Ireland	...	...	...
Slovenia	2 090	2 090	2 090
Sweden	1 900	1 900	1 900
Switzerland	...	...	...
Turkey	2 080	2 080	2 080
Ukraine	...	...	...

Table 11. Number of staff at 1 September 1996

Reference : Council of Europe, SPACE 96.11

	Management staff	Custodial staff	Administrative staff
Germany	...	...	...
Austria	98	3 116	45
Belgium	91	4 322	382
Bulgaria (*)	61	2 085	637
Cyprus	...	...	...
Croatia	39	1 125	423
Denmark	27	2 457	248
Finland	66	1 640	249
France	302	19 511	2 111
Greece	43	1 632	201
Hungary	189	2 758	567
Ireland	35	2 080	92
Italy	450	38 431	4 582
Latvia	65	992	954
Lithuania	65	2 146	1 531
Luxembourg	2	146	14
Macedonia	22	319	71
Malta	...	...	...
Moldova (*)	135	461	990
Norway	329	1 636	239
Netherlands (*)	230	6 683	881
Poland (*)	321	12 652	5 039
Portugal	76	3 369	1 203
Slovak Rep.	387	2 829	926
Czech Rep.	384	6 627	1 440
Romania	133	5 796	2 886
United Kingdom			
England & Wales	2 000	24 000	12 000
Scotland	267	3 003	751
Northern Ireland	...	...	...
Slovenia	126	339	81
Sweden	87	4 209	543
Switzerland (*)	...	...	...
Turkey	3924	24 404	1 646
Ukraine	...	...	...

(*) see remarks *infra*

Remarks - Table 11.

Bulgaria : figures at 1 January 1997.

Moldova : figures at 1 June 1997.

Netherlands : figures at 31 December 1995.

Poland : figures at 31 December 1996.

Switzerland : situation at end 1994 - full-time staff = 2,734, part-time staff = 616.

Table 12. Indicators concerning custodial staff at 1 September 1996

Reference : Council of Europe, SPACE 96.12

	Rate of supervision of custodial staff by superiors (custodial /man. staff)	Rate of supervision of prisoners by custodial staff (no. prisoners / no. custodial staff)	
		Observed rate	Comparative rate
Germany	...	...	...
Austria	31,8	2,2	1,9
Belgium	47,5	1,8	2,0
Bulgaria	34,2	5,2	5,7
Cyprus	...	...	...
Croatia	28,8	1,2	1,2
Denmark	91,0	1,3	1,3
Finland	24,8	1,8	2,2
France	64,4	2,8	3,0
Greece	38,0	3,2	3,3
Hungary	14,6	4,7	4,4
Ireland	59,4	1,0	...
Italy	85,4	1,3	1,3
Latvia	15,3	10,2	...
Lithuania	33,0	5,6	5,2
Luxembourg	73,0	3,0	3,2
Macedonia	14,5	3,2	2,9
Malta	...	...	...
Moldova	3,4	21,3	20,3
Norway	5,0	1,4	1,6
Netherlands	29,1	1,7	...
Poland	39,4	4,5	4,7
Portugal	44,3	4,2	...
Slovak Rep.	7,3	2,7	2,4
Czech Rep.	17,3	3,1	...
Romania	43,6	7,5	5,1
United Kingdom			
England & Wales	12,0	2,3	...
Scotland	11,2	2,0	...
Northern Ireland	...	...	...
Slovenia	2,7	1,8	1,7
Sweden	48,4	1,4	1,4
Switzerland	...	...	...
Turkey	6,2	2,2	2,0
Ukraine	...	...	...

Table 13. Number of prison sentences ordered in 1994 (without full or partial suspension): per 100,000 inhabitants

Reference : Council of Europe, SPACE 96.13

	Number of sentences	Number of inhabitants (average for 1994)	Sentence rate per 100,000 inhabitants
Germany	35 577	81 450 000	43,7
Austria (*)	...	8 094 946	...
Belgium	14 132	10 115 602	139,7
Bulgaria	...	...	...
Cyprus	...	634 050	...
Croatia	13 914	4 777 016	291,3
Denmark	15 055	5 206 180	289,2
Finland	9 186	5 100 000	180,1
France	86 899	58 000 000	149,8
Greece	...	10 350 000	...
Hungary	...	...	...
Ireland	...	3 590 600	...
Italy	125 323	57 226 697	219,0
Latvia	1 216	2 547 700	47,7
Lithuania	6 664	3 721 000	179,1
Luxembourg	518	403 000	128,5
Macedonia	1 718	2 090 930	82,2
Malta	225	365 000	61,6
Moldova	2 983	3 746 500	79,6
Norway	8 121	4 336 612	187,3
Netherlands	24 544	15 450 000	158,9
Poland	...	...	...
Portugal	...	...	...
Slovak Rep.	6 458	5 346 331	120,8
Czech Rep.	...	10 300 000	...
Romania	31 190	22 714 489	137,3
United Kingdom			
England & Wales	69 200	44 929 750	154,0
Scotland	16 065	...	...
Northern Ireland	...	...	...
Slovenia	...	...	...
Sweden	14 208	8 780 745	161,8
Switzerland	12 959	6 994 000	185,3
Turkey	20 926	61 110 000	34,2
Ukraine	...	...	...

(*) see remarks *infra*

Remarks- Table 13.

Austria : the authorities did not give the number of prison sentences ordered in 1994 but the number of sentences being served at 30 November 1994.

Table 14.1 Prison sentences ordered in 1994 (without full or partial suspension) according to length: numbers

Reference : Council of Europe, SPACE 96.141

	Total	Less than 3 months	3 months to 6 months	6 months to less than 1 year	1 year or more
Germany	35 577	9 545		11 831	14 201
Austria	...	...	...	...	...
Belgium	14 132	4 818	3 256	2 838	3 220
Bulgaria	...	...	...	...	...
Cyprus	...	...	...	...	...
Croatia	13 914	4 779	4 894	2 573	1 668
Denmark	15 055	11 869	1 608	915	663
Finland	9 186	3 034	2 958	1 732	1 462
France	86 799	28 476	24 210	18 095	16 018
Greece	...	...	...	...	...
Hungary	...	...	...	...	...
Ireland	...	...	...	...	...
Italy	125 323	37 049	33 242	25 098	29 934
Latvia	...	...	...	...	...
Lithuania	6 664	0	0	275	6 389
Luxembourg	518	48	86	140	244
Macedonia	1 718	521	291	256	650
Malta	225	17	40	50	118
Moldova	2 983	0	0	273	2 710
Norway	...	...	...	...	...
Netherlands	24 544	13 130	4 669	3 082	3 663
Poland	...	...	...	...	...
Portugal	...	...	...	...	...
Slovak Rep.	5 509	249		923	4 337
Czech Rep.	...	...	...	...	...
Romania	31 190		5 360		25 830
United Kingdom					
England & Wales (*)	...	...	...	...	...
Scotland	16 065	4 204	6 785	3 189	1 887
Northern Ireland	...	...	...	...	...
Slovenia	...	...	...	...	...
Sweden	14 208	6 703	2 725	2 500	2 280
Switzerland	12 959	10 266	758	480	1 455
Turkey	20 926	1 424		1 874	17 628
Ukraine	...	...	...	...	...

(*) see remarks infra

Remarks - Table 14.1

United Kingdom

England and Wales : figures inconsistent. The total given for 8.0 is 69,200 whereas the sum of the figures given in sections 8.1 to 8.9 is 59,033.

Table 14.2 Prison sentences ordered in 1994 (without full or partial suspension) according to length : percentages

Reference : Council of Europe, SPACE 96.142

	Total	Less than 3 months	3 months to less than 6 months	6 months to less than 1 year	1 year or more
Germany	100,0	26,8		33,3	39,9
Austria		...	...	...	...
Belgium	100,0	34,1	23,0	20,1	22,8
Bulgaria	...	...	...	...	...
Cyprus	...	...	...	...	...
Croatia	100,0	34,3	35,2	18,5	12,0
Denmark	100,0	78,8	10,7	6,1	4,4
Finland	100,0	33,0	32,2	18,9	15,9
France	100,0	32,8	27,9	20,8	18,5
Greece	...	...	...	...	...
Hungary	...	...	...	...	...
Ireland	...	...	...	...	...
Italy	100,0	29,6	26,5	20,0	23,9
Latvia	...	...	...	...	...
Lithuania	100,0	0,0	0,0	4,1	95,9
Luxembourg	100,0	9,3	16,6	27,0	47,1
Macedonia	100,0	30,3	16,9	14,9	37,9
Malta	100,0	7,6	17,8	22,2	52,4
Moldova	100,0	0,0	0,0	9,2	90,8
Norway	...	...	...	...	...
Netherlands	100,0	53,5	19,0	12,6	14,9
Poland	...	...	...	...	...
Portugal	...	...	...	...	...
Slovak Rep.	100,0	4,5		16,8	78,7
Czech Rep.	...	...	...	...	...
Romania	100,0		17,2		82,8
United Kingdom					
England & Wales	...	...	...	...	...
Scotland	100,0	26,2	42,2	19,8	11,8
Northern Ireland	...	...	...	...	...
Slovenia	...	...	...	...	...
Sweden	100,0	47,2	19,2	17,6	16,0
Switzerland	100,0	79,3	5,8	3,7	11,2
Turkey	100,0	6,8		9,0	84,2
Ukraine	...	...	...	...	...

