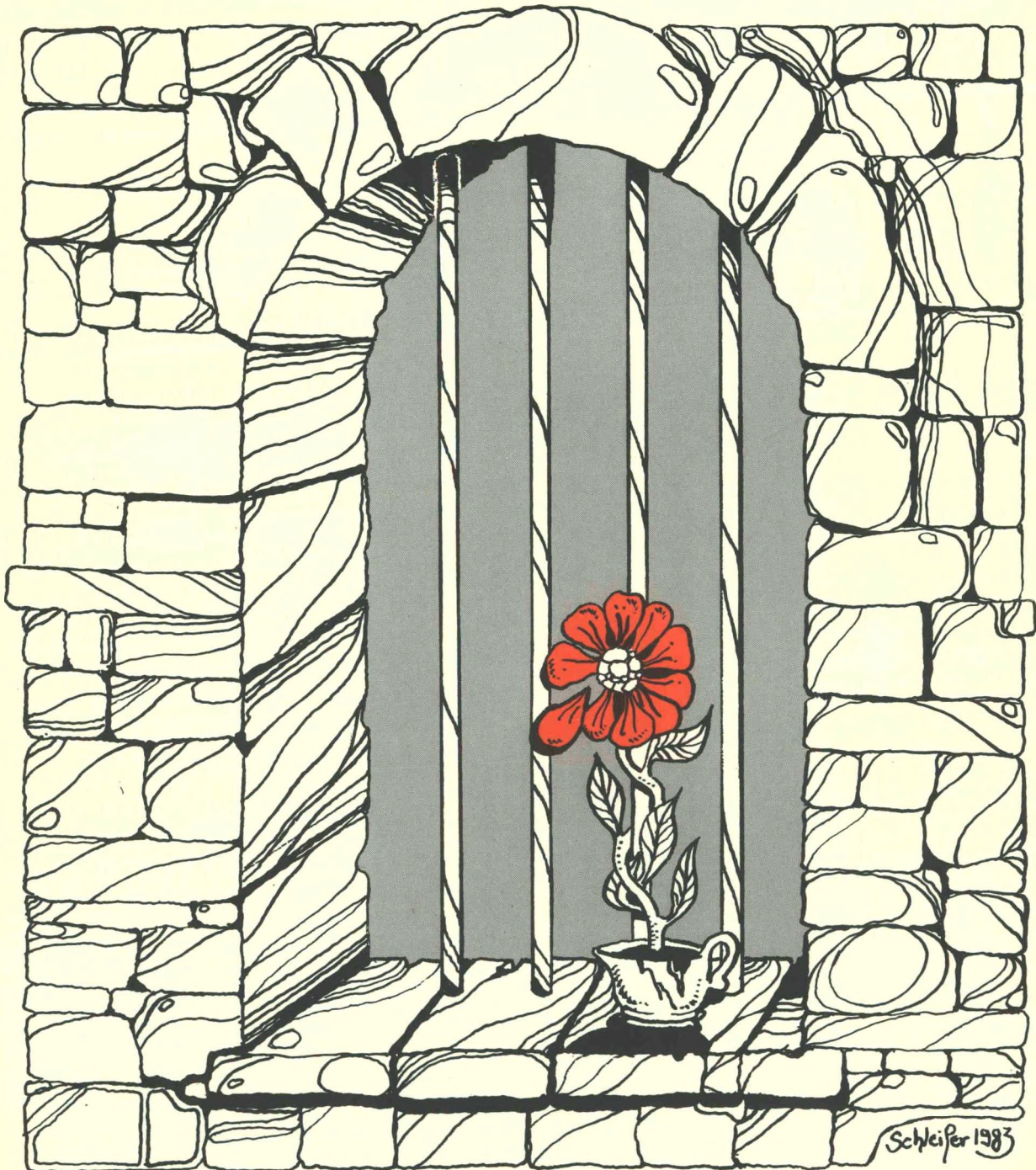




# Penological Information Bulletin



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# PENOLOGICAL INFORMATION BULLETIN

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## FOREWORD

*In October 1992, the Committee of Ministers adopted The European Rules on Community Sanctions and Measures, which had been elaborated by the Council for Penological Co-Operation; text which constitutes a counterpart of the European Prison Rules.*

*As a Dane was the chairman of the Council for Penological Co-operation at the time when the Council completed its work, it is a great pleasure to me to introduce this issue of the Penological Information Bulletin, which features a new and wider field of application covering both the conventional prison field and community sanctions.*

*I believe that it is a very important signal given to member States by the Council of Europe. It is a signal to the old member States never to stop considering the possibilities of widening the fields of application for community sanctions - but perhaps it is particularly a necessary signal to the new member States, of which many have expressed their interest in introducing new alternative penal methods, because they, too, have realised that the answer to rising crime cannot merely be an expression of the prison system.*

*It is more that the Penological Information Bulletin will become an important means in the efforts to organise rational and humane penal systems which restrict the use of imprisonment to the absolutely necessary, and which involve the human resources of society as much as possible in the battle to reduce crime in our societies.*

Björn Westh  
Danish Minister of Justice

# The "Bulletin" – Past and Future

Since the *Prison Information Bulletin* saw the light of day for the first time in the summer of 1983, this journal has played an important part of political debate on crime in the member States. That is due, not last, to the comparative statistics which appeared for the first time in No. 2 of December 1983, and which have been an essential element in the contents of the magazine ever since. The statistical information to which we had access in all subsequent issues of the Bulletin, thanks to Professor Pierre Tournier, has been used and quoted in connection with all international and national conferences over the last decade.

But in addition to this very valuable statistical information, the journal has also published a large number of articles relevant to the prison world, not to mention the recurring information on new legislation and regulations as well as new literature in the member States.

A characteristic feature of the Bulletin right from its start has been that target group is composed of practitioners, and therefore its contents have been related to practice and been immediately applicable in the prison administrations of the individual member States. Even an apparent detail, such as the updated list of Directors of Prison Administrations of the member States, containing both names and addresses, is practical aid in everyday life.

To a very great extent, the Bulletin has reflected the work carried out continuously in the former Committee for Co-operation in Prison Affairs. When this committee had its mandate expanded in 1992 to include the so-called community sanctions and measures – and consequently changed its name into the Council for Penological Affairs – a natural consequence was, of course, that the Bulletin was to have a wider sphere of interest. That is why the Bulletin appears now with a new title, The Penological Information Bulletin. This title indicates that efforts are now made to include not only prison affairs, but the whole penological field in all its columns, namely: General contributions, statistics, information on laws, bills and regulations, bibliography and news in brief.

This issue is largely devoted to community sanctions and measures. Above all, this will be reflected in the statement given by Mr. Jean-Pierre Robert and Mr. Norman Bishop of their work with the counterpart

of the European Prison Rules, namely the European Rules on Community Sanctions and Measures, which were adopted by the Committee of Ministers in October 1992.

From the point of view of a practitioner, it is a very welcome step that the Council of Europe now looks at law enforcement systems as an aggregate whole, comprising both prison penalties and community sanctions. And the fact that the Bulletin reflects this expansion and thus will also in future contain statistical information enabling member States to compare their use of community sanctions, may easily turn out to be of invaluable importance to the development and spread of these community sanctions. This is true not least in the new member States where the use of that type of sanctions is still only in the making.

I could not conclude this contribution on the Penological Information Bulletin without singling out for commendation Miss Marguerite-Sophie Eckert, the mainstay of the Bulletin's making as well as its life until now. Without her stubborn and energetic efforts we would not have had this invaluable aid at our disposal. The fact that this issue will probably be the last one that Miss Eckert will get finished before she retires from service renders it natural that all of us who have benefited from expertise and never-failing zeal and interest in the penological field, send her grateful thought. Not least those of us who have worked together with her in the Committee for Co-operation in Prison Affairs – now the Council for Penological Affairs – owe her a heavy debt of gratitude. But all readers and users of this Bulletin have much to thank her for.

It is my hope that staff groups occupied with community sanctions will find the Bulletin with the wide field that it now covers to be just as interesting as prison administrators have found it. And I hope, not least, that the Council of Europe will allocate the necessary resources in future years for the Bulletin to be published at least once a year – and on time!

*William Rentzmann  
Ex-Chairman of the Council  
for Penological Co-operation  
Deputy Director General of the Danish Prison  
and Probation Administration*

# An innovative instrument: the European Rules on Community Sanctions and Measures

In Recommendation R (92) 16 of 19 October 1992 on the European Rules on Community Sanctions and Measures European law has acquired a crucial supranational instrument which is a valuable contribution to thinking in the criminal and more particularly penological field. The recommendation is in line with the Council of Europe philosophy of developing penalties for offending other than prison and of promoting arrangements alongside prison which, as well as offering a credible alternative to it, are now to be regarded as a separate entity. And how better to promote them than by providing member states with a set of international standards on devising, imposing and enforcing appropriate sanctions and measures?

The reason for the term "community sanctions and measures", the new name suggested by the Council of Europe, is quite simply that it was thought necessary to find a term which both was more explanatory than "alternative measures" or "non-custodial measures" – felt to be too rooted in the custodial/non-custodial debate – and made it clear that, of the various penalties, community sanctions and measures existed in their own right. For it is somewhat simplistic to seek to argue the credibility of community sanctions and measures in purely negative terms – that is, by reference to imprisonment – unless prison is felt to be the yardstick against which all sentence-enforcement arrangements have to be measured (a suggestion which, in all objectivity, is scarcely tenable).

Above all, the new name stresses the basic feature of this type of penalty, the thing which basically differentiates it from all others – and of course from prison: that the sentence is served in the community and also that the community is involved so that the outcome is social rehabilitation and integration.

## **The case for European rules in this field**

Although the idea was mooted by Italy and France in 1984 the rules really originate in the conclusions of the 7th Conference of Directors of Prison Administrations, held in April 1985. These called on the European Committee on Crime Problems (CDPC) to consider drawing up, as part of its future work programme, a set of basic standards for the supervision and execution of non-custodial penalties. In response the CDPC issued terms of reference to the Committee on Prison Co-operation in June 1987.

The Committee on Prison Co-operation began by taking a thorough look at existing material – studies on the subject, and indeed draft rules already produced internationally, for – no doubt as a result of the efforts of the two countries we have mentioned – the idea had

been taken up by various international organisations, notably the United Nations, whose work resulted in the 1991 Tokyo Rules, but also European non-governmental organisations like the IPPF and the CEP.

Drawing up a set of supranational rules (on the lines of those the Council of Europe had already produced on prison matters – the 1987 European Prison Rules) met a need not so much for standardisation of member states' legal systems as for closer international co-operation in criminal matters, particularly in sentence enforcement. In the non-custodial sphere such co-operation had already produced a number of instruments, which however had dealt only with specific aspects of the question. There was now an increasing need for an up-to-date and authoritative treatment of enforcement of non-custodial measures.

A further reason for producing a set of rules was specific to the criminal field: the inquiry into improvement of the penal system which European governments and the Council of Europe have been conducting in recent years. This in turn is part of the wider-ranging work which the Council of Europe has been doing on the effectiveness and fairness of criminal justice, of which development of non-custodial sanctions and measures forms a key part, together with the work on sentencing.

## **The purposes of the rules**

The prime object is to offer member states a set of standards for implementing community sanctions and measures fairly and effectively. The rules – which are aimed at the legislating, sentencing and implementing authorities – provide states with a framework for the proper use of community sanctions and measures. They are a rationalisation tool that connects up three polarities: society, the victim and the offender.

A further object is to lay down basic criteria for ensuring that the fundamental rights of persons on whom community sanctions or measures are imposed are complied with. This involves providing safeguards against possible abuses that would contravene basic rights: for instance, community sanctions and measures must not be applied in ways that are racially or politically discriminatory.

Lastly, the rules are designed to provide the staff who implement the sanctions or measures with a set of practice guidelines for doing so correctly, rigorously and unambiguously. Community sanctions and measures will be all the more acceptable to – and therefore used by – the decision-maker if implementation is reliable. Inflexible and rule-bound implementation arrangements are not the aim: it is vital that staff have some

latitude in view of the requirement that the sanction or measure be adapted to the individual. But at the same time it is easier to work to a set of standards than not to have any framework setting out the rights and duties of both staff and offenders.

### **The targeting, scope and philosophy of the rules**

The rules are a counterpart to the 1987 European Prison Rules. The two sets of rules have the same status, being contained in recommendations of the Committee of Ministers. Although in international law these are not truly binding instruments, unlike a convention, they do exert an undoubted influence, placing moral and political obligations on the states which accept them.

The target audience is broad: through the governments to which the recommendation is made it is intended that the rules reach the national authorities which lay down domestic law (parliaments and regulation-making authorities); authorities empowered to impose penal sanctions or measures (the judicial authorities and, in some cases, the administrative authorities); and lastly, authorities or departments responsible for enforcing such sanctions or measures. The rules are undoubtedly more advanced than their 1987 predecessors, in particular as regards sentencing. Here they strongly encourage use of the community approach while not interfering with decision-makers' natural freedom of choice.

The rules are comprehensive in scope: the term "community sanctions or measures" covers a large number of penal sanctions and measures applicable to adults. All of them have three things in common: they keep the offender in the community; they involve some restriction of freedom in that they impose conditions and/or obligations; and lastly they are enforced by specialist agencies. In addition to sanctions proper, they include any measures taken before the decision to impose a sanction and, indeed, those replacing a sanction (conciliation or mediation, for instance).

Drawing on the principles which the Council of Europe endeavours to promote in the criminal field, the rules seek to maintain a necessary and desirable balance between protection of society and rehabilitation of the offender. They contain several reminders that what becomes of the victim is an important consideration and that it is crucial to the penalty that the offender honour his obligations towards the victim. The stress on a more humane penalty and on resettlement of the offender does not remove the punitive component of the penalty.

The rules are also concerned to maintain a fair balance between the offender's rights and the requirement of effective sentence enforcement; they give the offender safeguards without interfering with enforcement staff's discretionary powers; staff too are provided with safeguards enabling them to perform their duties properly but fairly.

### **The content of the rules**

The rules contain a preamble and three parts, which are divided into 11 chapters arranged in logical sequence. Appended to them is a glossary of keywords to ensure terminological consistency. The glossary has the same standard-setting status as the rules themselves.