Table 15. Suspended sentences ordered in 1994

Reference : Council of Europe, SPACE 96.15

	Total	Full suspension		Partial suspension	
		unsupervised	supervised	unsupervised	supervised
Germany	79 172	79 172		***	***
Austria	...	...	...	1 799	
Belgium (*)	16 688	...	...	...	...
Bulgaria	...	...	...	...	...
Cyprus	264	230	34	***	***
Croatia	11 312	11280	32	***	***
Denmark	6 484	5 435		1 049	
Finland	12 936	10 801	2 135	***	***
France	185 356	136 027	28 891	6 410	14 028
Greece (*)	...	...	...	...	...
Hungary	...	12 816	720	...	...
Ireland (*)	...	...	250	...	...
Italy (*)	...	***	...	***	***
Latvia	...	...	...	1 092	***
Lithuania	4 926	4 926	***	***	***
Luxembourg	345	206	40	83	16
Macedonia	...	...	...	...	...
Malta	...	...	...	...	...
Moldova	***	***	***	***	***
Norway	...	7 565	532	1 289	...
Netherlands	...	...	...	...	...
Poland	...	...	...	...	...
Portugal	...	...	...	...	...
Slovak Rep. (*)	4 931	4 931	***	***	***
Czech Rep.	22 548	20 201	0	2 347	0
Romania	32 122	29 244	2 878	***	***
United Kingdom					
England (*)	3 178	3 000	178	***	***
Scotland	***	***	***	***	***
Northern Ireland	...	...	...	...	...
Slovenia	...	...	...	...	...
Sweden (*)	***	***	***	***	***
Switzerland	39 557	39 557		***	***
Turkey	90 086	90 076	***	***	***
Ukraine	9 560	***	9 560	***	***

(*) see remarks *infra*

*** : not applicable

Remarks - Table 15.

Belgium : no distinction indicated between partial and full suspension. Of 16,688 suspended sentences, 15,249 were without supervision and 1,439 with supervision. Of 5,835 deferred sentences, 5,254 measures were without supervision and 581 with suspension.

Ireland : fully suspended without supervision: figure not indicated; fully suspended with supervision: 250, partially suspended with or without supervision: figure not indicated.

Italy : the measure referred to here is the "postponement of execution of the sentence" (statistics not available). When sentencing a person to imprisonment, the judge may, in certain circumstances, decide to postpone the execution of the sentence for a period of 5 years for a misdemeanour and 2 years for a petty offence. A number of obligations may be imposed on the person convicted.

This is not to be confused with "suspension with probation" (see below) which is generally ordered after a person has begun to serve a prison sentence (observation period).

Slovak Republic : full suspension is unsupervised.

United Kingdom

England and Wales : the partial suspension of execution of a sentence was abolished in October 1992 (Criminal Justice Act of 1991).

Sweden : Swedish courts have no power to decide whether or not a prison sentence should be conditional. All prison sentences are in fact unconditional since they are ordered without the possibility of suspension.

Table 16. Other measures ordered in 1994

Reference : Council of Europe, SPACE 96.16

	Exemption from punishment	Pronouncement of sentence deferred	Day fine	Community service
Germany (*)	4 300	***	578 419	***
Austria (*)	...	...	46 961	***
Belgium (*)	***	6 146	***	***
Bulgaria	...	...	...	...
Cyprus (*)	531	...	83 185	***
Croatia (*)	59	***	***	***
Denmark (*)	...	***	...	479
Finland (*)	1 699	***	337 270	1 487
France (*)	7 246	...	5 222	21 461
Greece	...	...	...	...
Hungary	2 975	16 950	35 141	450
Ireland (*)	...	...	159 908	1 617
Italy	***	***	***	***
Latvia (*)	...	...	...	***
Lithuania (*)	5 728	***	***	1 735
Luxembourg	***	0	***	12
Macedonia	1 134	...	...	...
Malta	...	...	...	...
Moldova (*)	4 461	1 867	***	***
Norway (*)	***	55	2 764	1 224
Netherlands (*)	546	...	***	16 614
Poland	...	...	...	...
Portugal	...	...	...	...
Slovak Rep. (*)	4 430	***	1 613	***
Czech Rep.	***	...	0	0
Romania	***	...	***	***
United Kingdom				
England (*)	131 400	***	***	49 500
Scotland (*)	17 433	***	***	5 456
Northern Ireland	...	...	...	...
Slovenia	...	...	...	...
Sweden	***	***	23 162	645
Switzerland	***	***	***	1 097
Turkey	***	***	***	***
Ukraine (*)	4 111	4 794	***	6 077

(*) voir remarks infra

*** : not applicable

Remarks - Table 16.

Germany : 354 exemptions from punishment without condition, 3,946 conditional exemptions from punishment without supervision. Conditional exemptions from punishment with supervision do not exist.

Austria : 83 exemptions from punishment without condition. No figures for conditional exemptions from punishment with or without supervision.

Belgium : Of 6,146 suspensions, 689 are with supervision and 5,457 without.

Community work was introduced in Belgium in 1994 (courts dealing with adults) but it does not constitute a form of punishment in its own right; it is among the conditions which may be attached to the suspension of sentencing or the suspension of execution of the sentence. In addition, under the law on the protection of young people, community work is one of the conditions which the juvenile court may attach to the maintenance of minors charged with offences in their usual environment.

Cyprus : 415 exemptions from punishment without condition, 87 conditional exemptions from punishment without supervision, 29 conditional exemptions from punishment with supervision.

Croatia : these are exemptions from punishment without condition.

Denmark : exemption from punishment without condition does not exist. Figures for conditional exemptions from punishment with or without supervision are not available.

Finland : these are exemptions from punishment without condition.

France : these are exemptions from punishment without condition. A distinction is made between community work ordered as the principal punishment (10,779) and full suspension with the obligation to carry out community work (10,682).

Ireland : only the number of conditional exemptions with supervision is known (1,044); there are no available figures for conditional exemptions from punishment without supervision, and unconditional exemptions without supervision are not applicable. For deferrals, only the figures for measures with supervision are known (1,589).

Latvia : 49 exemptions from punishment without condition, 566 conditional exemptions from punishment without supervision; no figures for conditional exemptions from punishment with supervision.

Lithuania : 2,880 exemptions from punishment without condition, 1,290 conditional exemptions from punishment without supervision, 1,558 conditional exemptions from punishment with supervision.

Moldova : exemptions from punishment are exclusively "conditional with supervision". Deferrals are systematically accompanied by supervision.

Norway : deferrals are without supervision.

Netherlands : exemptions from punishment are unconditional.

Slovak Republic : 1,780 exemptions from punishment without condition, 2,650 conditional exemptions from punishment without supervision, conditional exemption from punishment with supervision does not exist.

United Kingdom

England and Wales : 1. exemptions from punishment without condition (*absolute discharge*) = 22,500, 2. conditional exemptions from punishment without supervision (*conditional discharge*) = 108,900. 3. conditional exemption from punishment with supervision = not applicable.

Scotland : - 1. exemptions from punishment without condition = 16,709. 2. conditional exemptions from punishment without supervision = 123; the courts may ask the offender to provide financial security guaranteeing a period of good behaviour. When that period expires, the money is returned to the accused if the latter has not committed another offence. 3. conditional exemption from punishment with supervision ("probation") = 6,091.

Ukraine : exemptions from punishment are conditional with supervision. Deferrals are accompanied by supervision.

Table 17. Other cases of probation (measures ordered in 1994)

Reference : Council of Europe, SPACE 96.17

Nature of measure	Numbers
Austria : assistance by a probation officer (only for adults)	2 839
Denmark : - sentences deferred/probation without fixed punishment	3 476
Italy : suspension with probation custody of the convicted person in an open establishment, accompanied by obligations for a period of time equivalent to the prison sentence to be served (prior to committal or after a period of observation)	10 288
England : - « attendance order » (10-20 years) - « probation order » (14-20 years) - « probation order » (21 years and over) - « supervision order » (10-19 years) - « combination order » (14-20 years) - « combination order » (21 and over)	7 282 12 099 38 436 9 190 3 703 8 696
Sweden : - 1. "ordinary probation" is an independent alternative punishment to imprisonment, meaning simply a supervision order (generally for one year) and a period of probation (three years from the date of sentence). - 2. Ordinary probation may also be combined with a prison sentence of up to three months. - 3. There is a specific form of probation in Sweden which allows courts to make a probation order and at the same time impose a requirement to receive treatment (generally associated with drug abuse). In such cases, the legislation encourages courts to specify what prison sentence would have been imposed if the sentence of probation with compulsory treatment had not been chosen. Courts are not obliged to state the length of the prison sentence. In fact they do so in a very high proportion of cases.	6 835 563 1 189

Table 18. Weight of the various sanctions and measures in 1994 in relation to prison sentences without stay of execution (per 100)

- (a) full suspension
 (b) partial suspension
 (c) exemption from punishment
 (d) suspension of sentencing
 (e) day fine
 (f) community work
 (g) other forms of "probation"

Reference : Council of Europe, SPACE 96.18

	(a)	(b)	(c)	(d)	(e)	(f)	(g)
Germany	223	***	12	***	1 626	***	***
Austria	...	...	...	...	...	...	...
Belgium	...	...	***	43	***	***	***
Bulgaria	...	...	...	...	...	...	...
Cyprus	...	***	...	...	...	***	***
Croatia	81	***	0	***	***	***	***
Denmark	36	7	...	***	...	3	23
Finland	141	***	18	***	3 672	16	***
France	190	24	8	...	6	25	***
Greece	...	...	...	...	...	...	...
Hungary	...	...	...	...	...	...	...
Ireland	...	...	...	...	...	...	...
Italy	...	***	***	***	***	***	8
Latvia	...	90	...	...	...	***	***
Lithuania	74	***	86	***	***	26	***
Luxembourg	47	19	***	0	***	2	***
Macedonia	...	...	66	...	...	...	...
Malta	...	...	...	...	...	...	...
Moldova	***	***	149	63	***	***	***
Norway	100	...	***	1	34	15	***
Netherlands	...	...	2	...	***	68	***
Poland	...	...	...	...	...	...	...
Portugal	...	...	...	...	...	...	...
Slovak Rep.	89	***	80	***	29	***	***
Czech Rep.	...	...	***	...	0	0	***
Romania	103	***	***	...	***	***	***
United Kingdom							
England & Wales	...	...	...	***	***	...	...
Scotland	***	***	109	***	***	34	***
Northern Ireland	...	...	...	...	...	...	...
Slovenia	...	...	...	...	...	...	...
Sweden	***	***	***	***	163	4	60
Switzerland	305	***	***	***	***	8	***
Turkey	430	***	***	***	***	***	***
Ukraine	...	***	...	...	***	...	***

*** : not applicable

Data on Canada

Prison population

These data relate solely to prisoners in federal institutions ("Adult correctional service of Canada"). They are all convicted prisoners. For these reasons, comparison with the European countries featured in the SPACE survey is difficult.

Situation at 1 September 1996

	numbers
total number of prisoners	13,980
total prison capacity	13,618
median age of the prison population	36
number of prisoners under 21 years of age	445
number of female prisoners	327
number of alien prisoners	994

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12th CONFERENCE OF DIRECTORS OF PRISON ADMINISTRATION (CDAP)

The 12th Conference of Directors of Prison Administration was held in Strasbourg on 26-28 November 1997 and chaired by Ms Irena KRIŽNIK (Slovenia). It was attended by the Directors General and/or their Deputies of all 40 Council of Europe member States and of the prison systems of several applicant States. The Conference dealt with a vast array of issues which reflected the very practical concerns of prison practitioners:

Overcrowding in penal institutions: measures taken by member States between 1995 and 1997 and measures planned for the future (André KUHN - Switzerland)

The collection of crime and criminal justice data within the framework of the Council of Europe (Pierre TOURNIER - France)

Long sentences and violent offenders (Sonja SNACKEN, Belgium)

Keeping prisoners active in an increasingly difficult economic environment (Peter BEST - Germany)

The preparation of prisoners for release (Graham SMITH -United Kingdom)

The treatment of sex offenders in penal establishments and release programmes (Larry MOTIUK Canada)

Co-operation with Central and Eastern Europe (Presentations by Olavi ISRAEL - Estonia, Włodzimierz MARKIEWICZ - Poland, Andrew COYLE and Roy WALMSLEY - United Kingdom)

The proceedings of the Conference are available on request (Division of Crime Problems, Directorate of Legal Affairs, F-67075 Strasbourg CEDEX, E-mail: Wolfgang.Rau@coe.fr).

The Conclusions of the Conference, as presented by its Chair, are reproduced below.

Conclusions

by Ms Irena KRIŽNIK, Chair of the Conference

1. Overcrowding in penal institutions

Prison overcrowding presents a major challenge to prison administrations and to society as a whole. It can result in inhuman conditions, in a reduction of positive regimes and in an increased risk of violence and disorder.

The two main reasons for overcrowding are: that more people are being sentenced to imprisonment and that courts are also passing longer sentences. This is likely to mean that high prison populations will remain for some time.

Only a limited range of measures is available to prison administrations for dealing with overcrowding. Among these are the increase of prison capacity in order to react to emergency situations or, depending on national legislation, the introduction of specific arrangements for early release.

However, in order to address the problems of prison overcrowding more effectively and on a long-term basis, solutions have to be found at legislators' and sentencers' level: this would involve in the first place the introduction, and the more frequent use, of alternatives to long periods of detention, as long sentences place a heavy burden on the prison system. In the second place, the use of short prison sentences should be restricted as much as possible. The need to increase prison capacity might then become obsolete.

Public opinion is important in respect of increased punitiveness throughout Europe. The widespread belief that tougher sentences are an appropriate response to increasing crime rates has to be challenged. Those involved in the criminal justice system should take an active part in public debate and education about these matters.

* * * *

Comparative statistical information on criminal justice in general and prison systems in particular is essential for proper decision-making in this area. The various data collection initiatives of the Council of Europe (SPACE and European Sourcebook of Crime and Criminal Justice Statistics) should be continued and expanded in the future.

2. Long sentences and violent offenders

There are major differences in the definition of what constitutes a long sentence. In some countries, a long sentence is over six months. In other countries, it is over ten years.

The theory and practice concerning the management of long term prisoners vary considerably from country to country. Some countries have strict classifications for security, assessed by level of risk. Sometimes the threat or risk posed by a prisoner can be affected by outside factors such as gangs, racial antagonism and terrorist movements.

For these reasons, we have to be careful about making comparisons between countries. Nevertheless, some basic elements can be identified:

It should not be assumed that all long-term prisoners are dangerous. Indeed, there is evidence that sometimes long-term prisoners including life sentence prisoners, can provide stability in prisons.

Some prisoners become dangerous because of the situations in which they are placed.

Recidivists are not necessarily dangerous. They may present a risk to society because of their continual offending. This does not necessarily mean that they will be dangerous inside the prison.

Prison is not a normal world. It can sometimes cause prisoners to react in a negative fashion. The danger of this happening can be reduced by offering prisoners choices and allowing them to take part in decision-making where possible.

The management of long-term prisoners involves a balance between several factors such as preventing escapes, ensuring good order and discipline, providing active regimes and opportunities. These factors complement each other.

When dealing with those prisoners who are particularly difficult, disruptive or violent, there is also a temptation to rely on control mechanisms such as electronic devices, segregation and strict regimes. The reality is that a secure and safe environment can be best achieved by inter-active (dynamic) security which is based on high quality staff/prisoner relationships.

In several countries there has been an increased use of risk assessment. New instruments/inventories have been developed which are considered to be more effective than traditional methods.

Several countries offer specific programmes to help prisoners deal with their anger and violent behaviour. These are often based on cognitive behavioural skills. It should also be recognised that staff can sometimes have the same tendencies and need to be given appropriate training and support.

Long-term prisoners also need to be given the opportunity to maintain and develop contacts with family and friends outside prison.

3. Keeping prisoners active in an increasingly difficult economic environment

All countries place a high priority on providing work and vocational training. In some countries new legislation is needed to encourage this. Government departments, local authorities, and commercial firms should be involved in providing work for prisoners.

Several countries are either involved in or are considering using commercial companies to provide prison industries.

There has to be a sensitive balance between using prison industries as a means of obtaining income and the need to involve prisoners in other educational and therapeutic activities. The demands of industry can sometimes put other activities at risk.

Non-governmental and voluntary organisations as well as colleges of education, churches and other institutions should be encouraged to help in providing activities for prisoners. Appropriate public relations strategies should be developed to allow these things to happen.

A Europe-wide network should be built up to exchange good practice in this area, taking account of the recently changed situation in countries of central and eastern Europe as regards prison industries.

4. The preparation of prisoners for release

The preparation of prisoners for release must begin on the day the sentence starts and should be part of the sentence planning process.

It is essential to have good contacts with the outside community.

Matters affecting the victim should form part of pre-release planning.

The provision of employment opportunities and accommodation for prisoners after release should receive priority in this planning.

All staff should be involved in preparing prisoners for release.

5. The treatment of sex-offenders in penal establishments and release programmes

It is important that penal institutions make provision for sufficient and appropriate services to meet the needs of their sex-offender population.

Mechanisms to monitor, evaluate and, if necessary, improve the delivery of services to sex offenders should be available.

The management of penal institutions should ensure that their service providers are delivering appropriate assessment, treatment and relapse prevention services in accordance with professional standards.

Staff involved in these programmes should be properly trained and supported.

6. Co-operation among the member States of the Council of Europe

Co-operation is a two-way process.

Co-operation should also take place at inter-regional level. It is important to emphasise in this connection that several new members of the Council of Europe have already made considerable progress in reforming and modernising their prison systems. Their experience in this area might be of particular interest to other countries which are in the process of adapting their prison systems to international standards.

Co-operation should be flexible enough to accommodate ad hoc projects as well as long-term projects. Provision should be made for an appropriate follow-up to successful activities.

The assessment of the co-operation work which has been done up to now is of critical importance: new co-operation projects should be based on such assessments in order to benefit from the experience gathered.

Forthcoming co-operation programmes should pay particular attention to the most serious problems which many of the Central and Eastern European prison systems are facing today. Among these are prison overcrowding, the frequent use and the long duration of pre-trial detention, and the management of prisoners suffering from tuberculosis and other infectious diseases in penal institutions.

Seminars for directors and senior staff in specific types of penal institutions (eg pre-trial facilities, maximum security institutions, institutions for women prisoners) should be organised and be tailored according to their particular needs and concerns.

Joint seminars for prison administrators and judges/prosecutors should be held in order to exchange information of mutual interest and to promote a common perception of the problems facing criminal justice as a whole.

PRISON POPULATIONS IN EUROPE AND NORTH AMERICA: PROBLEMS AND SOLUTIONS

by Roy Walmsley and Matti Joutsen¹⁵

An international seminar on prison populations in Europe and North America was held in Helsinki, Finland from 12 to 15 March 1997. It was organised by the Department of Prison Administration of the Ministry of Justice of Finland, in co-operation with the Council of Europe and the European Institute for Crime Prevention and Control affiliated with the United Nations (HEUNI).

The seminar was attended by over 100 experts from 36 countries in Europe, Canada and the United States of America. Among the participants were the Director Generals of prison administration of more than 20 countries. The focus was on the factors which determine the size of the prison population and ways of reducing it.

The seminar was opened by Mr Kari Häkämies, Minister of Justice of Finland. He noted that although the prison population rate is influenced by the crime rate, it also reflects the way in which society responds to crime. He paid tribute to the work of the Council of Europe in encouraging the implementation of international standards but noted that prison overcrowding inhibited this work, in western Europe as well as in central and eastern Europe.

He also noted that there has been a long-term reduction in the prison population in Finland as a result of changes in legislation, the introduction of a new non-custodial sanction (community service) and changes in judicial and administrative practice. There has been a reduction in the severity of sentencing for minor offences and for young offenders with somewhat more severe sentences for serious offences.