– The first part sets out a number of rules under the heading "General principles". This does not mean that these rules are of greater importance than those in the other two parts; all the rules have equal worth. However, as both their position and title indicate, they are high-order rules of general validity whereas the rules in the other two parts deal with essentially practical matters. The principles are basic in the sense that they constitute a framework for national design, use and enforcement of community sanctions and measures.

The four chapters which make up the first part deal with the primary areas on which European law on community sanctions and measures is based: the principle of legality, judicial guarantees, respect for the fundamental rights of the offender and his family, and the very necessary co-operation and consent of the offender. These matters all come under the rule of law, to which Council of Europe democracies are committed.

– Significantly, the section immediately following the fundamental principles deals with human and financial resources – an indication of the important bearing which resourcing has on enforcement of community sanctions and measures. The sound enforcement, and therefore credibility, of this type of sanction or measure very much depends on having good staff. Needless to say, it also depends on the financial resources which governments allocate to enforcement. Lastly – perhaps above all – it depends on a third type of "resource" – participation by society itself, in one way or another, in the enforcement process, presupposing genuine community commitment.

The glossary gives a broad definition of the term "community participation": all those forms of help, paid or unpaid, carried out full-time, part-time or intermittently, which are made available to the implementing authority by public or private organisations or by individuals. As far as individual participation is concerned, this broad terminology avoids the word "volunteer", which has too many connotations and ambivalences.

– The third part of the rules deals with management aspects of community sanctions and measures. It is essentially methodological in that the rules laid down are aimed more particularly at the administrative authorities or departments in charge of sentence enforcement. They cover implementation arrangements, working methods and dealing with breaches of the sanction or measure.

As well as detailing the optimum requirements for implementation of community sanctions or measures, they state the objectives which must shape the implementation approach – that is, the ways and means

employed in daily practice. These need to be of proven effectiveness and constantly updated. Supervision must entail as little intervention as possible so as to avoid needless intensification or proliferation of checks. It is probably better to develop a variety of informal social controls than to have frequent formal controls.

The third part of the rules is also forward-looking in that it stresses research on and evaluation of how community sanctions and measures perform; it recognises that in Europe there has not been enough quantitative evaluation or sufficient qualitative appraisal of the way in which community sanctions and measures work and are perceived.

#### **Which way forward ?**

The European Rules on Community Sanctions and Measures are a part of a dynamic process. In the first instance they are the culmination of lengthy reflection within the Council of Europe on the place which non-custodial sanctions and measures should have. The process began with getting them accepted as credible and penologically recognised instruments of the modern democratic state, led on to clarifying the scope for their use, and finally involved specifying a number

of essential rules for their design, imposition and implementation.

But the rules are also the start of a new phase: bringing governments – and, through them, national standard-setting, sentencing and implementing authorities to a proper and accurate appreciation of the rules so that they are incorporated into legislation and professional practice. This will be the real gauge of the worth of a set of rules which are both simple, being logical in their approach, and ambitious, in that they impose numerous constraints.

The concern, therefore, must now be with getting the rules put into practice. This will require a period of adjustment and more particularly a period of intensively informing all concerned and disseminating the rules thoroughly at national level. Unlike the 1987 European Prison Rules, where there was already a long-standing framework of legislation, the present rules are virtually starting from scratch. It is fair to say that the rules belong entirely to the future: what use Europe makes of them time will tell.

*Jean-Pierre Robert*  
*Specialist*



# Intensive supervision with electronic monitoring: a Swedish alternative to imprisonment

## Introduction

To the best of my knowledge, Sweden is the first member State of the Council of Europe to provide an alternative to imprisonment through intensive supervision in the community using inter alia electronic monitoring. A special law provides for the scheme to be tried out for two years in six probation districts. If it proves successful, it will be extended. The six probation districts are attached to representative towns in widely separated regions of the country. The trial period started on 1 August 1944.

## Which offenders are eligible for this alternative?

Offenders sentenced to imprisonment in Sweden do not usually go to prison immediately after sentence. Unless they have received long sentences for serious offences they usually return to their homes and are subsequently instructed to report to a certain prison on a certain date. Those who have been given at most two months imprisonment in the trial's six probation districts can apply during the waiting period to take part in the scheme. The intention is that as many as possible of these applications shall be granted. The intensive supervision alternative should start at latest four months after the sentence has become enforceable. There are, however, certain conditions which must be fulfilled.

## Conditions for participation in the trial

Over and above the initial condition of a prison sentence not exceeding two months, the following conditions must be fulfilled.

The offender must have a stable and suitable dwelling place equipped with electricity and a functioning telephone. This means that the telephone equipment must be in working order and that all costs and charges are paid. The offender must also be in a position to bear telephone costs arising from the electronic monitoring. (Monitoring equipment is described below).

In accordance with Rule 55 of the European Rules on Community Sanctions and Measures,<sup>1</sup> intensive supervision is not intended to consist only of control and surveillance. The aim is to provide a positive content to the period under supervision. The offender must, therefore, during this period be able and willing to work, undertake study or be appropriately occupied in some other way. Any alternative form of occupation must

1. The Rules reads as follows: Community sanctions and measures shall be implemented in such a way that they are made as meaningful as possible to the offender and shall seek to contribute to personal and social development of relevance for adjustment in society. Methods of supervision and control shall serve these aims.

correspond to at least to half-time employment. The offender must also be willing to participate in any motivation or personal change programme planned in conjunction with the probation service. All use of alcohol and drugs (except those prescribed by a doctor) is forbidden.

Since offenders sentenced to imprisonment but serving their sentences in the community are financially better off than prisoners in prison (this is at least potentially the case), those participating in the trial are required to pay a charge of 50 Swedish crowns (approximately 7 US dollars) per day. The charge can, however, be waived if circumstances demand it.

## Who determines suitability and decides on participation?

Once a written application to be accepted for intensive supervision has been made, the probation service informs the applicant of the basic conditions for participation and investigates whether they are fulfilled. If the offender does not have a job it may be possible for the probation service to arrange entry into an approved course of training or education which can start within the allowed period.

A comprehensive supervision plan is prepared by the probation service. This includes a detailed list of places and activities and the times at which the offender may engage in them. The plan also includes details of the various forms of help which are to be used by the offender.

The offender must give written consent to the comprehensive supervision plan drawn up by the probation service if he or she wishes the application to be considered. Any person or persons living with the offender must also consent to the intensive supervision being carried out in the home.

The decision to accept or reject the application is made by the local regional director of prisons and probation offices.

## The electronic monitoring equipment

Before reporting on intensive supervision in greater detail, it may be helpful to describe the electronic monitoring equipment.

The offender wears the small transmitter on a strap round the leg or ankle. The transmitter automatically sends very frequent signals to a receiver which is connected to the home telephone and electric power supply. (Receivers can always be installed where there is a telephone, for instance at work or an educational establishment). The receiver registers the signals and forwards them to a central host computer for comparison

with that offender's (previously entered) plan of activities and times. Divergence from the stored plan of activities and times, or any attempt to manipulate or damage the transmitter or the receiver, results in an alert to the local probation authority.

The transmitter is watertight and can be worn even when bathing or taking a shower but it should not come in contact with salt water. The receiver is more vulnerable and should not come in contact with water or strong sunlight.

A breathalyser apparatus can be attached to the transmitter to test for alcohol use. It makes use of voice identification (offender voices are also previously stored in the host computer) and contact maintained with the skin to ensure the correct identity of the person blowing into the apparatus. It should be noted, however, that this apparatus is still under development and not yet considered sufficiently reliable.

### **Other forms of control**

In addition to electric monitoring, the probation service uses other forms of control, the nature and intensity of which are decided on in the light of individual circumstances.

To some extent this supervision follows traditional lines - the offender reports to the probation officer at the latter's office or by telephone. But home visits, some of them unannounced and taking place in the evening or at the weekend, are made at least twice per week and supplemented, where necessary, with telephone contact. The probation service can appoint one or more persons to assist with home visiting. In order to prevent alcohol or drug misuse, the offender is obliged to provide blood, urine and breathalyser samples when so directed by the probation service. Checking on attendance at work or at a personal change programme is usually undertaken with the help of a contact person at the place of occupation.

### **What happens in the event of misconduct?**

Any form of misconduct is subject to speedy reaction. Minor transgressions can result in warnings or revised and firmer control measures. Serious misconduct includes any marked deviation from the planned timetable, refusal to supply blood, urine or breath samples as directed, being under the influence of alcohol or drugs and refusing to carry out any legitimate instruction given by the probation service. As a general rule, serious misconduct is followed by revocation of the intensive supervision. The remaining time of the sentence is implemented in prison. The decision on revocation is taken by a probation enforcement board which is always headed by a judge.

### **Termination**

Sentences of up to two months imprisonment are not subject to conditional release rules; full time is served. Since the intensive supervision is a substitute for this kind of imprisonment it follows that it must last for the

same time as the prison sentence that it replaces. The offender may, however, request at any time in writing that intensive supervision shall cease. The course to be followed would depend on the individual circumstances cited as a reason for the request.

The intensive supervision may be terminated if it becomes impossible for other than short periods to maintain electronic monitoring owing, for example, to fire or some dislocation of the electric or telephone services.

### **Numbers of participants August 1994-February 1995**

An interim report provides some statistical information on the trial for the period August 1994 to February 1995'. During this period a total of 405 offenders in the trial probation districts received prison sentences which rendered them eligible for the trial. By the end of February 1995 just over 300 had replied to the information given them on intensive supervision (some of those sentenced towards the end of the period might well make applications after 28 February 1995). Two-thirds of these persons made application for intensive supervision.

A far greater proportion of those applying had been sentenced for drunken driving or lesser assaults than was the case among those who did not apply. The latter group had to a greater extent been sentenced for drug offences and thefts. Other kinds of offences were more or less evenly distributed between those applying and not applying.

Of the 202 persons requesting intensive supervision, 180 were approved and 14 (7%) not approved. Practical considerations were the main reason for rejecting applications. This means that the residence condition was not fulfilled or that occupational possibilities and drug misuse status were unsatisfactory. Other reasons were that studies were already being undertaken at a distant town, a lengthy period of illness made for personal unsuitability or that the applicants were not paid up telephone subscribers. Seven persons withdrew their applications.

Payment of the intensive supervision fee of 50 Swedish crowns per day was waived in 40% of cases.

### **Activities during the supervision period**

By 28 February 1995, 116 persons had completed their sentence satisfactorily and 6 had had the supervision revoked. Of the 116 participants who had completed their sentence, 73% were authorised to leave home for work for, on average, 33 hours per week. Special forms of unpaid work were arranged for 14% and occupied them for, on average, 19 hours per week. Study for 24 hours per week was undertaken by 8%.

1. *Intensiv övervakning med elektronisk kontroll*, Rapport 2, Lis Somander, Swedish Prison and Probation Administration. An English version of the report is available.

In addition to work, study or special forms of unpaid work, 80% took part for 4 hours per week in personal change programmes focusing on drug and alcohol misuse and criminal behaviour. A further 22% underwent treatment at centres for alcoholism (1 hour per week).

In addition to these activities time away from home for on average 4 hours per week was authorised in a number of cases to cover personal errands such as essential shopping, dental treatment, etc.

### **Checks carried out and misconduct**

Various ways of checking for presence at planned activities and for the use of drugs and alcohol have already been described. Offenders whose intensive supervision was for only 14 days were, on average, subjected to 14 checks per person during that period. For those under intensive supervision for 30 days the average number of checks per person was 30 whilst for those with a supervision period of 45-60 days the average number of checks per person was 45.

Six persons were warned because of minor misconduct which consisted of oversleeping with ensuing lateness for an activity, a positive alcohol test result on commencing the supervision, monitoring difficulties occasioned by technical changes in the telephone installation, forgetting to pay the telephone company's charges which resulted in a temporary closure of the line, late leaving home with resulting alarm and late arrival at a personal change programme.

A further six persons had their supervision revoked for drug misuse, repeated oversleeping and consequent lateness for planned activities, positive alcohol test result, manipulation of the monitoring equipment and late arrival at a treatment programme combined with absence when monitoring equipment was due to be installed at the home.

### **Evaluation**

The trial with this form of intensive supervision is being carefully monitored and will be subject to a final evaluation carried out jointly by researchers attached to the National Council for Crime Prevention and the Swedish Prison and Probation Administration at the end of the two year trial period.

### **Summing-up**

I have described the system of intensive supervision with electronic monitoring that has been recently introduced in Sweden as an alternative to short term imprisonment. Some preliminary statistics have also been presented on the working of the system to date. About

half of those eligible apply for, and are admitted to, the trial with intensive supervision. So far the great majority of offenders have completed the supervision period successfully.

If the numbers in the trial districts are generalised to apply to the total number of prisoners sentenced annually to at most two months imprisonment, about 3,000 offenders would be dealt with by intensive supervision instead of going to prison. Providing that intensive supervision can be used on a sufficiently wide scale it should be considerably cheaper than imprisonment and result in substantial financial savings.

The statistics also show that in addition to fulfilling the control requirements most of the offenders have taken part in a number of positive activities likely to improve adjustment in society.

Over and above the statistics presented in this article the impression is that this alternative to imprisonment has been well received by criminal justice officials, the public and offenders. Intensive supervision is probably seen positively because although it comprises considerable restrictions on personal freedom that are carefully monitored for compliance, at the same time emphasis is placed on activities likely to further adaptation in society. These activities are pursued in society under conditions that are superior to those that would obtain with short term imprisonment.

No doubt the full evaluation will reveal weaknesses that are not immediately apparent during the initial phases but at least the experience to date provides some reason for thinking that a new and useful alternative to imprisonment has been found. And it may be possible in the future to extend its working to cover those sentenced to longer terms of imprisonment than two months.

Over the last few years electronic monitoring has aroused both great interest and strongly divided attitudes. Particularly in Europe, many persons, including reformers anxious to reduce reliance on imprisonment, have seen it as a dangerous threat to personal integrity and urged that it should find no place in our criminal justice systems. I believe personally that there is room for a more moderate attitude to electronic monitoring and that, like many other forms of technological innovation, it is neither good nor bad in itself. What is important is how it is used. The Swedish experiment shows, in my view, that it can be used as a desirable means to desirable ends.

*Norman Bishop  
Former Head of the Research Group,  
Swedish Prison and Probation Administration*

# Dissemination in Portugal of the “European Rules on Community Sanctions and Measures”

With a view to disseminating the “European Rules on Community Sanctions and Measures” to social rehabilitation departments and the courts, the Social Rehabilitation Centre not only presented copies of the rules to its staff and translated them, but also invited Mr Jean-Pierre ROBERT, Adviser to the Paris Court of Appeal and Council of Europe expert, to deliver three lectures in Lisbon, Porto and Coimbra.

The lectures, attended by over 500 people including judges, lawyers and social rehabilitation workers, took place in November 1993.

The work of analysing and discussing the Rules which proceeded at all levels in the Social Rehabilitation Institute, prior to the lectures, is being continued in co-ordinating and team supervision meetings. Moreover, the training programmes now include analysis of the Rules and their adaptation to day-to-day practice.

# International co-operation in Community sanctions and measures

CEP stands for Conference Permanente Européenne de la Probation, in English the Permanent European Conference on Probation and After-Care. It was set up in 1981 by a group of far-sighted people who saw the need for an international probation forum. Since that time, it has sought both to influence the development of community sanctions and measures and to support practitioners in their daily work. Its membership, which includes government departments, private organisations and individuals, has grown to around 40 in 18 countries, 17 in Europe and Canada.

The CEP is governed by a triennial General Assembly at which a President, two Vice-Presidents, Board and Secretary General are elected. These are charged with the day to day responsibilities of running the CEP, supported by the Executive Officer based in our office in the Netherlands. Much of the CEP's budget comes from members' subscriptions but there is also generous financial support from the Dutch Probation Federation and the French Ministry of Justice.

The practitioners concerned are probation officers and social workers working with offenders. In some countries judges and other workers in the criminal justice system are also directly involved. Across Europe, their exact tasks vary a little from one country to another but the essential elements of the work are much the same everywhere. The aim is to rehabilitate offenders in society, help to prevent them from reoffending and thereby protect the public. The work involves preparation of reports on offenders to assist courts in passing sentence; supervision of offenders subject to community sanctions and measures; and work with prisoners before and after release from custody.

The need for the CEP has never been more apparent than it is now. Most European countries are struggling to combat what seems to be a growing problem of crime and we are beginning to see the emergence of more punitive attitudes and a greater tendency to resort to prison sentences than was apparent in previous decades. The message of the CEP is that community sanctions and measures, properly used and implemented, actually work and offer the community as well as offenders much greater hope of reform and rehabilitation than the use of custodial penalties for those whose offences are not serious enough to merit them. Provided they are carefully focused on the right type of offender, they can also serve to protect the public from further harm.

This paper gives an account of the work of the CEP and also looks forward to the challenges likely to confront it in the next few years.

Much of the original motivation behind the CEP was to provide means whereby knowledge and experience could be exchanged between practitioners in different

countries. This has been achieved largely through seminars and workshops held at regular intervals. The most recent seminar was in Oslo in the autumn of 1994 and brought together practitioners from 15 countries. The subject, intensive supervision, could not be closer to current concerns in the field, embracing everything from more intensive one to one supervision, through a variety of group activities to electronic monitoring, many of them potentially more intrusive than customary approaches to work with offenders.

Participants concluded that intensive supervision could rightly be perceived as a punishment, though it should be related proportionately to the seriousness of the offence and the needs of the offender. This could be achieved because there is such a wide range of methods available to implement the sanction, balancing the protection of the public and the rehabilitation of the offender. But to be successful, participation by the community in intensive supervision was essential.

The Oslo seminar developed further a number of themes that had emerged in earlier ones, notably in Belgium in 1993 when the subject was "Going Local in Probation" and in Sweden in 1990, when "The Balance between Help and Control" was discussed. These two seminars had re-emphasised the importance of working positively to help offenders to change their behaviour, of gaining the support of the community and of providing a value for money service.

Seminars are designed to promote improvements in probation practice. Understandably, the greatest benefit is felt by the participants, who gain knowledge and understanding of different and sometimes new approaches, which they can then seek to implement in their own working environment. The publication of a report on each seminar makes it possible to disseminate the findings more widely. Reports go to all CEP members, on whom we rely to publicise them in their own internal networks. Reports are readily available to others who are interested and may be purchased from the CEP office in the Netherlands.

In more recent years, a number of international workshops have been arranged. These are concerned with the probation system in a particular country and are single language events, in contrast to seminars which are in the three official languages of the CEP, French, English and German. Workshops so far have been held in Italy, France, England, Germany and the Netherlands and there are plans for further ones in Portugal and Denmark. By offering a mixture of formal teaching and visits to courts and probation facilities, these workshops offer penetrating insights into how probation works in the country concerned.

To other principal aim of CEP is to promote the development of community sanctions and measures. This

embraces both improvements to existing arrangements and the development of probation systems in countries at present without them, most notably in central and eastern Europe.

The CEP contributes actively to the work of the Council of Europe. It has observer status with a number of its committees, notably the European Committee on Crime Problems (CDPC), the Council for Penological Co-operation enlarged (PC-R-CP) during the preparation of the European Rules on community sanctions and measures (Recommendation No. R (92) 16) and the committee of experts on staff concerned with the implementation of sanctions (PC-PP) dealing with the employment and training of prison and probation staff. We also attend and contribute to Parliamentary hearings, conferences and other events to which we are invited by the Council. Observer status usually involves a much more active role than the word itself suggests. On the training of probation staff, the CEP had already carried out a small survey of its own in 1992. The results have been made available to the Committee and CEP's representatives by virtue of their unique specialist knowledge have played a key role in carrying its work forward.

Likewise in 1988, the CEP produced its own statement on "Minimum rules for the determination of non-custodial criminal sanctions" and those were fed into the debate by the two board members involved in the Council of Europe's work, one of them with expert status. CEP thereby continued to influence substantially what eventually emerged towards the end of 1992 as the European Rules on Community Sanctions and Measures. We want to see these followed by as many countries as possible and intend to discuss with the Council of Europe how CEP might assist in their implementation.

We are also actively exploring how we can contribute to developments in countries that as yet have no probation system. The President and Secretary General have both been active in speaking at conferences on community sanctions and measures and we hope to draw up a comprehensive list of experts from among our membership, who could assist the Council of Europe in its Demo-droit and Themis programmes.

More recently we have established links with the European Community. Modest financial assistance was obtained for workshops in 1993 and we are now

hoping to obtain funding for a series of workshops focusing on the employment needs of young adult offenders.

We are also hoping to establish links with the United Nations through a group of non-governmental organisations concerned with crime problems.

In the years to come, the CEP aims to do more to publicise its work both internationally and within member countries. Reports will continue to be published but we hope also to issue a short periodic bulletin that can be made widely available to practitioners. We shall also be publishing a new edition of Probation in/en Europe (first produced in 1981) which will give an overview of the criminal justice and probation systems in European countries and should become an indispensable hand-book.

All of this activity is taking place in an increasingly difficult climate for community sanctions and measures. With punishment of offenders an even more dominant theme, it is more and more important that hard evidence is produced to demonstrate what in the treatment of offenders works successfully and why it works. The CEP's 1996 seminar in Edinburgh will be focused on this question. It will seek to identify examples of good practice but will also aim to equip practitioners with rudimentary skills in the evaluation of their work.

The need to demonstrate effectiveness will be predominant for many years to come, certainly well into the next century. Other issues that we expect to be significant include transfer of community sanctions and measures between countries, crime prevention and services to victims.

CEP will want to pursue these and other issues actively. It is a healthy and vigorous organisation well placed as a source of knowledge and expertise on community sanctions and measures to advise government and international organisations. My hope is that its work will become more widely known and valued, but above all that it will play a key role in assisting probation workers to grapple with and successfully resolve the day to day problems they encounter in trying to deal constructively with offenders in the community.

*John Haines  
Président*

# The penal inheritance – a focus for European co-operation

I have called my talk "The Penal Inheritance – a focus for European Co-operation" to emphasise the essential nature of the problems with which all penal systems are faced. They can be seen as falling within two broad areas. First, there is the inherent difficulty of dealing with social deviance and delinquency which has frustrated social policy, penal philosophy and practice throughout recorded history. Second, there are the accumulated burdens of the legacy of neglect, mal-administration, and in some European systems the institutional abuse of human dignity and fundamental freedoms throughout the post-war decades. I shall approach my task against that background and in the context of my recent experience. I shall also seek to concentrate, within the time available, on some of those areas of the problem where there seems to be scope for fruitful and positive co-operation between the member states of the Council of Europe. However, I would first like to say how gratifying it is for me, having served the Council of Europe in various capacities for so long, once more to have the opportunity to participate in this distinguished gathering. I am especially grateful to be able to see old friends with whom I have worked before and to make new friends. It is an appropriate occasion also for me to thank the heads of the prison administrations and their colleagues from East and Central Europe, the Balkans and the Baltic whose courtesy, friendliness and positive co-operation I have enjoyed in visiting many of their countries during the last four or five years. I would like also to record my admiration for the courage and determination with which they and their staffs are grappling with formidable problems on a scale and of an intensity virtually unknown in other member States. Although, as I have indicated, they are not themselves entirely unfamiliar with some of them.

I sometimes reflect, as I contemplate the roles and the tasks that the Council asks us to carry out on its behalf, how credible and useful I can be having now been away from the direct responsibility for prison administration for some years. Manifestly, one lacks the "touch" that comes from day-to-day engagement with the complex and demanding problems that confront prison management and the sharp focus of immediate and personal responsibility. On the other hand it has been interesting, and I believe useful, to be able, on the basis of a long experience and a sincere sympathy with and understanding of the needs and aspirations of prison staffs and administrations, to evaluate and consider more objectively the problems that come their way. I have to say that my general views have not changed all that much nor my understandings seen from this new perspective. But, one does become more sensitive to the human, political and social aspects of managing prisons. There is too, the intellectual

freedom that comes with the release from pressing departmental disciplines and political constraints.

On this occasion my remit from the Council presents a peculiar difficulty which you will readily understand. I am asked to review the problems that I have seen in working in the countries of the new members. In particular I am to float some ideas and make suggestions about ways in which further assistance can be given to those states by the western administrations. Such proposals, despite the obvious need for resources, about which I will have a little more to say later, cannot, responsibly, be buttressed by suggestions from me for direct and significant financial support from the Council or from other sources. However, as every administrator knows, almost nothing is without its cost implications. Those who remember my contributions here in the past may recollect my little homilies on themes such as "it costs more to lock a prisoner up in a cell than to provide work in a viable industry". So, I have no money to disburse; nor do I have any authority to activate any of the proposals that I shall make – except that of an objective observer who wishes to help. But I am not disheartened by that. Far from it, for it has been most encouraging to see that flow of practical support from the Council of Europe and some of its member States that has already been generated by the shared belief in the value of international co-operation and the acceptance of a moral duty to help as much as possible. To establish the context in which I shall discuss these matters I would like to sketch briefly a current perception of the dichotomy in the penal scenery of Europe – two sides, as it were, of the same coin.

Many prison systems in the older member States of the Council of Europe have long experienced the serious problems of over-crowding in prison estates impoverished by neglect and degraded by decay. Expensive and commendable efforts have been made to ameliorate these problems by new building and investment with much success. This has, in turn, been muted by the cumulative difficulties posed by changes in the nature and extent of criminality, social disruption, indiscipline in the prisons and the emergence of new problems like drugs, the more extensive use of firearms and economic crime. Staff in the west now have much better conditions of service and generally better penal environments in which to work; but are under greater stress and still struggle for status, identity and defined roles. But their circumstances are usually immeasurably better than those experienced in the new member States: and always distinctly better.

Now, in the new member States we see all of these problems, invariably profound in character and compounded by historical burdens, difficult social and political issues and with little hope of a significant injection of resources to tackle crises that present themselves

with increasing urgency. Low political priority, public hostility moderated only by apathy and serious problems among staff are common. In some cases the impact of all this can be devastatingly destructive of morale, potent with disaster and, at best, offer a long, hard Sisyphian road to a far horizon as yet undefined and lacking credibility. A member of staff in one of the new democracies I visited told me – “my fear is that with all we and you are trying to do things will be neither better nor worse, only different”. That was not, I think, an utterance of cynicism or of despair. But one of reality that left unexpressed a caring aspiration that, in the circumstance we were discussing, was admirable. And how encouraging it was to hear a Director General tell his service that the “The European Prison Rules express our ambitions for our system and are our inspiration. They represent the values against which we must measure our achievements”.

My remarks, you will readily appreciate, are addressed at this point, mainly to the Council and its older members – the new and aspiring members know only too well what I mean. Such determined people must be supported. The help and encouragement they are given will not be wasted if well directed and sustained. The differing circumstances in the European prison scene that I have described, surely implies a reservoir of resources and practical experience that is capable of priming progress and encouraging initiatives in countries needing and ready to make valuable use of what is available to them. The continuation and enhancement of such a process, already making a valid contribution through the Demosthenes and Themis programmes, will nourish to mutual advantage the concept of co-operation which has always been central to the purposes of the Council of Europe. It will not be a one-way process – there is much to be learned in the new member States and all participants will be enriched by new associations. The Council will itself enhance its international status and capacity to satisfy the aspirations that have, since the beginning in 1949, inspired its work and progress.