Wolfgang Rau welcomed the participants on behalf of the Council of Europe. He too noted that current trends in overcrowding may be a threat to the implementation of standards and norms. He drew attention to the fact that some of the European Rules are being challenged as being too lenient to prisoners and placing too many demands on prison administrations. Implementation of other standards, such as Recommendation No. R (98) 7 on health policies in prisons¹⁶ and the recently completed draft Recommendation on health care¹⁷ also face difficulties. This surprising development reflects the pressure of public opinion and indicates the challenging environment in which modern-day prison administrations must function. Even in the face of overcrowding, he argued that we must set ourselves ambitious goals and formulate criteria for evaluating how well we succeed in achieving them.

K J Lång, Director General of the Finnish prison administration encouraged participants to focus on the general situation in Europe and North America rather than on problems that are unique to certain countries. He noted that it may be difficult to influence the judiciary, which of course is independent, or public opinion which views the crime situation as alarming and expects a punitive response from the authorities. Government ministers too, at least in some countries, believe that they must be seen to be punitive.

THE SIZE OF PRISON POPULATIONS AND THE SCALE OF THE PROBLEM

¹⁵ Roy Walmsley, Home Office, Research and Statistics Directorate, LONDON (England); Matti Joutsen, Director of HEUNI, the European Institute for Crime Prevention and Control, affiliated with the United Nations, HELSINKI (Finland).

¹⁶ Recommendation No. R (93) 6 concerning prison and criminological aspects of the control of transmissible diseases including Aids and related health problems in prison.

¹⁷ Recommendation No. R (98) 7 concerning the ethical and organisational aspects of health care in prison.

A survey had been undertaken of prison populations in Europe and North America, in order to provide background information for the seminar. The results had been supplemented by additional data, with the result that information was available for more than 40 countries. Prison populations varied considerably from country to country, from three countries with fewer than 50 people in penal institutions per 100,000 of the national population (the Republic of Cyprus, Iceland and Slovenia) to three countries with more than 500 per 100,000 (Belarus, Russia and the United States of America). Prison populations in central and eastern Europe decreased at the end of the 1980s but increased again, although not to the same levels, in most countries during the 1990s. In western Europe and north America there has been a general increase in the number of prisoners with the prison population in the United States doubling in the 10 years 1985-95. Some European countries too (eg. Greece, Netherlands, Portugal and Spain) had particularly large increases over the same period. However, in some western European countries the prison population has remained stable since 1985 (the Republic of Cyprus, Denmark, Germany and Ireland) and it has even decreased in Austria, Finland and Turkey. Some countries in central and eastern Europe (eg Hungary and Slovenia) have withstood the post 1990 increases in that region and their prison population has remained stable over that period.

About a quarter of the prison population in most countries are held in pre-trial detention; conditions in pre-trial detention are usually worse than those for sentenced prisoners with overcrowding in many countries. A significant factor in overcrowding is the length of time spent in pre-trial detention. Again, there are wide variations across Europe, from countries where the average is about two weeks to others where it is nine months or more.

The length of prison sentences is an important factor determining the size of the prison population. There was considerable variety in the length of sentences, with a high proportion of short sentences in, for example, Iceland, the former Yugoslav republic of Macedonia, Slovenia and Sweden and a high proportion of long sentences in, for example, Italy, Northern Ireland, Romania and Turkey.

Overcrowding was so serious in some European countries that there were more prisoners in the penal institutions than places for them. The most severe difficulties of this kind were in Portugal, Romania and Spain. The situation was similar in the United States of America. In many countries overcrowding had led to a variety of difficulties, including shortage of personnel for supervision, shortage of work, shortage of beds, shortage of food and inadequate health services (with a resulting increase in communicable diseases such as tuberculosis). The amount of space that each prisoner should have in his living quarters is not specified by the international standards, apart from the requirement to provide 'a reasonable amount'. There is considerable variation, with some countries having statistics or regulations which specify as little as 2m² (and not all of them always manage to achieve this) and others in which the specification is 5m² or more.¹⁸

FACTORS INFLUENCING THE SIZE OF PRISON POPULATIONS

Professor Keith Bottomley (University of Hull, England) noted that both deterministic and policy-driven explanations have been given for changes in the size of prison populations. Deterministic explanations focus on such background factors as changes in the recorded crime rate, demographic trends and social and economic factors including child poverty, the breakdown of the family, poor education and unemployment. But the connection with such factors is quite complex, since consideration has to be given not to the number of offences but to the number of offenders and to the type and seriousness of the crimes committed. Policy-driven explanations see the size of the prison population as primarily the consequence of decisions taken by individual citizens, by law-enforcement officials and by criminal justice agencies.

¹⁸ The full results of this survey have been published by the European Institute for Crime Prevention and Control affiliated to the United Nations (HEUNI). The reference is 'Prison Populations in Europe and North America' by Roy Walmsley.. HEUNI Paper No 10, Helsinki, 1997.

Crime rates alone cannot explain fluctuations in prison populations. As noted by Professor Alfred Blumstein (Carnegie Mellon University, Pittsburgh, USA) in many countries crime rates - including rates for the more serious crimes - have been stable or even decreasing for several years (generally speaking, crime rates in western Europe and north America have remained more or less stable since the mid-1980s and rates in central and eastern Europe have been stable since 1992/3).

Nevertheless, prison populations in most countries are increasing. It is, therefore, the policy-driven type of explanation which seems most convincing, that there has been a change in attitudes towards the use of imprisonment, a growing belief that imprisonment is preferable to the alternatives.

As noted by Dr André Kuhn (Rutgers University, Newark, USA), a number of factors can lie behind this change in attitudes: an increased (long-term) fear of crime; a loss of confidence in the system; disillusionment with positive treatment measures; the strength of retributionist "just deserts" philosophies of punishment. Loss of confidence in the system may lead to more draconian legislation being passed and harsher sentences may be used as a fig-leaf for the failures of society. (It was suggested that this may in particular - but certainly not solely - be the case in some central and eastern European countries, where the recent fundamental changes have been accompanied by severe social problems.) Vyacheslav Seliverstov (Scientific Research Institute, Russian Federation) noted that some countries have a tradition of heavy reliance on custodial sentences. Retributionist philosophies can readily be translated into popular demands for longer, tougher sentences.

Such factors appear to have led to a long-term change in attitudes in some parts of Europe and north America among key groups (policy-makers, members of the judiciary, prosecutors and the media) as well as the general public.

In addition to long-term changes in attitudes, public opinion and policy can also be influenced in the short-term by dramatic events such as the 1993 Bulger incident in England (the killing of a young child by two other children) and the 1996 Dutroux case in Belgium (involving kidnapping, paedophilia and murder). The United States has seen an increase in random shootings of young people by strangers. Such events can generate public demands for a more punitive response to certain crimes and offenders, demands which may be accepted by policy-makers and practitioners alike.

Even after the focus in the media has moved on to other matters, more punitive policy responses have a tendency to remain in place. What is more, a number of recent policy responses take a 'sledgehammer' approach to problems that require more individual attention. For example, statutory sentencing guidelines, minimum fixed prison sentences, mandatory life sentences and 'three strikes and you're out' policies all restrict the discretion of the court.

THE EFFECTS OF INCREASING PRISON POPULATIONS

An increase in the number of prisoners has effects at a number of different levels: the political level, the level of the national and local administration of prisons, and the level of the individual prison.

At the political level, a decision must be taken either to build more accommodation for prisoners or to reduce the number of prisoners. Many European and north American administrations are building more and larger prisons. Parkinson's Law, however, would appear to have its corollary in respect of prisons: 'the number of prisoners expands to overflow the available capacity'.

At the level of the central and local authority responsible for the prison system, decisions must be made on the allocation of resources and personnel, and on the classification of prisoners. Deprivation of liberty increases tension and the more people that are held in the prisons, the greater this tension and the greater the risk that vulnerable groups among prisoners (eg. sex offenders, some juveniles, some white collar offenders, homosexuals) will be victimised. In deciding where to locate prisoners, consideration should be given to the possibility of more segregation, where groups located together are as homogeneous as possible. This is a decision that must be made at the national and local levels, as well as within individual prisons.

At the level of the individual prison, a number of other practical problems will arise, as identified by Per Colliander (Prison and Probation Administration, Sweden). There will be problems with hygiene. Also, in crowded conditions in custody, misinformation or a lack of information may cause discontent which can erupt as riots; the flow of information must be ensured and there must be clear and effective channels for complaints, with answers guaranteed within a reasonable time.

More fundamentally, an increase in the number of prisoners and an increase in the average period of detention places a severe strain on prison programmes. As was pointed out by Pierre Tournier (CNRC, France) the time in detention should be spent in a meaningful way. Larry Motiuk (Correctional Service, Canada) noted that prisoners newly received into a penal institution should be given a comprehensive risk assessment, to identify criminogenic factors such as anti-social attitudes, substance abuse or sexual deviancy, in order that appropriate intervention programmes can be devised to deal with these identified needs.

Accurate security classification is also needed, in order to allow the safest, and yet the least restrictive, environment. Other important needs, such as work and education, must be met, and programmes and interventions need to be devised for prisoners with special needs, including the mentally ill. Temporary absence and work release programmes must be developed.

FORMULATING PUBLIC POLICY

As noted by Kristel Beyens (Free University, Brussels, Belgium), the prison population is not an a priori fact. Indeed, prison populations are determined, internationally or otherwise, by policy choices, which may be expansionist, reductionist, or standstill (leading to no change in prison population levels). As Keith Bottomley pointed out, increased prison populations are often the result of uncoordinated decision-making and unintended outcomes. The underlying message can be seen as a positive one: the size of the prison population can be influenced.