I turn now to reflect a little on problem areas that, although in many countries already the subject of rigorous review, might usefully be rehearsed here in order to provide a focus for even more fruitful co-operation. Time demands that I must be selective although I hope that at least some of what I have to say will be seen as compatible with the perceived needs of the new members and might also be of general application: I shall identify four areas as central to my theme: prison environments, administration and management, personnel and regime activities. In referring to prison environments I rely on a broad definition. The most conspicuous elements in this are, obviously, the buildings and precincts. They are important, but beyond the physical qualities of the prison environment there are the intangible attributes that define the style, quality of life, staff-prisoner relations, regimes and other major factors in prison management. The immediate concern, in prevailing circumstances, will be with the state of the buildings: in the longer run new construction will

necessarily be programmed as resources become available. On both levels buildings and sites contribute to institutional performance through the medium of environmental influence. It is surely self-evident that a clean, bright cheerful prospect will be beneficial to prison morale and staff satisfactions. In the old, derelict prisons a systematic evaluation and renovation programme is necessary. With minimum resources a good ‘clean up’ and re-paint of the most conspicuous areas of daily use is the cheapest option. Wherever possible, however, consideration should be given to the possibility of improvements in the spatial and decorative qualities of the old buildings. Much can be done through simple expedients using, wherever possible, prisoner labour. Wherever available the scope for gardens, sports and landscaping should be exploited. These are basic, the architectural refinements which imply attention to profiles, textures, visual depth and colour can enrich longer term development. The intangible in prison environments are frequently neglected. They engage, or should engage, the skills and energies of both staff and prisoners so often under-sued and therefore under-valued. The quality of prison life for staff as well as prisoners is diminished by boredom and monotony. All of the ingredients in the regimes and daily life of a prison should be kept under review to enhance them in ways, however modest, the stimulate activities designed to exercise the body and release those aspirations of the mind which enrich the personal experience of those who work or are confined in prisons. Kitchens, crucial to the prison environment in many aspects, are frequently badly kept and badly managed. Food should not, of course, be more expensive or vary much in content or quality from that expected by the average working family in the community. But management should give priority to the planning, preparation, serving, eating and clearing up as regards meals. Efficient service and good standards should be insisted upon. In these areas of the institutional environment the resources needed can often be found by the re-distribution of effort and the re-allocation of management priorities – and, a simple insistence on higher standards. Burdened by operational pressures and the imperatives of policy, it is only too easy to lapse into inertia and to assume that traditional management styles and ethos, constrained as even those are by rigid structures that owe their authority to habit and complacency, will suffice. The daily objective becomes survival, an albeit pragmatic if sterile ambition that all prison systems know only too well. However, bold and radical approaches can release institutional energy and resources that can make a massive contribution to improvement and progress. Prisons, like all major institutions, cannot stand still. They either progress or regress. I have found in my consultancies the will and the ambition to make fundamental change but, before this can occur, the symbols must be manifest. The fruits of change must be made evident, a positive momentum has to be established. The philosophy of change needs, despite the problems, to be imposed on policy and practice. Management and administration, well resourced with experienced and able people, must find the catalysts that will promote



creative change and demonstrate early rewards in tangible benefits and higher satisfactions. Perhaps, more than resources, management style and practice is the key to progress. But, if that is the key, the door must be opened by staff and they have to be motivated to enter upon the new challenges.

Everybody here knows, as I do, that however good the buildings, however excellent the quality of the prison environment and however rich the regime the crucial factor in delivering performance and satisfying the philosophical criteria of the prison system is personnel. There have been and are in the new member States serious problems in this area which have their roots in history and practice. New, positive and creative personnel policies and practices have to be devised and programmed. All this will take time; it is not possible to change staff attitudes significantly in a career-structured service very quickly. But it is central to the promotion of change and needs to be reinforced as the process develops. It is necessary also to find time for some brief thoughts on regime activities which, in the main, rest on industrial and other forms of work and the educational programmes. I do not need to emphasise the importance of these in this forum. Nor do I need to remark on the difficulties that arise from the national economic factors which undermine the prison work regimes. But it is depressing and indeed unacceptable to see some of the basic resources for this, labour, workshops and classrooms idle on a large scale; machinery, instructors and teachers under-employed. Especially is this so when there is so much that can be done that does not depend on markets that are difficult to penetrate and retain or even on ostensibly insurmountable operational considerations.

That is part of the resource problem but I want to mention too, another aspect of this syndrome which has had a corrosive effect on so many State institutions in the contemporary world. It is almost axiomatic that finance, the Achilles heel of democracy, will always inhibit the management of State enterprises. There will never be enough resources in expanding and dynamic societies and the consequent pressure on organisations of low social priority, but high public expectation like prisons, will be severe. Compounded by unpredictable or even uncontrollable factors with which they must cope, the serious limitations that impede progress and consume existing resources in an uneconomic way, divert management from its own cherished priorities with all the implications of that for morale and belief. Nevertheless, too often in these adverse circumstances, the difficult and painful option of redistributing and making better use of existing resources is discarded. It is very damaging too if management and staff generally are allowed to lapse into an attitude that attributes all failure or shortfall in performance to the lack of resources of one kind or another. The ingredients for coping with this include clear instructions, firm management, realistic objectives, good information systems and a sensible level of staff consultation. Public relations that are governed by policy that comprehends the need to inform the political and community dimensions of

penal administration are a vital adjunct to management. I know of no prison system where these criteria do not apply and where there is no scope for improvement.

In coming now to some ideas and suggestions I want to make it clear that I know from experience, that international comparisons, whether of statistical data, methodology, or even studies of a descriptive nature are fraught with difficulty, often inappropriate and even unrealistic. That somewhat sweeping caveat applies even more strongly to the possibilities of transferring practices across international boundaries. Prison systems reflect their own societies, values and traditions. Standards and issues like deprivation are relative. But the exchange of information, the transmission of ideas and the processes of co-operation liberate the mind and can be valuable in promoting new approaches and nourishing enthusiasm and commitment to beneficial change. It is in that spirit that I offer these concluding thoughts. There is, of course, a long experience in the Council of Europe of arranging co-operation and offering assistance which has been exemplified in the recent programmes for support in the new democracies. But it is implicit in the programming of this item on our agenda that there is a wish to enhance and perhaps enlarge this process which is, in any case, moving into a new phase. The admirably constructive paper submitted by Dr. Karabec demonstrates that with clarity and a compelling rationale. Perhaps the time has come therefore, for the Council to dedicate a defined capacity within its own management and committee structures to plan, activate, monitor, assess and record need and progress in this area of its programmes for co-operation. That would imply an "agency" to control the programme and to use and allocate resources to optimum advantage.

The main suggestion I am making, therefore, is for the augmentation of the existing European capacity that provides the impetus and focal point for this arena of co-operation. I would like to see also, within that process, the wider promulgation of the European Prison Rules with the associated philosophical documents and the promotion of the numerous Council of Europe reports on penal matters. I have had reason in the course of my recent work for the Council in the new member States to study many of these again and have been gratified to see, despite our fast-changing world, how well they have stood the test of time and how they have particular relevance to many countries whose penalty mirrors much of what was current elsewhere when these documents were first published. More specifically:

#### *Language*

It follows from what I have just said that an extension among staff of the new members of competence in French and English would greatly improve the capacity of the prison administration and field personnel to benefit from wider European experience and studies of specific problems like management, education, work and personnel. Consideration should, therefore, be given by the Council and member States to their ability

to offer training in these two languages to prison personnel. Assistance with translations of European documents into other national languages would also help. All of the new members, for example, have translated the European Prison Rules into their own language: not all of them have yet translated the explanatory memorandum or the background document. It is important that they should do so for these are not only intended to encourage and facilitate compliance, but embody a great deal of contemporary philosophy.

#### *Management*

More assistance with evaluating and re-designing management systems and structures could usefully be offered. Similarly support with the assessment of resources as a basis for regime planning and management is needed.

#### *Personnel*

Opportunities need to be provided for personnel at all levels and all specialisms to enhance their professional knowledge by experience in other prison services. Such could be arranged on a bilateral basis having regard to relevance and linguistic competence. Costs could surely be met by the host services. Special seminars should be arranged to deal with all aspects of personnel policy especially recruitment, training and role definition.

#### *Regimes*

The new member States should be offered the opportunity to see current regime strategies in operation and to draw on the expertise of, for example, industrial managers and educational and physical education staff in systems where there is relevant experience. A particular area that could usefully be studied is the experience of co-operation with private enterprise in prison industries and farming. This again, could be provided on a bilateral basis with local costs absorbed.

#### *Building and estate development*

The priority is for help with urgent programmes for refurbishment and environmental up-grading. It would be useful now to offer experience to younger architects in design, construction and project management. This is an area where there is a great deal of experience and relevant documentation available. At one level the Council of Europe seminars or working groups would

be valuable. Bilateral arrangements for secondments and expert consultancies should supplement these.

#### *Inspection*

Adequate inspection arrangements, fully independent if possible, but at least independent of direct operational responsibility, are of crucial importance to progress and ultimate compliance with the standards and ethos of the European Prison Rules. These arrangements should be parallel to a measure of public scrutiny and workable channels for legitimate complaint. There are various proven models in the Western systems that should be studied with care and political commitment.

#### *Public relations*

Again, this is an area of importance which is under-rated and under-resourced; or about which there is an inhibiting pessimism. Positive as opposed to reactive public relations initiatives are necessary to promote a better informed and more sympathetic public image. This would help to raise the social profile of the prison services, the status and morale of staff and the political priority that is attracted. There is now considerable experience of this in the Western systems which should be shared through arranged secondments of appropriate staff and seminars.

The subject is so large and the time so limited that I fear we shall have to pursue many of the thoughts I have ventured, and other ideas, in discussion. I hope, however, that I have been able to stimulate interest in the perception of a visitor who, although experienced, manifestly, knows comparatively little of the systems and inherent problems about which you are the experts. As I explained, a friendly, objective view can be helpful and so, I trust, will at least some of the suggestions I have made. What I was told by one of the Director Generals whose country I visited sums up much of what I have said. Perhaps you will allow me to end with his words – I quote :

“The greatest help is your being here – although we have emphasised our material needs we appreciate your insistence on the need for a change in attitudes among our managers and our staff. Material supplies only mitigate our problems; change is fundamental.”

*Kenneth Neale*  
*Great Sampford, Essex, United Kingdom*  
May 1995

# An overview of the prison systems of the Baltic States

During the last 18 months it has been my privilege to have spent some weeks in each of the three Baltic States and to have visited every one of their prison establishments at least once. The visits were undertaken as part of a Council of Europe programme of co-operation to provide advice and guidance on how the prison systems of the Baltic states might be brought into conformity with European standards. My contribution to this process was to provide a descriptive inventory of the prison systems of Estonia, Latvia and Lithuania, together with proposals for the introduction of reforms inspired by the European Prison Rules. My reports on the Estonian and Latvian systems have already been published and my report of the visits to Lithuania will be published shortly.

I was assisted in Estonia by Mr Erik Taylor of the Danish Prison Administration, in Latvia by Mr Helge Rostad, a former Justice of the Supreme Court of Norway, whose untimely death prevented him from completing the work, and in Lithuania by Mr Per Colliander, a Head of Division of the Swedish Prison Administration who, I am happy to say, has not only survived the experience but is also able to participate in this conference. This occasion provides me with an opportunity to record my thanks to my distinguished collaborators and to all those in the Baltic states who helped to make my visits so informative and educational, and whose friendship and hospitality made them so enjoyable.

Because of what I saw and heard during the course of my visits, I was particularly pleased to be able to accept the invitation to provide an overview of the main problems facing the prison systems of the Baltic states. I hope that this presentation will help to stimulate a discussion on how best we can determine what external assistance and support is needed by each of the Baltic states, and the extent to which both the Council of Europe and the individual member states might participate in a co-operative programme designed to meet those needs.

This process has already begun. The prison administrations of the Scandinavian and Nordic countries have taken the lead in establishing bilateral relationships with individual Baltic states. During my visits I saw several examples of good practice which had been introduced following visits of senior members of staff to the Scandinavian prison systems. I also saw how much some prisoners had benefitted from material gifts, such as the domestic washing machine provided by Finland for a women's prison, and the beds and foam mattresses provided by France for a juvenile prison. A number of other countries have also provided help in the form of production contracts which have enabled some prisoners, who would otherwise have been idle and without money, to be gainfully employed.

These individual initiatives have been very valuable and much appreciated, but it has become increasingly clear that a more co-ordinated approach is necessary if priorities are to be established and the best use is to be made of such resources, either financial or otherwise, as the Council of Europe and the individual member states are able to make available.

The first step towards the establishment of a more structured approach to the further development of the programme of co-operation was taken with the organisation of a meeting of the Director Generals of the Prison Administrations of the Baltic and Scandinavian countries in Riga from 4 to 6 April this year. The conference, which was organised by the Finnish and Latvian Prison Administrations and supported by the Council of Europe, confirmed the importance of the bilateral links which had been established and identified the need for a more co-ordinated multilateral approach involving other member states of the Council of Europe.

Other members of this conference who participated in those discussions may wish to elaborate on some of the decisions which were made and on the initiatives which flowed from the meeting. I draw attention to this forum because it seems to me to have set an example which this conference might wish to follow, and to have provided a channel through which the Council of Europe could co-ordinate the provision of any contributions the prison administrations of other member states might be able to make. I hope that we can return to this topic during the course of our discussions.

I want now to turn to the nature and scale of the problems facing the prison administrations in the Baltic states. Much of what I have to report was included in my presentation to the Riga conference and will therefore be familiar to those who attended that event. Many of my comments will be critical, but most of the criticisms are directed to the conditions and not to the administrators or operational practitioners, most of whom displayed great personal and professional resilience in the face of very substantial difficulties.

One of the first problems I encountered was that of terminology. In the Baltic states, as in many other East European countries, a clear distinction had been made between Prisons and Colonies. Those establishments in which prisoners were held in cells and subjected to a restricted and closely controlled regime were designated Prisons; those where the prisoners were accommodated in dormitories, followed a rigorous programme of work and had relative freedom of movement within the secure perimeter, were designated Colonies. This terminology is still in common use and, except in relation to the employment of prisoners, it accurately reflects the different conditions which currently apply. For the purpose of this paper the term prison will be used to

describe any establishment in which persons are deprived of their liberty for the investigation of an alleged criminal offence, to await trial or to serve a term of imprisonment.

You will not be surprised to learn that the similarities between the three prison systems are much greater than the differences. All three systems inherited inadequate buildings, some very old and all suffering from a lack of routine maintenance and from inadequate investment in regime facilities and in the provision of common services such as washing, bathing, toilet, laundry and kitchen facilities. All are grossly overcrowded, all are seriously short of financial resources and, to varying degrees, all are short of professionally trained manpower.

These deficiencies would severely test the professionalism and the resources of the most developed and advanced prison systems in western Europe. In the Baltic States they have to be considered in the context of all the other problems which have arisen as a result of the urgent need to introduce wide-ranging changes to the constitutional, legal and social systems. Against this background the Directors and their staff are having to maintain a secure and viable prison system and, at the same time, devise new policies and operational procedures which reflect the changing legislative and social structures. It's rather like having to change a front wheel of a car while it is being driven down a bumpy road at 100 kph!

Most participants in this conference have drawn attention to a shortage of financial resources or to the need to reduce expenditure on their prison system, but the financial problems facing the prison systems of the Baltic states are of a different dimension to those experienced by prison administrators in western Europe. In one establishment I visited the prison Director had received less than half of the allocated budget and as a result was having to buy food for the prisoners on credit, and therefore at a higher price, from the local shops.

Such severely limited financial resources make the task of reconstruction and development extremely difficult, but not impossible. In these circumstances it is essential to re-examine all existing activities and procedures to see whether they can be carried out more efficiently and, in particular, whether improvements can be made without increasing expenditure. One example of how efficiency might be improved relates to the early release procedures. At present, the essential administrative procedure is started only when the prisoner has served the minimum qualifying period and it can take from two to four weeks for a favourable decision by the Court to be activated. If the administrative process was started earlier, and a favourable decision was made conditional upon continued good behaviour, the prisoners could be released immediately upon completing the required minimum length of sentence. The effect of this acceleration of procedures could be to reduce the daily average prison population of one of the Baltic states by up to 200.

Other significant improvements can be made at modest financial cost, particularly in relation to the living conditions for both staff and prisoners. In many, though not all, of the prisons I visited the standard of cleanliness and hygiene in the cells and dormitories was very poor; the rooms and windows were dirty, many of the blankets were in need of laundering and repair, and the toilets were almost always dirty and poorly maintained. The impact of these unsatisfactory and unsanitary conditions was often exacerbated by high levels of overcrowding. In the most crowded establishments not every prisoner had a bed of their own, though adequate stocks were usually available elsewhere in the establishment. Cleaning materials were in short supply, or not made available to the prisoners, and in some places the staff seemed to be unaware of the need to improve the living conditions for prisoners and, by extension, their own working environment.

Most establishments are well provided with medical staff but, with one or two exceptions, they seemed to accept that the low standards which prevail are the inescapable consequence of overcrowding and the shortage of resources, and they appeared to do little to encourage the staff or the prisoners to improve conditions. In some establishments, they did not even set a good example by keeping their own accommodation and toilet facilities clean. This non-interventionist approach is, in part, a reflection of the status and role of the doctors and, to a lesser extent, of the nursing staff who work in the Baltic prison systems. I will return to this theme later.

The living and working conditions in the prisons could be improved significantly at relatively little cost; the most important requirement is for an increase in managerial commitment and the greater involvement of the supervisory staff in the process of improving the overall standard of cleanliness and hygiene.

Substantial improvements are also needed in the punishment cells where, without exception, the conditions fall short of the standard required by the European Prison Rules – particularly in respect of the levels of natural light and fresh air ventilation. Living conditions in almost all of the punishment units are unacceptably low but could be improved significantly by removing barriers to natural light and ventilation in the cells; by improving the level of artificial light; by requiring the prisoners to keep their cells clean, and providing them with the means to do so; and by allowing those prisoners serving periods of up to 15 days isolation to have one hour's exercise in the open air every day, to have a bath or a shower once a week and to have bedding, toilet articles and reading material. In short, to follow the guidance contained in the European Prison Rules.

It is acknowledged that conditions elsewhere in the prison may also be less than ideal, and that those under punishment should have a more restricted regime and enjoy fewer privileges than the other prisoners, but it should be noted that the intentional imposition of poor living conditions, particularly if they are likely to be detrimental to the physical and mental health of the

prisoner, constitutes a violation of human rights and may amount to inhuman or degrading treatment or punishment.

The adverse effects of overcrowding elsewhere in the prisons could be reduced by providing more time out of cells and dormitories, and by introducing a more varied programme of supervised recreational activity. In those establishments where there is a shortage of work and prisoners are allowed to move freely within the secure perimeter, it should be relatively easy to arrange more structured programmes of organised games, sports and other communal activities.

If unpaid volunteers from the local community could be encouraged to participate in the organisation and provision of educational and recreational activities in the prisons, it would not only significantly improve the regime for prisoners, but would also help to improve relationships between the prisons and the local communities and might encourage prisoners to reciprocate by becoming involved in community help projects. Such an increase in community involvement in prison affairs would also lead to a wider understanding of the problems faced by the prison system and might help to raise the status of those who work in prisons.

Those are just a few examples of the many ways in which the prevailing conditions, which everyone agrees are most unsatisfactory for both the staff and the prisoners, can be improved at relatively modest cost. In these examples it is the attitude and involvement of the staff that is more important than the availability of additional financial resources.

Although many of my comments have been critical of the prevailing conditions in establishments, the picture is not entirely gloomy. During my visits I met a number of highly professional, hard working and well motivated Directors and other officers who are anxious to improve conditions for both prisoners and staff, and who are both willing and able to contribute to the development of a more humane and effective prison system. I mentioned earlier that this conference provided us with an opportunity to consider how members of the Council of Europe might co-operate in this process. I would now like to return to that theme.

In the reports of my visits to establishments in Estonia and Latvia I made a modest attempt to identify a number of projects to which other member states of the Council of Europe might wish to make a contribution. My report on the Lithuanian prison system, which is still being prepared, will contain similar provisions. Those suggestions were intended to stimulate interest and encourage greater co-operation between the long established member states and the Baltic countries which have so recently re-established their independence. No attempt was made to establish an order of priority, and the projects selected may not be the ones which the countries concerned consider to be the most appropriate or important. These are matters which need to be settled through a process of consultation and negotiation.

The inclusion of such recommendations in a report to the Council of Europe is no more than a general indication of the range of issues which deserve consideration. It does not guarantee instant results, nor could it be expected to. Each of the proposals has to be carefully considered in the context of other competing priorities before decisions can be made about what, if any, action is to be taken. I suggest that this process is best conducted through the mechanism of an organisational structure which is sensitive to the needs and priorities of the states concerned, and is able to maintain close contact and liaison throughout the implementation process.

One of the consequences of the Riga conference, to which I have already referred, was to strengthen the links between the Scandinavian, Nordic and Baltic states and to establish a process for the evaluation and implementation of a number of mutually co-operative projects. I hope that as a result of this conference other member states will also make a contribution to this process, either directly or through the co-ordinating mechanism of the Council of Europe, or both. I suggest that this opportunity should be taken to identify the main areas in which external assistance is most urgently needed. There are distinguished colleagues participating in this conference who are better informed and have a more intimate knowledge of these prison systems than I could hope to have on the basis of such a brief acquaintanceship. Nevertheless, you may care to consider whether some of the topics I will now identify deserve priority consideration.

The first, and in my opinion the most pressing problem, is that of overcrowding. In all three Baltic States, the number of persons in custody per 100,000 of the population is over three times that of the highest in western Europe, six times higher than the levels in other countries with similar populations, and six times the average level in the Scandinavian States. Imprisonment is the most expensive, but arguably not the most effective method of dealing with offenders. When it is used with such frequency the resultant overcrowding of the available accommodation not only imposes considerable strain on limited financial resources, it also diverts a disproportionate amount of management time from more productive activity. It reduces the quality of life of both staff and prisoners, it creates tension and hostility in establishments and poses a potential threat to the security and stability of the prison system, and it significantly reduces the rehabilitative potential of a period of imprisonment.

Reducing the level of overcrowding is normally beyond the jurisdiction and the competence of prison administrators, but since they are directly affected by it they have a particular responsibility to draw attention to its corrosive influence and seek the introduction of an alternative strategy. It is the responsibility of the legislators and the judiciary to take the necessary remedial action. One solution to the problems of overcrowding is to build more prisons, but this is a very expensive course of action which would make very heavy demands upon the already overburdened national economies which

are struggling to finance a substantial programme of social change. It is also arguable that such a strategy does not effectively address the underlying and more important requirement which is to reduce the level of criminal activity.

An alternative strategy is to try to reduce the prison population by limiting the extent to which custody is used during the investigation and pre-trial periods, and to make greater use of non-custodial sanctions such as probation, community service, suspended sentences and fines for non-violent and less serious offences. Some countries, most notably Lithuania, already make limited use of such sanctions and measures and have an organisational structure, albeit underdeveloped, for their implementation and supervision. Much more needs to be done in this direction and there is an increasing awareness in all the Baltic states of the need to make more use of non-custodial penalties.

Information, advice and assistance from other member states on the establishment and validity of community based sanctions and measures as an alternative and effective way of dealing with some offenders, could have a significant influence on the development of new policies. The political influence of the Council of Europe and the example set by other member states could make a significant contribution to the reduction in the reliance placed upon the use of imprisonment by informing, educating and persuading the politicians to encourage a more enlightened approach.

The difficulties arising from the overcrowding of prisons in the Baltic states are further exacerbated by staffing problems. The prisons are manned by two main grades of staff; the Officers, who are normally required to have had a university or equivalent level of education, and the Controllers, for whom the entry qualifications are much less demanding. The Officers are regarded as managerial staff and are responsible for specific areas of the prison or for a particular range of activities, including those, like the role of social worker, which involve the development of professional and individual relationships with prisoners. The majority of Controllers are employed exclusively on custodial or guard duties, though this distinction is gradually being modified as Controllers are being trained and encouraged to adopt a more positive role and become more personally involved with prisoners.

Work in prisons is not well paid and, partly because of its recent history, it does not enjoy a high status. With the growth of privatisation and the rapid development of the economies of the Baltic states it is becoming increasingly difficult to attract Officer candidates who, because they are required to have a high standard of education, have an increasingly wide range of alternative and better paid employment opportunities. The prevailing high level of unemployment ensures a reasonable supply of recruits for Controller posts but the low entry qualifications, the poor working conditions, the limited level of job satisfaction, the poor promotion prospects and the lack of professional training result in a high rate of resignations and dismissals.

Financial constraints have resulted in severe restrictions being placed upon the number of staff who may be employed in the prisons; the recruiting difficulties to which I have referred add to the problem of staff availability. The combined effect is to impose serious limitations on what can be done to improve conditions for both staff and prisoners and to enable other changes to be made to ensure that the prison systems are brought into conformity with European standards. Nevertheless, the number of staff available is not the only, nor even the most important consideration. A small body of well trained and committed staff can usually achieve more than a larger number who have neither the training nor the motivation.

The efficiency and effectiveness of a prison system is related more to the quality of its staff than to the quality of its buildings and other resources. Good staff/inmate relationships make a significant contribution to the maintenance of security and stability in establishments and, as we all know from our own experience, personal influence is the most effective way of changing attitudes and behaviour. For these reasons I would attach a high priority to the personal development and training of prison staff of all grades. Furthermore, the provision of high quality training which can prepare a person for further advancement can do more to raise the status of an organisation than most other factors.

The training and development of the staff of the Baltic prison systems is an area of activity in which other member states might be able to provide valuable advice, guidance and assistance, including the hosting of visits and attachments. The 'twinning' of individual establishments in different countries can have a significant influence on personal and corporate development. These arrangements can not only increase the personal and professional experience of all grades of staff, they can also provide them with a wider frame of reference against which to evaluate a variety of professional programmes and techniques and enable them to select those which best meet the social and cultural needs of their own systems or establishments.

In this context it is important not to overlook the needs of the medical staff, particularly the prison doctors, who do not have either the status or the degree of professional independence accorded to their professional colleagues in most other European prison systems. As uniformed officers of the prison they are clearly identified as members of the prison management team, and it is equally clear that the prisoners regard them as an integral and influential part of the security and control system.

Prison doctors in the Baltic states have not had the benefit of an effective system of professional support, and they consequently feel professionally isolated. Most of them have had no opportunity to meet professional colleagues who work in other prison systems, and with whom they could discuss the ethical implications of the work they do and the way that they do it. Prison doctors and nurses would greatly benefit from visits to other prison systems and, in particular, from the

opportunity to participate in medical conferences and seminars organised by the Council of Europe.

All prisoners are tested for HIV/AIDS on arrival and periodically thereafter; high risk groups are tested more frequently and, in some places, prisoners are tested after long-term visits. No pre-test or post-test counselling is provided and the prisoners do not have the right to refuse the tests. The present policy is that any prisoner found to be HIV + will be segregated from all other prisoners, whether or not the person concerned is ill. Although a few prisoners had previously been diagnosed HIV +, at the time of my visits none was still in custody and none of the prisoners had AIDS.

The compulsory testing of prisoners is contrary to the widely accepted international policy on HIV testing and is an illustration of the low priority attached to the ethical requirement for a patient to give informed consent before there is any medical intervention. Other member states which have already encountered the problems associated with HIV and AIDS in prisons should be able to provide helpful advice and guidance on the development of appropriate strategy for dealing with such issues.

It was a feature of the Soviet system that the Court not only determined the length of sentence but also the regime conditions in which the sentence would be served. Under these arrangements the prison administrators could transfer prisoners between prisons of the same regime but not from one regime to another without the express permission of the Court. The constraints imposed by these arrangements did not enable the most effective use to be made of the available accommodation and they may have contributed to the disproportionately high levels of overcrowding which existed in some prisons.

It has now been widely acknowledged that this system of allocation is unnecessarily cumbersome and not very efficient, and it is likely that the authority to allocate and transfer prisoners will pass to Prison Department officials. This should enable the Departments to make better use of the available accommodation, to transfer prisoners at short notice if they present security and control problems, and to encourage and reward good behaviour and a positive approach to prison treatment, by transferring prisoners to more favourable conditions.

The change from the Soviet system of allocation to prisons by the Court to a more flexible system to be operated by prison administrators requires the development of new policies and operational procedures. Those member states which have considerable experience of these processes could provide advice and guidance on selection and allocation procedures which could be of great assistance to those prison systems which are about to embark upon this new method of allocating individuals to the most appropriate establishment.

The increasing number of prisoners serving sentences of life imprisonment poses a particularly difficult problem to those prison systems with little or no experience in dealing with such prisoners, and where a coherent

strategy has not yet been developed. At present, those prisoners sentenced to life imprisonment, and those whose sentence of death has been commuted to one of life imprisonment, are held separately from other prisoners and occupy a cell on their own. Although they are permitted to retain a number of personal possessions, including TV and radio sets, they leave their cells only for visits, for daily exercise or for a weekly shower, usually alone. They do no work, have no recreation or educational periods, and apart from occasional visits have very little contact with anyone other than the supervisory staff.

It is almost inevitable that prolonged isolation, the lack of peer group contact and the lack of both intellectual stimulation and physical activity, will be detrimental to their physical and mental health. Some improvements could be made immediately and at little cost. The opportunity to associate with other prisoners and to participate in indoor games and other sporting activities, even in closely supervised conditions, would make a considerable difference. In the longer term it is desirable that they be transferred from isolated and cellular conditions to another establishment where they can participate in the same regime activities as others who are serving long sentences.