Efforts at implementing a standstill or reductionist policy, however, have generally been unsuccessful; efforts at expansion, by contrast, have tended to be spectacularly successful, although quite expensive. All three options have been tried in the United Kingdom. In a number of countries overall prison rates have tended to increase despite different combinations of reductionist measures. The prison population in Russia has expanded despite a reduction in the proportion of convicted offenders who receive a custodial sentence. Of the countries reviewed during the seminar, only Finland and, to a lesser degree, Austria, Germany and Turkey appeared to have had appreciable success in long-term reduction of the prison population.

The case of Finland, with its long-term and consistent decrease in the prison population, received particular attention. K J Lång noted that this decrease had resulted from a comprehensive ideology of de-institutionalisation and gave examples of changes in law and practice. Nils Christie (Institute of Criminology, Oslo, Norway) noted that unique historical, social and even geographical factors had contributed to the emergence of this ideology. More broadly, he suggested that what is needed is a deliberate choice of what type of society the policy-makers - and the public - want to have.

The seminar identified a number of types of measures that were designed to reduce the prison population. None can work in isolation and all can have negative impacts. As Keith Bottomley noted, the measures themselves cannot be guaranteed to have an effect. It is the context in which they are used that is significant, and there are few examples of a reductionist approach which has been successful in a punitive climate.

Pierre Tournier emphasised that efforts to counteract the growth of prison populations must involve both a reduction in the number of persons entering prison and a reduction in the length of prison sentences.

MEASURES TO REDUCE THE NUMBER OF PERSONS ENTERING PENAL INSTITUTIONS

Seminar participants agreed that less use should be made of pre-trial detention. Research suggests that judges tend to 'match' the use of pre-trial detention by subsequently imposing a custodial sentence. Furthermore, from the point of view of the public, it is easier to accept the use of a non-custodial sanction if the defendant is already at liberty. A reduction in the use of pre-trial detention will therefore contribute to a reduction in the use of custodial sentences.

This can be done by amending the law in order to restrict the scope of cases in which pre-trial detention can be used, and by limiting the power to impose pre-trial detention to the courts, as opposed to the police or prosecutors. Włodzimierz Markiewicz (Director General, Polish prison administration) noted that this had been done in Poland with the amendment of the Code of Criminal Procedure in 1995.

Simplifying and shortening investigation procedures, and reducing the period between the conclusion of investigations and the subsequent trial will also reduce the use of pre-trial detention. In addition, the law should be amended, where necessary, in order to ensure that the time spent in pre-trial detention is deducted in full from the sentence finally imposed. The survey found that in at least five European countries only part of the time is deducted.

Greater use should be made of non-custodial sanctions. This is the approach that seems to have been used most widely: developing an array of non-custodial sanctions (including suspension and waiving of sentence, probation, community service, fines and compensation). In addition the law could stipulate that non-custodial sanctions have priority over custodial sanctions, as is to be the case in the Russian Federation in accordance with the new Criminal Code that came into force at the beginning of 1997.

The use of non-custodial sanctions can also be expanded by widening the range of sentences of imprisonment which may be replaced by non-custodial sanctions, and by amending tariffs so that custodial sanctions are no longer possible for certain minor offences.

Many examples were quoted of an expansion in the availability of non-custodial sanctions failing to reduce the prison population. As Kristel Beyens pointed out, one reason for this is that non-custodial sanctions are generally used to replace short or (at most) medium-term sentences, but the increase in the prison population is largely due to an increase in the number of long-term sentences. Again, non-custodial sentences tend not to be used for certain groups of offenders such as the unemployed, the homeless and foreigners. The availability of non-custodial sanctions does not ensure that courts will actually use them; for example non-custodial sanctions are often avoided if there is a lack of information about the background of the offender or if the probation service has excessive caseloads. Another reason for courts not using non-custodial sanctions is when the infrastructure for the execution and monitoring of such community sanctions is insufficient to give courts confidence in their effectiveness. Again, many judges still retain a classical retributivist penal philosophy that justifies imprisonment; as noted by Hartmut-Michael Weber (Fachhochschule Fulda, Germany) they may have a strong conviction that by imposing prison sentences they are 'doing good', giving an effective response to what are seen as social crises, and helping to calm public fear of crime. Judges may also be reluctant to use non-custodial sanctions if their nature and aims are unclear and not defined by law.

Even when courts do use non-custodial sanctions there are dangers. For example, the greater use of suspended sentences may have the perverse effect of increasing the size of the prison population, for example if they involve longer terms of imprisonment which are then enforced when a new offence is committed. Again, there is the danger of net-widening - of a greater range of behaviour being penalised.

A further means of reducing the prison population is by amending law and practice to allow courts to waive the enforcement of short sentences and of imprisonment that has been imposed, for example, for non-payment of a fine.

MEASURES TO REDUCE THE LENGTH OF DETENTION

Even when custodial sentences are considered justified, their length could be reduced. This can be done by lowering minimum and maximum sentences and allowing the courts, in special circumstances, to go below any minimum sentence that may be set, as is provided for in the new 1997 Russian Criminal Code. Where the law requires an automatic extension of the length of sentence for recidivists, it can be amended to allow for greater discretion, as occurred in Poland with an amendment to the Penal Code in 1995.

Without interfering in any way with the independence of the judiciary, courts could be encouraged to impose shorter sentences by requiring them to be imposed in days and weeks, rather than in months and years. In this connection the suggestion was made that custodial sentences could also be measured in terms of their cost to society, so that the sentence would be imposed, for example, as "one year in prison, at a cost of 60,000 US Dollars to society". (More generally it was noted that the expansion of the use of prisons could be reined in by highlighting the costs, even though there are many who have an economic interest in such expansion. Indeed, as Alfred Blumstein pointed out, although arguments for leniency may not persuade the public or the policy makers, economic arguments may do so.)

The length of detention can also be reduced by encouraging earlier release. Laws restricting the right to early release should be reviewed, and greater use could be made of amnesties and pardons despite the fact that these measures only have a short-term effect. Early release from prison could be combined with electronic monitoring or intensive supervision. Pierre Tournier noted that the risk of recidivism can be reduced by effective preparation for release.

INFORMING THE PUBLIC

Merely changing laws and creating possibilities of new non-custodial sanctions, however, is not enough. In modern societies it is the media that are the source of much information, both true and false. As described by Professor Thomas Mathiesen (University of Oslo, Norway), with the advent of television European and north American societies have entered into a new and dramatic stage in the influence of the mass media. The mass media do not simply transmit random bits of information, they effectively provide a shared public experience that promotes social solidarity. There is a shift from the written word to the image, and from information to entertainment. He also suggests that the development of mass media has weakened cultural values that restrain the use of imprisonment. It has done this by treating penal policy as a commodity, focusing primarily on its entertaining aspects. It exerts pressure on policy-makers to water down decisions based on principles with decisions that would 'play well' in the media, to the voters, and it weakens the importance of national debate on the fundamental issues in criminal policy. The media image is selective, simplified and skewed, and drives discussion down to the level of the sound-bite.

The image that is conveyed to the public is of a prison system that is humane, noted Hartmut-Michael Weber, and the media even appear to give the impression that prisons are, if not luxury hotels, at least places where people are treated quite well and, in many countries, where they are better off than people in the community outside. But the truth is that the prison system is a 'pain-delivery' system, as shown by the high number of suicides. The media do not tend to look towards prisons until something dramatic happens, such as a mass escape or a prison riot. Otherwise, as eloquently noted by Dr Ferenc Tari (Director General, Hungarian prison administration), people placed in prison no longer exist for society; society loses interest in their fate; nobody wants to follow events happening inside prison walls. Prisons have become "the scenes of a mysterious, closed world full of fears and secrets".

The fear of crime must be counteracted by de-mythologising the description of offenders and by providing more balanced information on prisons. The public is not aware of the problems faced by and in prisons, nor does it appear to be aware of the dangers of the uncontrolled use of imprisonment, of its human and financial costs. The human rights perspective should also be emphasised, for example the

importance of the Council of Europe's European Prison Rules¹⁹ and the United Nations Standard Minimum Rules for the Treatment of Offenders.

This de-mythologising can be done, as pointed out by Thomas Mathiesen, by creating circumstances where argumentation and principled thinking prevail, where the old discourse based on truthfulness, relevance and sincerity could be restored. The nucleus for this exists already. Not all of the media are only interested in sensationalist entertainment; the media can also be informative, educational and seek to improve society. Representatives of the media who are aware of this responsibility can be drawn into a debate on how criminal justice should be reported. In France, for example, an association has been established to draw journalists into a discussion on the role of statistics and data in democratic debate.

Ferenc Tari noted also how co-operation between the press and the prison administration can improve understanding and the quality of coverage; he gave as an example the need for the public to understand the purpose of home leaves. It was also pointed out by Włodzimierz Markiewicz that journalists are often unaware of the background to prisons and the legal system in general, and that the provision of information on these leads to more balanced coverage. More generally it was noted that constructive co-operation can work. It needs to take account of the interest of many groups: those working in institutions, the police, prisoners, victims, society in general and the media. Academics too must recognise their responsibility to engage in principled debate.

INFORMING POLICYMAKERS

Because of the key role of policymakers, it is important to ensure that they have an understanding of the functions of, and limits to, the effectiveness of imprisonment. This is true not only at the national level but also at the regional and local levels, where the decisions on the necessary allocation of resources are often made. All levels must understand and accept the basis for changing penal policy. They must also be made aware, as pointed out by Richard Tilt (Director General, England and Wales prison administration), of the financial costs entailed by a high level of imprisonment.