It is clear that there is an urgent need to develop a more appropriate regime for lifers and other long-term prisoners. Many other prison systems have had extensive experience in dealing with lifers and are able to provide advice and assistance in devising new procedures which meet the needs of both the prison system and the prisoners, and which are acceptable to the local communities.

There are a great many other matters which deserve attention and which could attract help and support from other member states. The limited time at my disposal enables me to make only passing reference to such important matters as the need to develop an independent system of inspection; the need to improve conditions for pre-trial prisoners, with particular regard to communications with the outside world; and the provision of appropriate facilities for mentally disordered offenders. However, I cannot overlook the importance of providing meaningful work for prisoners, and must draw attention to the high proportion of sentenced prisoners in all three Baltic States who do not have the opportunity to work. The shortage of work not only creates problems for the management of prisons and prevents the prisoners from earning money, it also has long term consequences because work in prison enables the prisoners to make contributions to the social security fund from which their old age pensions are paid.

Although almost every closed prison in the Baltic states has a large industrial section, the prevailing economic conditions make it difficult to obtain production contracts or to finance other forms of employment for prisoners. As a result, these large industrial areas, which contain numerous workshops and have the capacity for considerable productive work, remain largely unused.

Many other prison systems experience problems in providing work for prisoners but a programme of support which engages the attention of commercial and industrial firms at home and abroad may go some way to improving what is a very serious situation. It is a matter which deserves the attention of this conference and of any co-operative structure which emerges as a result of our deliberations over the next two days.

How might these issues be addressed, and what form should the co-operative structure take? I suggest that where bilateral links already exist they should be continued and strengthened. A further development would be for other member states to follow the example of the Scandinavian and Nordic countries and provide secondary or supportive help to all three Baltic States – a multilateral arrangement based on the sponsorship of particular projects in all three systems. For example, one country might help with the development of sports halls in each of the Baltic States, another might provide assistance to the mother and baby units, another could concentrate on facilities for juveniles, or provide help for the purchase of equipment for laundries, kitchens or libraries. There is no shortage of suitable projects.

Additionally, member states could contribute to a common fund to enable the Council of Europe to co-ordinate major projects and other co-operative programmes. The main thrust of these proposals is that programmes of co-operation and assistance should be

co-ordinated and monitored if they are to be delivered in the most effective way. The Council of Europe can provide an organisational structure for the assessment of needs and priorities, the delivery of co-operative programmes and the monitoring of progress; what is needed now is the commitment and support of the member states, most of which are represented here today.

These ideas may not be the best or the most appropriate to emerge during the course of this conference but I hope that they will help to stimulate discussion and some real progress. My proposals relate particularly to the Baltic states and I make no apology for my advocacy on their behalf, but I was pleased to discover that my proposals for an organisational structure for the co-ordination of co-operative programmes are consistent with, though not exactly similar to, the proposals in the paper by Dr Karabec.

I have also been greatly encouraged to learn that the first steps have now been taken to establish an organisational structure to enable the problems of the prison systems of central and eastern Europe to be addressed on a regional basis. Finally may I thank you for inviting me to participate in this conference and to meet again a number of former colleagues and valued friends.

*Gordon H. Lakes*



# Introduction to the European Prison Rules

## Historical background, development, main contents

### A. Introduction

#### I. Historical background

On 12 February 1987 the Committee of Ministers of the Council of Europe adopted Recommendation (87) 3 on European Prison Rules. The European Prison Rules are a revised version of the European Standard Minimum Rules for the Treatment of Prisoners of 19 January 1973, Resolution (73) 5, which on their part were based on the United Nations Standard Minimum Rules for the Treatment of Prisoners of 31 July 1957, Resolution 663C (XXIV) of the Economic and Social Council (ECOSOC).

The ideas and philosophy of the European Prison Rules and their main contents reflect the results of a long lasting process of manifold international and national development. In Europe, for over a century, international congresses have given the opportunity for mutual information and discussion and increasingly for co-operation. The first congresses on prison matters that deserve to be called "international" were held in Frankfurt am Main in 1846 and in the following year, 1847, in Brussels. Both congresses were organised by practitioners of prison administrations. Of main importance were then the activities of the International Penitentiary Commission (IPC), since 1930, according to a modification of its statutes, the International Penal and Penitentiary Commission (IPPC), which organised considerable international penitentiary congresses. These congresses were held in London 1872, in Stockholm 1878, in Rome 1885, in St. Petersburg 1890, in Paris 1895, in Brussels 1900, in Budapest 1905, in Washington 1910 and in London 1925, and then under the name "International Penal and Penitentiary Congress" in Prague 1930, in Berlin 1935, and finally in Den Haag in 1950. In 1950, the United Nations decided to take over these congress activities from the International Penal and Penitentiary Commission and, in future, to organise and run every five years a "United Nations Congress for the Prevention of Crime and the Treatment of Prisoners". Until now, nine congresses of that kind have taken place in the framework of the United Nations, namely in Geneva 1955, in London 1960, in Stockholm 1965, in Kyoto 1970, again in Geneva 1975, in Caracas 1980, in Milan 1985, in Havana 1990 and in Cairo 1995. Apart from these ongoing world-wide activities of the United Nations, in Europe after World War II the strong desire for a manifold co-operation between the free states was expressed, and that led to the foundation of the Council of Europe on 5 May 1949 in London by ten European states. Today there are 39 member states of the Council of Europe<sup>1</sup> and the activities in the fields of penal law and penology, of criminology and prison matters are numerous and manifold. Of course,

these activities are only a small part of the abundance of activities of the Council of Europe.

#### II. Standard Minimum Rules (League of Nations – United Nations – Council of Europe)

It was within the activities of the International Penal and Penitentiary Commission that for the first time in 1926, at a meeting in Bern, the British delegate Waller suggested to establish standard minimum rules for the treatment of prisoners and presented a first draft. After further drafts, presented by the German and the Dutch delegation, the Commission set up a sub-committee in 1929 which formulated a draft of standard minimum rules which was adopted at the International Penal and Penitentiary Congress in Prague 1930, and finally adopted at the 15th Ordinary Session of the Assembly of the League of Nations in Geneva in 1934. One year later, the Assembly of the League of Nations adopted at its 16th Ordinary Session a resolution that the Secretary General should request the governments which accepted the rules to give them all possible publicity. The League of Nations version of the standard minimum rules, however, could not obtain any practical importance because of the well known political events in the years to come.

After World War II, when a world-wide strong need for more liberal social values and more humane political and legal systems was expressed, when human rights and fundamental freedoms were formulated, when in various parts of the world a political reorientation and a social renewal was taking place and the Council of Europe was established, the United Nations, in 1949, came back to the rules of 1934, had them redrafted and discussed at regional conferences in the years 1952 to 1954, and had a new draft resolution on standard minimum rules for the treatment of prisoners prepared.

The first United Nations Congress for the Prevention of Crime and the Treatment of Prisoners was held in Geneva from 22 August to 3 September 1955. This congress is of great importance for prison administrations all over the world since at this congress the United Nations Standard Minimum Rules for the Treatment of Prisoners were adopted and finally approved by the United Nations Economic and Social Council (ECOSOC) as Resolution 663C (XXIV) of 31 July 1957.

1. Albania, Andorra, Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldavia, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, "the Former Yugoslav Republic of Macedonia", Turkey, Ukraine, United Kingdom. (Croatia is a candidate.)

Legally seen, Resolution 663C (XXIV) is a recommendation, addressed to the governments of the member states of the United Nations, to adopt and implement the rules, to report every five years to the Secretary General of the United Nations on the progress achieved in the application of the rules, and to make arrangements for an appropriate publication. The rules are not intended to describe in detail a model system of penal institutions. They seek, however, to set out what is generally accepted as being good principles and practice in the treatment of prisoners and the management of institutions.

The United Nations Standard Minimum Rules for the Treatment of Prisoners consist of preliminary observations, of two parts including 94 rules, and three annexes with recommendations on recruitment and training of personnel, on open institutions and on prison labour. The United Nations rules are still in force and valid for all member states of the United Nations. Their importance and moral value have often been emphasised; the rules have not been amended or changed by the United Nations until now, and still quinquennial reports on the implementation of the rules are sent to the Secretary General of the United Nations.

In the Council of Europe, on the other hand, the Steering Committee on Crime Problems (CDPC) agreed in 1968 to revise the United Nations Standard Minimum Rules for the Treatment of Prisoners, and to adapt the text to the needs of contemporary penal policy. For that purpose, with the consent of the Committee of Ministers, a select committee of experts was set up. This select committee prepared a draft resolution including a European version of standard minimum rules. This draft was adopted by the CDPC and then adopted by the Committee of Ministers of the Council of Europe on 19 January 1973 as Resolution 73 (5) on the Standard Minimum Rules for the Treatment of Prisoners.

The authors of the European version of the rules took over in the main text of the United Nations version of the rules, they adapted, however, the contents of 10 rules to changed attitudes and concepts. The main modifications were the following:

In Rule 5 (3) it was emphasised that deprivation of liberty shall be effected in material and moral conditions which ensure respect for human dignity. Rule 7 was changed in a way that no longer categorisation of prisoners was the starting point of the distribution of prisoners but their legal situation, their physical and mental condition and their individual and special needs. Rule 22 provided for the first time that prisoners may not be subjected to medical or scientific experiments which may result in physical or moral injury to their person. Rule 27 got a new sub-paragraph 2 providing that collective punishment shall be prohibited and in Rule 32 (1) punishment by reduction of diet was deleted. Rule 51 was new and provided that the administration shall introduce forms of organisation to facilitate communication between the different categories of staff in an institution with a view to ensuring co-operation

between the various services. Rule 56 was new and aimed at regular inspection of penal institutions and means of control for the protection of the individual rights of prisoners. New was also Rule 71 providing opportunity for prisoners to participate in activities likely to develop their sense of responsibility and to stimulate interest in their own treatment.

The European version of the Standard Minimum Rules for the Treatment of Prisoners was regarded as good, well-balanced work. For all member States of the Council of Europe, which – with the only exception of Switzerland – are member states of the United Nations also, the United Nations version of the rules as well as the European version were in force. In practice, that fact caused no difficulties since the European rules were never below the standards of the United Nations rules, but went sometimes above them. Implementation of the European rules meant, therefore, always implementation of the United Nations rules too. In Resolution (73) 5 on the Standard Minimum Rules for the Treatment of Prisoners, the Committee of Ministers of the Council of Europe recommended that governments of member states of the Council of Europe be guided in their national legislation and practice by the principles set out in the text of the standard minimum rules with a view to their progressive implementation. The Committee of Ministers also invited the governments of the member states to report every five years to the Secretary General of the Council of Europe, informing him of the action they have taken on this resolution.

### III. *The European Prison Rules*

The first report to the Secretary General of the Council of Europe on the implementation of the rules became due in 1978. On this occasion a select committee of experts was established and entrusted with an evaluation of the reports on the implementation of the rules as well as with the study and report of the question of a revision of the European rules of 1973 and their supervision in Europe. These activities fell in a time of fundamental social change and enormous economic development and technical progress with significant shifts in social and political behaviour. This development naturally also took hold of criminal law and penology as well as prison management and the treatment of prisoners. It had become necessary again to find a relevant and a positive approach and to change the rules considerably so as to meet contemporary ideas. In 1980, the select committee reported in favour of a revision of the European Standard Minimum Rules for the Treatment of Prisoners in order to bring them into line with contemporary trends. This report was in the same year adopted by the CDPC as well as the Committee of Ministers; in Recommendation 914 (1981) on the social situation of prisoners, the Parliamentary Assembly agreed with the proposals that the rules should be advised. At the same time, the Committee for Co-operation in Prison Affairs (PC-R-CP) was established as a standing committee under the CDPC. In 1984, that committee was – apart from various other

tasks and after thorough investigations on the implementation of the rules in Europe – entrusted with the elaboration of contemporary prison rules. Within one year, the first chairman of the PC-R-CP and British prison expert Kenneth J Neale presented a first comprehensive draft of a recommendation including the European prison rules as well as an explanatory memorandum and an annex on historical background, philosophy and development. These papers were thoroughly deliberated and formulated in the PC-R-CP and submitted to the Steering Committee on Crime Problems (CDPC). In June 1986, after five days of deliberations, the CDPC adopted unanimously (with only one abstention) the recommendation, the rules and the annexes and submitted the documents to the Committee of Ministers which on 12 February 1987 adopted Recommendation R (87) 3 on European Prison Rules.

## **B. Main ideas and contents of the European Prison Rules**

In Recommendation (87) 3 on European Prison Rules, the Committee of Ministers of the Council of Europe considered the important role of international rules in the practice and philosophy of prison treatment and management, noted that significant social trends and changes had made it desirable to reformulate the former rules so as to support and encourage the best of these developments and offer scope for future progress, and recommended that the governments of member states be guided in their internal legislation and practice by the principles set out in the text of the European Prison Rules with a view to their progressive implementation with special emphasis on the purposes set out in the preamble and the basic principles in Part I, and to give the widest possible circulation to this text.

The European Prison Rules consist of a preamble and of five parts with 100 rules; 15 rules are new; 9 rules of the Standard Minimum Rules for the Treatment of Prisoners have been dropped; every rule retained has been amended in some way. No rule is below the standards of the United Nations rules.

### *Preamble*

According to the preamble, the purposes of the rules are to establish a range of minimum standards for prison administrations, to serve as a stimulus to prison administrations to develop modern, contemporary policies, management style and practice, to encourage professional attitudes in prison staffs, and to provide ready reference, encouragement and guidance to those who are working at all levels of prison administration.

### *Part I: The basic principles*

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

which our prison systems are based. All the other rules should be seen and applied in the light of these six basic rules.

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

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

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

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

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

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

for the rights and duties of prisoners to be clearly laid down; the prisoners must also have the legal remedies available to assert their rights.

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

#### *Part II: The management of prison systems*

Part II of the European Prison Rules contains Rules 7 to 50 and deals with the arrangements which should be made for the reception and accommodation of prisoners, for their physical, spiritual and social needs and for the maintenance of discipline and control in penal institutions. This part covers the rules on reception and registration, allocation and classification, on accommodation, personal hygiene and food, on medical services, as well as discipline and punishment and instruments of restraint, furthermore on information to and complaints by prisoners, contact with the outside world, religion and moral assistance, retention of prisoners' property, notification of death, illness, transfer, etc and on removal of prisoners. Part II of the European Prison Rules provides a framework of minimum standards for the management and regulation of prisons in accordance with the basic principles of Part I.

Rules 7-10 deal with reception and registration of prisoners. No person shall be received in an institution without a valid commitment order. The essential details shall immediately be recorded and a complete and secure record of each prisoner shall be kept. Reception arrangements shall assist prisoners to resolve their urgent personal problems and as soon as possible relevant information about the personal and medical situation and treatment programme of each prisoner with a sentence of suitable length shall be submitted. The provisions concerning registration are flexible in a way that from hand-written registers and reports up to a modern data-process equipment all suitable means of registration are admissible according to the size and technical development of the respective prison administration. Rules 9 and 10 are, as far as immediate individual assistance and training programmes are concerned, closely linked with Rules 68 and 70 dealing with programmes of treatment and the preparation of prisoners for release.

Rules 11-13 deal with the allocation and classification of prisoners. The allocation of untried prisoners is generally laid down by law with regard to the pending criminal procedure. The organisational problem of distributing sentenced offenders to the penal institutions can be solved in different ways. The criteria for the distribution can be formal and laid down in advance by law, decree, regulation or order. On the other hand, in particular when longer terms of imprisonment are concerned, the decision, where and under which regime the sentenced offender should be placed, can be made by individual allocation (classification). It is necessary for the individual allocation procedure to

work promptly, without undue complication and effectively. The dividing up of prisoners will therefore generally be solved in accordance with formal criteria such as sex, age, proximity to home, social ties, criminal record and accomplices. The classification must, however, also satisfy special treatment needs (eg the necessity for high security measures, special medical care or psychiatric treatment, vocational training, work, etc).

According to Rule 11, in allocation prisoners to different institutions or regimes, due account shall be taken of the prisoners' judicial and legal situation (untried or convicted prisoner, first offender or habitual offender, short sentence or long sentence) of their special treatment requirements and medical needs, their sex and age. Male and female prisoners as well as untried and convicted prisoners shall in principle be detained separately and young prisoners shall be detained under conditions which as far as possible protect them from harmful influences and take account of their age.

Rules 11, 12 and 13 refer to differentiation, regimes and classification. These measures are essential to the effectiveness of any execution of sentences that intends to meet the requirements of treatment as well as those of the protection of society and security and good order.

The basic idea of differentiation is fairly simple:

From all the persons in custody we should separate the really dangerous prisoners who require special security measures; we should also separate the mentally disabled and psychopathic prisoners who need special medical, psychiatric or psychological treatment. On the other hand, juvenile and young offenders, first offenders and all other prisoners suitable for open, semi-open or other mitigated forms of detention should also be separated from prisoners requiring standard treatment.

If the separation of different groups of prisoners is to be of any practical use, architectural and organisational measures are necessary. A security prison that would not aim to give any form of treatment could be organised in such a way as to ensure that, with a small number of staff, as many prisoners as possible are guarded, cared for, supervised, kept occupied and well sealed off from the outside world. The typical style of a traditional custodial institution is the big pentagon-shaped penitentiary. Detention including treatment, on the other hand, calls often for only a limited degree of outward security; the crux of the matter lies in internal organisation, manageable groups, adequately trained specialist staff and the greatest possible degree of flexibility to meet the varying requirements of treatment.

Hand in hand with the necessity for a sufficient differentiation of penal institutions goes the creation of appropriate prison regimes. When choosing the appropriate prison regime in a differentiated system, the key problem is always how far treatment facilities can be given precedence over security aspects or vice versa. The choice of regime is therefore intimately related to the question of which aim is dominant in the institution concerned.

The different regimes vary from open, semi-open and other mitigated regimes to standard regimes and to security and high security regimes. Special regimes exist also for mentally disabled and psychopathic offenders, for alcohol and drug addicts and for dangerous recidivists. For juvenile and young offenders as well as first offenders and traffic offenders, special regimes are common. In several penal systems, imprisonment in states is introduced and all systems know pre-release regimes. There is, indeed, a great variety of possible regimes.

Rules 14-19 deal with the accommodation of prisoners. Rule 14 states basically that prisoners shall normally be lodged during the night in individual cells except in cases where it is considered that there are advantages in sharing accommodation with other prisoners. Practical experience shows that this desirable solution of single accommodation during night-time could only partly be realised by most prison administrations. Nevertheless, every prison administration should strive for having as many single rooms for night-time lodging as possible and for having as few prisoners as possible in each room.

According to Rules 15-19, the accommodation provided for prisoners, and in particular all sleeping accommodation, shall meet the requirements of health, hygiene, climatic conditions, cubic content of air and fresh air, space, lighting, heating and ventilation, of natural light, sanitary installations, bathing and showering installations. All parts of an institution shall be properly maintained and kept clean at all times.

Rules 20 and 21 state that prisoners shall be required to keep their persons clean and to maintain a good appearance; they shall be provided with the necessary facilities and toilet articles.

Rules 22-24 deal with clothing and bedding.

According to Rule 23, prisoners who are not allowed to wear their own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep them in good health. Such clothing shall in no manner be degrading or humiliating. All clothing and underclothing shall be clean and kept in proper condition. Whenever prisoners obtain permission to go outside the institution, they shall be allowed to wear their own clothing or other inconspicuous clothing. According to Rule 24 every prisoner shall be provided with a separate bed and separate bedding which shall be kept in good order and changed often enough.

Rule 25 concerns food and states that, in accordance with the standards laid down by the health authorities, the administration shall provide the prisoners at the normal times with food which is suitably prepared and presented and which satisfies in quality and quantity the standards of dietetics and modern hygiene and takes into account the prisoners' age, health and nature of the requirements. Sufficient drinking water shall be available.

It is an intrinsic practical experience that the quality of food, its serving and presentation is of the greatest

importance for the inside climate and the proper running of any penal institution. Modern kitchen management and equipment seem indispensable.

Rules 26-32 deal with medical services. Rule 26 is the basic rule in regard to the provision of medical services in penal institutions. According to Rule 26, at every institution there shall be available at least one general practitioner. The medical services should be organised in close relation with the general health administration and a psychiatric service shall be included. Sick prisoners who require specialist treatment shall be transferred to specialised penal institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings, pharmaceutical supplies and staff shall be suitable for the medical care and treatment; qualified dental service must be available to every prisoner.

Rule 27 provides that prisoners may not be submitted to any experiments which may result in physical or moral injury.

Rule 28 states that arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. In penal institutions, however, there shall be the necessary staff and accommodation for the confinement of pregnant women and post-natal care. If a child is born in prison, this fact shall not be mentioned in the birth certificate. Where infants are allowed to remain with their mothers, special provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers. According to Rules 29-32 the medical officers' duties include the examination of every prisoner as soon as possible after admission and thereafter as necessary, the care of the physical and mental health of the prisoners, the inspection of food and water, of hygiene and cleanliness, of sanitation heating, lighting and ventilation. The medical services shall also seek to detect and treat any physical or mental illnesses or defects which may impede resettlement after release.

Rules 33-38 deal with discipline and punishment. Any modern execution of sentences must try to meet the requirements of treatment as well as those of the protection of society, of security, of discipline and good order. Thus, Rule 33 states in plain words that discipline and order shall be maintained in the interests of safe custody, ordered community life and the treatment objectives of the institution. It is important too, that according to Rule 34, no prisoner shall be employed in any disciplinary capacity and that according to Rule 37 collective punishments, corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishment shall be completely prohibited. According to Rule 35, any conduct which constitutes a disciplinary offence, the types and duration of punishment, the competent disciplinary authority and the authority of the appellate process shall be provided by law or by regulation. Punishment which might have an adverse effect on the physical or mental health of the prisoner shall only be imposed if the medical officers

agrees in writing and the medical officer shall visit such prisoners daily (Rule 38).

The use of instruments of restraint is regulated in Rules 39 and 40. The use of chains and irons shall be prohibited. Handcuffs, restraint-jackets and other body restraints shall never be applied as a punishment. They shall only be used, if necessary, as a precaution against escape during a transfer, on medical reasons, and by order of the director to protect from self-injury, injury to others or to prevent serious damage to property. The patterns and manner of use of instruments of restraint shall be decided by law or regulation and must not be applied for longer than strictly necessary.

Rules 41 and 42 regulate information to prisoners and requests and complaints by prisoners. The law on the execution of criminal sanctions, in particular the execution of prison sentences and the detention of untried prisoners, is to be regarded as the third part of criminal law, after substantive penal law and law of penal procedure. It is indispensable that the entire prison administration is strictly based on law and that the prisoners know their rights and duties and have the legal remedies to exercise their rights. Good information can help to reduce requests and complaints by prisoners. Prison staff should be trained and encouraged to supplement the written information provided for prisoners. Thus, Rule 41 states that every prisoner shall on admission be provided with written information about the relevant regulations, disciplinary requirements, the authorised methods of seeking information and making complaints, and all such other matters as are necessary to understand the rights and obligations of prisoners and to adapt to the life of the penal institution. This written information shall be explained whenever necessary. According to Rule 42, every prisoner shall have the opportunity, every day, of making requests or complaints, to have the opportunity to talk to an inspector of prisons and to make requests or complaints under confidential cover. Requests and complaints shall be dealt with and replied without undue delay.

Contact with the outside world, in particular correspondence with and visits by family, friends, lawyers, outside organisations, diplomatic or consular representatives, as well as reading newspapers, periodicals, books and other publications, by radio or television, by lectures and prison leave make an integral part of treatment in prison. The necessary provisions are laid down in Rules 43, 44 and 45.

Religious and moral assistance is to be provided according to Rules 46 and 47.

Rule 48 regulates the retention of prisoners' property and Rule 49 deals with the necessary notification of death, illness, transfer, etc. Rule 50 states that prisoners on their removal to or from an institution shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form. Physical hardship or indignity during the transport are prohibited.

### *Part III: Personnel*

Hand in hand with a continuous and progressive development of the concept and organisation of imprisonment from a mainly security-oriented custody, where, generally in big penitentiaries, with the smallest number of staff, as many prisoners were housed, guarded, cared for, supervised, kept occupied and well sealed off from the outside world, towards modern forms of detention in various well-differentiated institutions with manifold appropriate treatment regimes, the duties of the personnel, their tasks and activities, as well as their role and status have considerably changed in the last decades.

Traditionally, most prison systems operated more or less in secrecy, to a large extent with relatively poorly trained and badly paid basic staff with rather low social esteem in the public. When, after World War II, in the 1950s and 1960s, strong (and sometimes exaggerated) ideas of therapy and treatment, of resocialisation, of differentiation and individualisation came over from the United States of America at first to the northern countries of Europe or were created there and then spread to central and southern Europe and have been further developed in Europe, the prison administrations have become faced with new tasks and additional activities of the personnel. This has led to the engagement of specialists in the sequence of psychiatrists, psychologists, teachers and instructors and then social workers; medical doctors and nurses as well as priests for pastoral care were already well known and integrated in the prison service. The engagement of these new civilian experts who had in the beginning more or less a monopoly of the treatment tasks has, on the one hand, considerably contributed to the liberalisation of prison regimes, it has, on the other hand however, created a certain polarisation and even a mistrust between the new specialists and the large group of uniformed prison staff which has been to overcome. Today, it has been generally acknowledged that in any modern prison system the large group of uniformed prison personnel should not only be involved in the tasks of security, good order and discipline, but also in many forms of treatment like work, vocational training, education, leisure time activities, physical exercise, social training, etc. This creates a new role for prison officers and gives better job satisfaction and higher esteem in the public.

The importance of the work of staff of all grades has been increasingly recognised by the Council of Europe and its member states as well as in many other States all over the world. As a visible consequence of the Council of Europe, a special emphasis has been given to the status and role of prison personnel in the formulation of the new Part III of the European Prison Rules which comprises under the title "Personnel" in Rules 51 to 63 the main ideas of recruitment, selection, training, status and role of prison personnel.

In Rule 51, the fundamental importance of prison staff to the proper management of the institutions and the pursuit of their organisational and treatment objectives

is stressed, and the prison administrations are required to give high priority to the fulfilment of the rules concerning personnel.

Modern planning and organisation of imprisonment and the proper running of contemporary penal institutions with their different treatment regimes require management and activities with an enormous variety of tasks of legal, security, technical, administrative, economic, vocational, educational, medical, social, pastoral and other treatment and practical character. That is the situation where about 5% of directing staff, about 10% of specialist staff and the majority of over 80% of uniformed prison officers come in and have to work.

We are all convinced that the objectives of imprisonment with all the contemporary requirements can solely be achieved with appropriate performance of prison personnel of all grades: basic grades as well as medium-levelled and directing staff; of general personnel and specialists. So much can be achieved in co-operation with the personnel; nothing can be achieved against the personnel. If the majority of prison personnel do not know and understand the correctional objectives, and as long as they do not accept them, the personnel will only do the unavoidable work and give a poor performance. If, however, not only the directing staff and the specialists, but also the great majority of medium and basic grade staff know and understand their tasks, are all satisfied with their work and identify themselves with the correctional objectives, excellent work can be performed and outstandingly good results can be achieved. This again creates a good atmosphere in the institutions and gives job satisfaction and social esteem. Prison administrations have experienced all of that.

If "job satisfaction" is mentioned, a fair salary is necessary and is usually paid in the older member states of the Council of Europe. Rule 54/2 of the European Prison Rules, states clearly that personnel shall normally be appointed on a permanent basis as professional staff, and have civil service status with security of tenure and that salaries shall be adequate to attract and retain suitable men and women; employment benefits and conditions of service shall be favourable in view of the exacting nature of work.

As far as the status and social esteem of the prison service is concerned, Rule 53 says that the prison administration shall regard it as an important task, continually to inform public opinion of the roles of the prison system and the work of the staff, so as to encourage public understanding of the importance of their contribution to society.

According to Rule 54 of the European Prison Rules, the prison administration shall provide for the careful selection on recruitment, or in subsequent appointments of personnel. Special emphasis shall be given to their integrity, humanity, professional capacity and personal suitability for the work. Personnel shall normally be appointed on a permanent basis; whenever it is necessary to employ part-time staff, these criteria should apply to them as far as is appropriate. In practice, part-time employment is often arranged with specialists.