INFORMING THE JUDICIARY

Throughout the seminar the key role of the judiciary was emphasised. It was noted that many judges resist the adoption of sentencing guidelines, which they regard as an unjustified restriction of their discretion. The suggestion was made that the judiciary should be provided with more feedback on the impact of their sentences on the prison population, and on sentencing disparity. On the other hand, the judiciary is quick to point out that disparity in sentencing is a natural result of the difference in individual cases. Furthermore, more feedback on sentencing disparity may have the unintended effect, not of encouraging punitive judges to decrease the level of sentencing, but of encouraging lenient judges to increase their level of sentencing.

INFORMING THE PROSECUTORS

The judiciary are not the only practitioners who influence the size of the prison population. Keith Bottomley emphasised that the police and prosecuting authorities exercise a major filtering influence, an influence which is not limited to minor offenders who would not otherwise enter the prison system. For this reason, efforts to provide the public, policymakers and the judiciary with balanced information should also extend to prosecutors.

5. Recommendation No. R (87) 3.

CONCLUSIONS

The seminar drew attention to the many problems that result from fluctuations, in particular increases, in prison populations. It also served to underline that there is no 'ideal' prison population rate. However there was general agreement that the size of the prison population in a number of countries should be reduced, for a variety of reasons not the least of which was simple justice.

It was also noted that in some countries one of the most powerful factors weighing against reduction of the prison population is a prevailing opinion that prison 'works' in some way and is thus justified. What was needed was a calm, rational discourse, unswayed by current events. The size of the prison population can be influenced but it calls for identification of the underlying factors, identification of the key groups, and the setting of priorities.

Penological measures alone will not suffice. The response must be part of a broad package that addresses fundamental and fully justified concerns of the public. The package must include crime prevention, improved enforcement, improved treatment, changed legislation, attention to the media and mobilisation of the public. It must also include research and evaluation of the success achieved and of any difficulties met in implementing the policy.

Specifically, what is needed includes:

- more discussion, for example why do even neighbouring countries have such differences in the size of the prison population or in the length of sentences?
- more, and more balanced, information to the public on the functions of punishment, on the relative effectiveness of non-custodial and custodial measures and on the reality of prisons.
- more responsible media coverage. Media watchdogs might be required to ensure that the media coverage of sensational and rare offences and incidents is balanced; at the very least, such coverage should point out the uniqueness of the incidents.
- less use should be made of pre-trial detention and such detention should be shortened, for example by simplifying the investigation process whenever possible.
- an appropriate array of non-custodial sanctions is needed and attention should be paid to their use.
- the time spent in custody should be used more appropriately; international co-operation in developing programmes could be useful in this connection.
- greater use should be made of conditional early release.

Some other measures which could be considered are:

- placing legal restrictions on crowding levels in penal institutions.
- having maximum occupancy levels for institutions, so that no more than the maximum level may be admitted without others being released.
- setting minimum space levels for each prisoner.
- setting strict time-limits to the various stages between arrest and court proceedings.
- increasing the use of alternatives to pre-trial detention, such as bail or the requirement that suspects should report to a police station.

- limiting pre-trial detention to cases where offences are serious or where it is absolutely certain that it is not in the public interest to allow the suspect to remain free in the community.

A full report of this seminar, including the papers presented by the main rapporteurs is due to be published by the Department of Prison Administration of the Ministry of Justice of Finland.

NEWS FROM THE MEMBER STATES

Laws, bills, regulations

Austria

"Amnesty 1995" - a collective pardon on the occasion of the 50th anniversary of the restitution of an independent Austria (1945), the 40th anniversary of the conclusion of the Austrian State Treaty (1955) and on the occasion of the accession of Austria to the European Union.

Belgium

Law of 13 April 1995 and Ministerial Circular of 19 January 1996.

Setting-up of a Crime Policy Service by Royal Decree of 14 January 1994.

Denmark

Danish Parliament's Resolution B 46 of March 28, 1995 on experiments with treatment of drug abusers as an alternative to imprisonment.

Bekendtgørelse af 9. juni 1995 om ændring af bekendtgørelse om ophold i varetægtsfængsel (Amendment of the Order on Remand Prison).

Bekendtgørelse af 9. juni 1995 om ændring af bekendtgørelse om fuldbyrdelse af frihedsstraf (Amendment of the Order on Custodial Treatment).

Cirkulære af 26. juni 1995 om ændring af cirkulære om adgangen til at anbringe varetægtsarrestanter i enrum (Amendment of the Circular on Solitary Confinement of Remand Prisoners).

Cirkulære af 26. juni 1995 og 11. juli 1995 om ændring af cirkulære om adgangen til at anbringe indsatte i enrum (Amendments of the Circular on Solitary Confinement of Inmates).

Cirkulæreskrivelse af 29. september 1995 om indberetning om kriminalitet begået under udgang og/eller udeblivelse (Circular concerning a report on crime committed during leave and/or absence).

Cirkulære af 8. januar 1996 om ændring af cirkulære om magtanvendelse overfor indsatte (Amendment of the Circular on use of force on inmates).

Cirkulæreskrivelse af 27. februar 1996 om adgangen til at medbringe mobiltelefoner ved besøg (Circular to permit visitors to carry mobile telephones).

Cirkulæreskrivelse af 27. februar 1996 om gennemlæsning af indsattes private papirer i forbindelse med visitation (Circular to permit the reading of inmates private letters in connection with a search).

Cirkulære af 29. februar 1996 og Vejledning af 14. mars 1996 im tilsynsvirksomheden inden for Kriminalforsorgen (Circular and Guidelines on the contents of supervision).

France

Regulations 1995-96

circular
JUSE9540028C
1995-04-11

Guideline circular on education in prisons

DAP

GB 2

education; placement; preparation for discharge; UPR; teacher

circular

JUSE9540032C

1995-04-28

Organisation of vocational training in prisons

DAP

GB 2

vocational training; illiteracy; reception of new arrivals; preparation for discharge; training committee, training plan

circular

1995-04-28

Harmonisation of practices regarding treatment orders

compulsory care; drug addiction; court proceedings

order

SPSH9501491A

1995-05-10

Model internal regulations governing the organisation of regional medical and psychological departments (SMPRs) in the psychiatric sectors of prisons

internal regulations; SMPR

memorandum

1996-01-09

Assessment of prisons' employment needs. Organisation of a department of surveillance staff

DAP

HA 2

personnel department; surveillance staff

circular

1996-02-23

Application to the prison service of decree N° 85-607 amended 14 June 1985 on the professional training of state employees

DAP

HA 1

in-service training; release from service, weekly rest-periods; travelling times, working hours; personnel department

Italy

Act N° 426 of 18 October 1995: enacted legislative decree N° 344 of 9 August 1995 on immediate measures to equip the judicial service with audio-visual systems.

Legislative decree N° 432 of 18 October 1995: immediate action in civil cases and transitional regulatory framework provided for in Act N° 353 of 26 November 1990 on such cases.

Presidential communique on the presentation of foreign ambassadors' credentials.

Legislative decree N° 453 of 30 October 1995: immediate measures concerning the promotion of officers of the armed forces and the *carabinieri*.

Legislative decree N° 456 of 30 October 1995: immediate measures concerning prison service staff and the transfer of prisoners service. The decree is implemented through section 4 of Act N° 495 of 15 December 1990 which devolves responsibilities regarding the transfer and supervision of prisoners onto the chief of the prison police. Provision has been made to give practical training to prison police officers who have completed a prison service familiarisation and training course.

Legislative decree N° 408 of 11 November 1995 containing provisions for the gradual replacement of armed forces personnel employed in domestic surveillance activities and the strengthening of organisations and staff involved in combating organised crime. Such steps had resulted from the exceptional and urgent need to use units of the armed forces in police operations against organised crime operating on a national scale to meet certain specific objectives and strengthen public order, with a view to safeguarding public security.

Legislative decree N° 487 of 18 November 1995: immediate measures to ensure the application of the single text dealing with drug addiction, approved by presidential decree N° 309 of 9 October 1990. This recent measure was necessary to ensure rapid and appropriate action to support preventive, curative and recovery activities for drug addicts and, following initiatives taken by the European Union, introduce various amendments to the single text concerned with developing and establishing effective systems within institutions involved in combating the spread of drugs and stimulating alternative forms of counter-drug behaviour. To that end, the government has established an anti-drugs intervention fund whose main purpose is to programme and prepare a suitable agreement governing grants to local agencies and health units for organising seminars designed to train and assess specialist staff in this particular field.

Legislative decree N° 552 of 23 December 1995 which extends the use of Pianosa and Asinara prisons for custodial purposes.

Ministerial decree N° 540 of 20 November 1995 which implements sections 2 and 4 of Act N° 241 of 7 August 1990 setting out new rules governing the administrative procedure and the right of access to documents relating to activities coming within the scope of the administration of justice system. Reflecting the exceptional and urgent need to strengthen the safeguards relating to administrative activities throughout the country, the decree establishes in every Italian region and in each administrative centre, a section of the Auditor-General's Department with responsibility for supervising and exercising jurisdiction over the relevant departments and public bodies to ensure the smooth running and transparency of the Italian prison service.

Decree N° 519 of 14 June 1995: regulation governing the categories of document to which there is no right of access.

Legislative decree N° 572 of 23 December 1995: immediate measures concerning prison service staff and the transfer of prisoners service.

Decree of 30 December 1995 setting the interest rate to be applied to loan operations as part of the emergency intervention programme for preventing and combating AIDS, in accordance with Act N° 135 of 5 June 1990 and N° 492 of 4 December 1993, for the period 1 January to 30 June 1996.

Legislative decree of 8 January 1996, which provides for the gradual replacement of armed forces personnel employed in the Sicily region and the strengthening of organisations and staff involved in combating organised crime.

Legislative decree N° 13 of 12 January 1996 on exceptional measures in the cities of Turin and Florence to meet the requirements of the intergovernmental conference of the European Union in the context of the European Council. The legislative decree provided for alterations to buildings and infrastructure and to the organisation of the cities concerned necessitated by the conference, to be held during Italy's six-month presidency of the European Union.

Immediate measures to bring into operation drug-related services provided by local health units.

Legislative decree N° 487 of 18 November 1995 providing for immediate measures for the application of a single text to deal with drug addiction, approved by presidential decree N° 309 of 9 October 1991, has not yet been enacted.

Presidential decree N° 582 of 10 December 1995: regulation arising from section 4 paragraph 3 of Act N° 561 of 28 December 1993 commuting minor offences into cases of administrative misconduct.

Act of 31 January 1996: ratification and implementation of the agreement between the Italian and Argentine governments concerning co-operation in combating terrorism, illegal drug trafficking and organised crime, signed in Rome on 6 October 1992.

Circular N° 62/MR 32 of 29 January 1996: Act N° 216 of 19 July 1991 incorporated into Act N° 465 of 27 July 1994 concerning action on behalf of juveniles at risk of being involved in criminal activities.

Circular N° 70494/3 Div of 30 January 1996; Act N° 216 of 19 July 1991 incorporated into Act N° 465 of 27 July 1994 concerning proposed action on behalf of juveniles at risk of being involved in criminal activities.

These measures, which became law in January 1996, offer juveniles who are at risk the opportunity of making positive use of their free time and developing their creative and occupational abilities and a positive incentive to establish a new personal environment by involving them in self-directed activities, with the assistance of their families. Outside activities are also provided for in centres equipped for recreation, sport, music and various forms of communal activity. Consideration will be given to any initiative which emphasises the importance of exchanges between young people from different towns and countries.

Ministry of Foreign Affairs

Establishment of a consulate in the Italian embassy in Bucharest.

Entry into force of the agreement between the Italian and Chilean governments concerning co-operation in combating terrorism, organised crime and drug trafficking, signed in Rome on 16 October 1992.

Ministry of the Interior

Communique concerning the financing of projects under sections 1 and 2 of Act N° 216 of 19 July 1991 on initial action on behalf of juveniles at risk of being involved in criminal activities, incorporated into Act N° 465 of 27 July 1994.

Decree of 25 January 1996: regulation governing the categories of documents produced and maintained by the Ministry of Justice and its subsidiary bodies which are exempt from the right of access.

Latvia

Final edition of Latvian Penal Code ratified by Saeima (Parliament) of Latvia on 15 December 1994.

Regulations concerning detention places were sanctioned by the Ministry of the Interior on 28 June 1995.

Instruction on the supervision and guarding of inmates in detention places was sanctioned by the Ministry of the Interior on 28 June 1995.

Lithuania

Law on Amnesty of the Republic of Lithuania, adopted on 21 December 1995.

Law on Custodial Coercion of the Republic of Lithuania, adopted on 26 January 1996.

Norway

Alterations to the General Civil Penal Code and to the Road Traffic Act:

New General Civil Penal Code Article 53 N° 3 sub-section e:

e) that the convicted goes through a supervision programme, cf. N° 6 first sentence.

The present sub-sections e and f become sub-sections f and g respectively.

New General Civil Penal Code Article 53 N° 6 first paragraph second and third sentence:

The King can, as a trial arrangement, decide on the establishment of a supervisory programme for persons convicted of violating the Road Traffic Act Article 31 cf. Article 22 first paragraph, and who have a alcohol problem (supervision programme for drink/driving offenders). The King gives further rules regarding the supervision programmes, including who they shall apply for, the contents and execution of the programmes.

Alterations in the Road Traffic Act:

New Article 31 second paragraph, sub-section c, new second sentence and third paragraph, new last sentence:

Fines and a suspended sentence can still be imposed on condition that the terms mentioned in the General Civil Penal Code, Article 53 N° 3 sub-section e, are met.

The alterations were adopted on 23 June 1995 with immediate effect. They also apply to acts committed before the law came into force. However, no programme can be implemented before the by-laws - presently under development - are complete.

Russia

Act of the Russian Federation of 15 July 1995 on detention of persons suspected and accused of committing a crime. The Act determines the legal status of suspects and the accused, the safeguards for securing the suspected and accused persons' rights and duties. It also regulates the activities of a remand prison administration. For the first time, legislation granted a head of detention facility the right to pass a resolution on release of a suspect or an accused person if the term of apprehension or detention established by law had expired.

Act of the Russian Federation of 25 April 1995 on making alterations and amendments to the Enterprise Property Tax Act. The Act exempts enterprises of the penitentiary institutions from paying property tax.

Decree of the President of the Russian Federation of 29 September 1995 on reforming the State-controlled enterprises of the institutions enforcing criminal punishments of deprivation of liberty.

Enactment of the State Duma of the Federal Assembly:

- of 19 April 1995 on proclaiming an amnesty in connection with the 50th anniversary of victory in the great patriotic war;

- of 19 April 1995 on the order of implementing the enactment of the State Duma on proclaiming amnesty in connection with the 50th anniversary of victory in the great patriotic war.

Enactments of the Government of the Russian Federation:

- of 6 May 1995 on the federal programme for environment and population sanitation in the city of Nizni Tagil;

- of 31 May 1995 on the federal programme for promotion of employment of the Russian population in 1995;
- of 29 July 1995 on the federal purpose-oriented programme for promotion of the employment of persons sentenced to deprivation of liberty. The enactment approved this programme.
- of 26 September 1995 on transferring the functions of guarding penitentiary institutions to institutions and agencies of the penitentiary system of the Interior Ministry of the Russian Federation by the internal troops of the Interior Ministry. The enactment provides for transfer of the functions of guarding the penitentiary institutions to the penitentiary system before 1 January 1997;
- of 5 November 1995 on urgent measures for stabilisation of the power supply, which included correctional labour institutions into a list of consumers in relation to which restriction and discontinuation of feeding power and other resources shall not be performed;
- of 28 February 1996 on approval of rules for compulsory medical examination of persons in the institutions of confinement for the purpose of detecting the Human Immunodeficiency Virus (HIV-Infection).

Slovenia

New law of 1 January 1995 on the Criminal Procedure, regulating the detention and treatment of convicts.

Statutes on the implementation of detention and the new law on the implementation of penal sanctions are in preparation.

Slovenia included a so-called socio-therapeutical orientation in the field of the implementation of penal sanctions, with special emphasis on the integration processes. This concept was introduced 20 years ago.

Spain

The Spanish Penological Rules, in force since 1981, have been completely amended by *Real Decreto* 190/1996 of 9 February, which entered into force on May 1995, the same day as the new Spanish Penal Code.

The *Real Decreto* redefines the "cellular confinement scheme", establishing two fundamental systems: special departments of direct control for extremely dangerous inmates and a scheme of centres of closed confinement for inmates clearly unsuited to ordinary and open schemes.

The *Real Decreto* encourages on open scheme with the setting up of Centres of Social Integration (CIS) and promotes the participation of public and private organisations through the *Dependent Units* and *Extrapenitentiary Units*.

The *Ley Organica* 10/1995 of 23 November of the Penal Code, entered into force on 25 May 1996.

The so-called "Penal Code of Democracy" contains the new Spanish Penal Rules; among them alternatives to imprisonment (substitution to penalty, conditional suspension of the penalty, detention at weekends, labour to benefit society...)

The project of *Real Decreto*/1996 establishes the framework for the enforcement of penalties of labours in benefice of the community and weekend detention (approved before the entry into force of the New Penal Code).

Switzerland

Entry into force on 1 January 1996 of the amendment of 4 December 1995 to order 3 pertaining to the criminal code: extension of the period of community service (TIG) to 3 months and alteration to the equivalence scale (1 day of imprisonment = 4 hours of community service). Possible extension of semi-detention to one year if there is a guarantee that someone will take responsibility for the prisoner.

United Kingdom : Scotland

The Criminal Justice Act 1995. This act amended the criminal justice system of Scotland as respects criminal proceedings, the investigation of offences, the sentences and other disposals applicable in respect of certain offences, legal aid in relation to certain appeals, and the treatment of offenders.

The Prisons and Young Offenders Institutions Amendment Rules 1996, which revised the principal Rules of 1994 to take account of new legislation and reflect changes in Scottish Prison Service policy.

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NEWS IN BRIEF

Spain

The new Spanish penological Rules regulate mixed departments of men and women, visits of family cohabitation, voluntary control of third degree classified inmates through an electronic bracelet, an organisation scheme for penological centres, a new health assistance scheme for inmates. Finally, the penological Administration is developing an interesting project on the distribution of methadone and needles to protect the health of drug addicted inmates.

Slovenia

New Penal Code of the Republic of Slovenia (1 January 1995).

As regards the execution of sentences the following should be emphasised:

The minimum possible prison sentence is 15 days, the maximum up to 15 years. The National Assembly adopted a 20-year sentence to be applied in cases of intentional commission of the most serious crimes (first degree murder, genocide, war crimes), as an exceptional sentence.

As a rule juvenile prison sentences range between 6 months and 5 years. If for a serious crime a sentence of 20 years is forseen, a maximum sentence of 10 years may be imposed on young people. Only young people aged between 18 and 20 years are liable to juvenile imprisonment. Juvenile imprisonment may only be imposed for criminal offences for which a prison sentence of more than 5 years is prescribed by law.

Juveniles between 14 and 16 years are only liable to educational measures. One such educational measure is committal to an educational centre which the court imposes if it believes that the juvenile must be subject to a longer period of education or re-education. The minimum period in such a centre is 1 year, not exceeding 3 years in total. At the time the sentence is passed, the court does not specify the duration of the sentence but decides on the eventual cessation.

The Penal Code introduced a new provision relating to release on parole from educational centres. Educational centres in which juveniles are committed fall under the jurisdiction of the National Prison Administration.

The Penal Code includes some of the most elementary provisions on the implementation of penal sanctions, particularly prison sentences. Penal legislation is regulated by a special law and regulations on the implementation of sentences.

The Penal Code determines that prisoners must serve their sentences in institutions of the closed, semi-open and open types intended for the execution of prison sentences. Convicts are handed over to institutions with respect to the level by which their freedom is restricted. If convicts are sentenced to a prison term of up to 3 years, the court may decide that the sentence be carried out in an open institution, in case of a prison term of up to 5 years in a semi-open institution.

A prison sentence of up to 3 months may also be imposed in such a way that the prisoners work for the benefit of humanitarian organisations or local communities for no longer than 6 months, for not less than 80 hours but not exceeding 240.000 hours, instead of serving their prison sentence. This corresponds to the tendencies of numerous western European countries to introduce substitution of prison sentences by alternative penal sanctions without depriving convicts of their freedom, and is a new feature in Slovenian legislation. In order to put this into practice, some supplementary organisational provisions should be included in the corresponding law, as well as several practical measures.

Convicts who have already served half of their sentence may be released on parole if there are justified expectations that they will not commit a criminal offence again. Exceptionally, release on parole is possible in cases of convicts who have only served one third of their sentence if special circumstances applying to the convict's personality exist, and, as a result, that there are justified expectations that the convict will not repeat the criminal offence. Convicts sentenced to 20 years imprisonment may be released on parole only after they have served 15 years of their prison sentence. The revocation of parole, which the court decides upon, is of an obligatory nature; it is also of a facultative nature if the court passes a sentence of up to 1 year for criminal

offences committed during release on parole. The Penal Code does not determine the issue of which body is responsible for deciding release on parole, this question being covered by the new Law on the Implementation of Penal Sanctions.

The Penal Code also determines that convicts' human rights may be restricted only to the extent necessary for the implementation of penal sanctions. The convict may not be subjected to torture or any other type of cruel, inhuman or humiliating treatment. In connection with this, the provision of the victim with judicial protection against such treatment is of vital importance.

The Penal Code stresses the duty of the bodies responsible for the implementation of penal sanctions to observe the human dignity of the convicts and to protect their physical and mental integrity. All educational, medical or psychological procedures which represent interference in the convict's personality, and which the convict justifiably and explicitly refuses to undergo, are prohibited.

List of Directors of Prison Administrations
of member States of the Council of Europe

Mr Gramos XHAFERRAJ, Director General of Prison Administration, Ministry of Justice,
Bld. Drejtoria e Pergjithshme e Burgeve, ALB - TIRANA Albania

Mr Antoni MOLNE SOLSONA, Directeur Général du Centre Pénitentiaire, Casa de la Vail
AND - ANDORRE-LA-VIELLE Principauté d'Andorre

Mr Paul MANN, Director General of Prison Administration, Ministry of Justice, Museumstrasse, 7
A - 1016 VIENNA

Mr Gisleen VAN BELLE, Directeur Général de l'Administration Pénitentiaire, Ministère de la Justice
Rue Evers 2-8, B - 1000 BRUXELLES

Mr Zdravko D. TRAIKOV, Director of Prison Administration, Ministry of Justice
21, Bd. Stolétov, BG - 1309 SOFIA

Mr Ivica SIMAC, Director General of the National Prison Administration, Ministry of Justice, Petrinjska 12
HR - 1000 ZAGREB Croatia

Mr George ANASTASSIADES, Director of Prisons Department, Central Prisons
CY - NICOSIA Cyprus

Mr Jiri MALÝ, Director General of Prison Administration, Ministry of Justice, Taborska 988
CZ - 14067 PRAGUE 4 Czech Republic

Mr William RENTZMANN, Director General, Department of Prisons and Probation
Ministry of Justice, Klareboderne 1, DK - 1115 COPENHAGEN K

Mr Olavi ISRAEL, Director General, Estonian Prison Board, Tartu Road 85, EE - 0104 TALLINN Estonia

Mr Markku SALMINEN, Director General of Prison Administration, Department of Prison Administration
Ministry of Justice, P.O. Box 319, Albertinkatu 25, FIN - 00181 HELSINKI

Mr Gilbert AZIBERT, Directeur de l'Administration Pénitentiaire, Ministère de la Justice DAP/SCERI,
247, Rue St Honoré, F - 75001 PARIS

Mr Christian LEHMANN, Ministerialdirigent, Bundesministerium der Justiz, D - 53170 BONN

Monsieur Nikolas TSINGAS, Directeur Général de l'Administration Pénitentiaire, Ministère de la Justice
96, Avenue Messogion, GR - 11527 ATHENES

Mr Ferenc TARI, Director General of Prison Administration, Igazságügyi Minisztérium, Steindl Imre U. 8
H - 1054 BUDAPEST

Mr Thorsteinn A. JÓNSSON, Director General, National Prison and Probation Administration, Borgartún
IS - 105 REYKJAVIK

Mr Michael MELLETT, Assistant Secretary (Prisons), Department of Justice, 72-76 St. Stephen's Green
IRL - DUBLIN 2

Mr Alessandro MARGARA, Director General of Prison Administration, Ministero di Grazia e Giustizia
Largo Luigi Daga, 2, I - 00164 ROME

Mr Paolo CANEVELLI, Director of Central Office for Studies, Research, Legislation and Automation
Ministero di Grazia e Giustizia, Largo Luigi Daga, 2, I - 00164 ROME

Mr Vitolds ZAHARS, Director of Prison Administration, Ieslodzījuma Vietu Departaments, Stabu ielā 89
LV - 1009 RIGA Latvia

Mr. Lothar HAGEN, Judge at the Court of Justice, President of the Criminal Court, c/o Fürstliches
Landgericht, Äuelestrasse, FL - 9490 VADUZ

Mr Jonas BLAŽEVIČIUS, Director General of the Prison Department, Ministry of Internal Affairs
Sapiegos Street 1, LT - 2600 VILNIUS Lithuania

Monsieur Pierre SCHMIT, Premier Avocat Général, Délégué à la Direction Générale, des Etablissements
Pénitentiaires, Cour Supérieure de Justice, BP 15, L-2010 LUXEMBOURG Gd-Duché

Mr Peter CORDINA, Acting Director of Correctional Services, Corradino Correctional Facilities
Valletta Road, MLT - PAOLA Malta

Mr Eugen SOKOLOV, Vice-Minister of Justice, Director General of Prison Administration,
Ministry of Justice, Str. 31 August, 82, MD - 2012 CHISINAU Moldova

Ms M.A.C. GALESLOOT, Director General Prevention, Youth and Sanctions, Ministry of Justice
P.O. Box 20301, NL - 2500 EH THE HAGUE

Mr Erik LUND-ISAKSEN, Director General, Prison and Probation Department, Ministry of Justice and Police,
P.O. Box 8005 Dep., N - 0030 OSLO 1

Mr Włodzimierz MARKIEWICZ, Directeur Général de l'Administration Pénitentiaire, Ministère de la Justice,
Ul. Rakowiecka 37 A, PL - 00-975 WARSAW Pologne

Mr Celso MANATA, Directeur Général de l'Administration Pénitentiaire, Ministère de la Justice
Travessa da Cruz do Torel, N° 1, P - 1198 LISBONNE Codex

Mr Mihai VERBICEANU, Directeur Général Adjoint de l'Administration Pénitentiaire, Str. Maria Ghiculeasa
No 47 - Secteur 2, RO - 72228 BUCARES, Roumanie

Mr Vladimir IALOUNINE, Head of the Principal Department of Prison Administration, Ministry of Justice,
B. Kavetny per 10A, RUS - 104434 MOSCOW

Madame Antonietta BONELLI, Département des Affaires Etrangères, Contrada Omerelli Palazzo Begni
Via Giacomini, SM - SAN MARINO Rép. de Saint-Marin

Mr Anton FABRY, Director General of Prison Administration, Ministry of Justice, Chorvátska Street 3
SK - 81304 BRATISLAVA, Slovakia

Mr Dušan VALENTINČIČ, Director General of Prison Administration, Ministry of Justice, upan_i_eva 3
SLO - 1000 LJUBLJANA, Slovenia

Monsieur Javier NISTAL BURÓN, Sous-Directeur Général de l'Administration Pénitentiaire, Ministère de
l'Intérieur, Calle Alcalá, 38-40, E - 28014 MADRID

Mr Bertel ÖSTERDAHL, Director General, National Prison and Probation Administration, Slottsgatan, 78
S - 60180 NORRKÖPING

Madame Priska SCHÜRMAN, Chef Section Exécution des Peines et des Mesures, Office Fédéral de la
Justice, Département Fédéral de Justice et Police, CH - 3003 BERNE

Mr Dragi CELEVSKI, Director of Prison Administration, Ministry of Justice and Administration,
ul. "Veljko Vlahovik" br. 9, MK - SKOPJE 91000, "The former Yugoslav Republic of Macedonia"

Mr Çağatay KAYIRAN, Director General of Prisons and Detention Houses, Ministry of Justice
Adalet Bakanlığı, CTE Genel Müdürlüğü, TR - 06659 ANKARA

Mr Ivan Vassilievich SHTANKO, Director of Prison Administration, Ministry of Internal Affairs
10, Bogomoltsa Street, UA - 252024 KYIV Ukraine

Mr Richard TILT, Director General, H M Prison Service, Home Office, Cleland House, Page Street
GB - LONDON SW1P 4LN

Mr Ian CALDOW, HM Prison Service, Home Office, Cleland House, Page Street, GB - LONDON SW1P 4LN

Mr Edward W. FRIZZELL, Chief Executive - Scottish Prison Service, Calton House, 5, Redheughs Rigg
GB - EDINBURGH EH12 9HW

Mr Alan SHANNON, Chief Executive - Northern Ireland Prison Service, Dundonald House,
Upper Newtownards Road, GB - BELFAST BT4 3SU