In many member States of the Council of Europe, the recruitment procedures are very similar. Vacant jobs in the prison service are announced in local newspapers or by advertising in prisons where the jobs are available, or in official job centres. Job announcement or advertising by the regional or central prison administration also takes place. The formal requirements are usually nationality of the country, an age range between 18 and 30 years (the minimum and maximum age varies from country to country), physical and mental health, legal liability, a clean criminal record (certain exceptions are possible), a school education of at least four years elementary school, and in addition, either two to five years of secondary or higher school or of a vocational training school, plus a learnt trade or handicraft. The written applications usually permit a first screening.

Accepted candidates are usually invited to a first interview by the prison governor, in the course of which the nature and conditions of work are explained, and a first opinion of the suitability of the applicant can be formed. After a medical examination and educational, psychological and social tests, the decision is made, usually by a local team (commission). If the candidate is accepted and appointed for a trial period which lasts from six months to three years (according to the conditions of the country).

The recruitment and selection of directing staff varies somewhat from country to country. However, nearly all countries require a university degree or similar academic qualification (eg school of social work diploma), or at least a secondary school certificate (high school graduation), besides all the other requirements (nationality, age, health, legal liability, clean criminal record). Some countries recruit their directing staff only inside the prison service, some from outside and some countries have mixed systems. Generally it can be said, that suited applicants from outside do have to undergo various tests and practical and theoretical training for several years, and are then appointed after a final commission examination.

Rule 57 of the European Prison Rules says that so far as possible the personnel shall include a sufficient number of specialists such as psychiatrists, psychologists, social workers, teachers as well as trade, physical education and sports instructors. These and other specialist staff shall normally be employed on a permanent basis. This shall not preclude part-time or voluntary workers when it is appropriate and beneficial to the level of support and training that they can provide.

Specialists are usually recruited after public advertising or announcements in newspapers. They are required to have an appropriate professional qualification. They are usually interviewed to ascertain their qualities and suitability. Appointment is commonly for a trying period. With medical doctors, including psychiatrists as well as dentists, teachers or instructors, special work arrangements are common. Psychologists and inside social workers have to undergo a more detailed training.

Female staff are recruited in the same way as male staff. According to most legislations, job announcements and

advertisements must be sex-neutral. In the practice of the prison service, female staff are already common in the directing levels and in specialist services, including social work, in penal institutions for men as well as women. Women work, of course, on all levels in institutions for female inmates. In several countries, an increasing number of female prison officers already work in prisons with male inmates. Among the administrations with experience of employing women prison officers in male institutions, there is the opinion expressed, that suitably selected female prison officers make a very positive contribution to the work and contribute considerably to create a good inside atmosphere, a better social climate and better behaviour of inmates, as well as staff. The Council of Europe recommends in Rule 62 of the European Prison Rules that the appointment of staff in institutions or parts of institutions housing prisoners of the opposite sex shall be encouraged.

The European Prison Rules give high priority to training and education of staff in order to achieve high quality performance. According to Rule 52, prison staff shall be continually encouraged through training, consultative procedures and a positive management style to aspire to humane standards, higher efficiency and a committed approach to their duties. Rule 55 claims that on recruitment or after an appropriate period of practice experience, the personnel shall be given a course of training in their general and specific duties and be required to pass theoretical and practical tests unless their professional qualifications make that unnecessary. During their career, all personnel shall maintain and improve their knowledge and professional capacity by attending courses of in-service training, to be organised at suitable intervals. Arrangements should also be made for personnel whose professional capacity would be improved by this. The training of all persons should include instruction in the requirements and application of the European Prison Rules and the European Convention on Human Rights.

According to Rule 59, the administration shall introduce forms of organisation and management systems to facilitate communication and co-operation between the different categories of staff and the various services.

There is a famous remark, ascribed to Winston Churchill, which says: "show me your prisons and I tell you what your society is like". If we connect this remark with our experience, that nothing can be achieved without our personnel, we must infer that any modern and good prison administration depends primarily on the understanding, willingness, good education and training standards, on the fairness and humanity of prison personnel.

#### *Part IV: Treatment objectives and regimes*

Rules 64-89 in Part IV reflect a realistic contemporary philosophy of treatment in the light of the experience of the recent past, responding to findings of research and a re-assessment of possibilities and limits of treatment. The idea is no longer "forced therapy" at any rate and

as a purpose in itself but the fair offer of a variety of treatment means and strategies for all those who are willing and fit to make good use of them. Paramount still is the purpose of equipping prisoners in attitudes and skills, however rudimentary, to give prisoners a better chance to cope with the demands of release and the need to lead socially adapted and self-supporting lives in the outside community. Concurrently, treatment is also aimed at minimising the detrimental influences of imprisonment. Part IV is closely linked with Rule 3 of Part I.

Rule 64 states clearly that imprisonment is by the deprivation of liberty a punishment in itself and that the conditions of imprisonment and the prison regimes shall not, therefore, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in this.

Rules 65 and 66 claim that all appropriate remedial, educational, moral, spiritual and other resources should be made available to develop skills and aptitudes that will improve the prisoners' prospects of successful resettlement after release.

The notion of "treatment" is sometimes controversial. There are feelings that, used in the context of prisons, "treatment" implies exclusively something comparable to a mere medical or even to a psychiatric approach. There is a certain feeling that a different term, such as "management" or "education" or "assistance" should be used instead, but there is not unanimity about this either. It was therefore generally agreed in the Council of Europe that "treatment" would be understood in a broad sense, including all measures needed to maintain or to recover the physical and mental health of prisoners, as well as a whole range of activities to encourage and advance social rehabilitation and to give prisoners opportunities to acquire competence to live socially responsible lives and to disengage from criminality. "Treatment" therefore is to be understood as including social training, schooling, general education, vocational training, work, reasonable leisure time activities, physical exercise, visits, correspondence, newspapers, magazines, books, radio, television, social work support, pastoral care, then of course, psychological and medical (including psychiatric) treatment.

In the context of treatment, conditional early release (parole) is an indispensable means. The hope of an early release can, particularly in cases of longer terms of imprisonment, create the motivation and endurance to undergo treatment and to "deserve" earlier liberty.

Rules 67, 68 and 69 deal with differentiation of penal institutions and regimes, with a flexible and treatment oriented allocation of prisoners, with individualisation of treatment and treatment programmes and with encouraging the participation of prisoners in their treatment.

According to Rule 70, the preparation of prisoners for release should begin as soon as possible.

This might seem to be a little theoretical, nevertheless, there is much sense in it. Although most prison



administrations are largely dominated by issues such as the effective running of the institutions, security and control, overcrowding, manpower, the condition of prison buildings and budgetary problems, it is still a general acknowledged purpose of imprisonment to rehabilitate offenders. It is in the interests of both individual prisoners and society at large that inmates are offered opportunities for a proper treatment with the aim of their positive readjustment to life outside prison. Different inmates have different needs and problems according to their personal circumstances. Many inmates face difficulties in relation to homelessness, unemployment, social isolation or the existence of deviant social bonds solely, lack of proper education, lack of marketable skills, health problems or drug or alcohol addiction. These inmates need assistance, advice and training. The inmates mainly want direct practical help with their particular problems and as soon as possible. Apart from specific arrangements for the individual assistance of prisoners, including expert guidance and advice, general programmes of education and training are necessary. All treatment efforts seem to aim at *three main goals*:

*First, the cultivation of the habit of work*, including proper vocational training in marketable skills, as a positive treatment means in order to rehabilitate inmates, to prevent a deterioration of their human personality and to enable them after their release to earn their living in a socially responsible way.

*Second, the acquisition of appropriate life and social skills* by social education and training in order to readjust inmates to life outside prison and sustain social bonds.

*Third, specific assistance and expert guidance* in order to meet individual needs and to solve personal problems of inmates.

"Pre-release treatment" is not kept apart in all penal systems from the wide range of preparation for release arrangements and there are often no distinct definitions. This causes no harm in practice as long as efforts are made to assist prisoners in their personal needs, teach them the necessary skills and readjust them to life outside prison. Nevertheless, in several penal systems, pre-release treatment is understood as a relaxed regime during the last period of the sentence when the prisoner has already served the biggest part of his/her term of imprisonment and is facing release within several months. This pre-release treatment is the last stage of all preparation for release arrangements. Sometimes, however, preparation for release is understood as assistance and advice given to the individual prisoner shortly before his/her actual release. In any case, all efforts serving the preparation for release are linked together and can be regarded as a continuum. That is, after all, valid for all treatment measures which aim at social resettlement.

In those penal systems where pre-release treatment is explicitly prescribed, the following measures of preparation for the forthcoming release are common:

The *transfer* to a pre-release regime in an open, semi-open or otherwise relaxed institution or unit wherever feasible.

*Work release* (regular work outside the prison without supervision).

Daily *short leave* or at least, leave under escort or group leave.

*Special prison leave* in order to settle personal matters (eg job, accommodation documents, financial affairs).

More frequent and longer *visits* without supervision.

*Legal advice* and *expert advice* in various personal, financial and social affairs including the naming of authorities or agencies competent for social benefits.

*Medical examination and advice*.

*Release grant* where the prisoner's own funds are not sufficient, the institution shall give him/her an amount of money for travel and subsistence expenses during the first period after the release and provide proper *clothing*.

Rules 71 to 76 contain detailed provisions on work. Rules 77 to 82 contain detailed provisions on various kinds of education and Rules 83 to 86 deal with physical education, exercise, sport, and recreation. Finally, the last three rules, Rules 87, 88 and 89 of Part IV deal with pre-release preparation.

#### *Part V: Additional rules for special categories*

According to Rule 90, prison administrations should be guided by the European Prison Rules as a whole so far as they can appropriately, and in practice, be applied for the benefit of those special categories of prisoners for which additional rules are provided. Such additional rules exist for untried prisoners (Rules 91 to 98), civil prisoners (Rule 99) and insane and mentally abnormal prisoners (Rule 100).

Rule 91 repeats the presumption of innocence until a valid verdict of guilt, and states that untried prisoners shall be treated without restrictions other than those necessary for the penal procedure and the security of the institution.

Rules 92-98 deal with all the well known rights of untried prisoners, such as to inform their families and receive visits, their access to a legal representative and, if necessary, to an interpreter, the opportunity of having a separate room, their own clothing and the opportunity – not the obligation – to work and get books, newspapers, writing materials and other means of occupation, as are compatible with the interests of the administration of justice and the security and good order of the institution. Untried prisoners shall also be given the opportunity of being visited and treated by their own doctor or dentist if there is reasonable ground.

According to Rule 99, in countries where the law permits imprisonment by order of a court under any non-criminal process, persons so imprisoned shall not be subjected to any greater restriction or severity than is necessary to ensure safe custody and good order. Their treatment shall not be less favourable than that of untried prisoners, but, however, they may be required to work. So far the only rule for civil prisoners.

The very last rule, Rule 100 of the European Prison Rules, deals with insane and mentally abnormal prisoners. According to Rule 100, insane prisoners should be transferred to appropriate establishments for the mentally ill. Specialised institutions or sections under medical management should be available for the observation and treatment of prisoners suffering gravely from other mental disease or abnormality. Psychiatric treatment shall be provided for all prisoners in need of such treatment, and necessary continuation of psychiatric treatment after release shall be arranged with appropriate community agencies.

### C. Some basic knowledge on the organisation of imprisonment

If communication and co-operation of the various categories of staff shall be useful and bring about good results, everybody must understand the basic ideas behind what they are doing, as well as bring in his/her special skills and experience.

There is some basic knowledge of the organisation and management of imprisonment that should not only be behind all activities of the directing staff, but also be understood by everybody who works in the correctional system.

I have tried to enlist with plain words some of the very basic ideas which are behind the organisation and management of imprisonment, as they have been generally accepted in the Council of Europe, and have been laid down in the European Prison rules and various other documents:

– The sentence of imprisonment is a criminal sanction with a punitive character in itself; imprisonment consists solely of the deprivation of liberty, further aggravations are only permitted in so far as they are necessarily connected with the very nature of imprisonment, with security and good order in the institution or with treatment requirements.

– The period of imprisonment shall be well used to offer and give treatment to all inmates who are fit and willing to undergo treatment.

– Treatment consists of all measures needed to maintain or recover the physical and mental health of prisoners, as well as a whole range of activities in order to encourage and advance social rehabilitation and to give competence of life without further criminal offences. Treatment includes work, vocational training, schooling, general education, social training, pastoral care, reasonable leisure-time activities, physical exercise, visits, correspondence, prison leave, newspapers and magazines, books, radio and television, social work support and, of course, psychological and medical, including psychiatric, treatment.

– The effectiveness of any execution of prison sentences which intends to meet the requirements of treatment as well as those of the protection of society, of security, of discipline and good order depends primarily on a good *differentiation* of the penal institutions, on the creation of various appropriate prison *regimes* and of a reasonable *allocation* of prisoners to the best suited regime. *Individualisation* should replace former categorisation.

– The normal form of imprisonment should be open, semi-open or at least mitigated regimes; closed institutions and, in particular, security and high security regimes shall only be used where cogent reasons make it necessary.

– The deprivation of liberty shall be effected in material and moral conditions which ensure respect for human dignity.

So far the few basic principles which should be known and understood in the prison service like the simple multiplication tables.

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*of the Austrian Prison Administration*

# Council of Europe Annual Penal Statistics

## S.PACE: 1993 survey

This report contains the results of the second survey undertaken using the SPACE procedure. Part I deals with the state of prison populations at 1 September 1993 and committal flows in 1992 (Questionnaire I). This is supplemented by data on escapes in 1992 (the topic selected for the variable part of the survey). Part II concerns certain community measures and sanctions ordered in 1991 (Questionnaire II).

Replies have not yet been received from the following countries: Estonia, Malta and Slovenia.

A number of prison administrations have returned Questionnaire I on prison populations but not Questionnaire II on community measures and sanctions.

The covering letter accompanying the questionnaires asked respondents to state, for each unanswered question, whether this was because it was not applicable to their country (an item referring to a concept which did not exist in their penal system) or because the statistical information was not available. Questions were not to be left blank. Alongside each item there should be a number (which could be 0) or "not available" or "not applicable". Unfortunately, this simple, common-sense procedure was not always respected. The value of the data collected is reduced in such cases. The frequent use of the abbreviation N/A in questionnaires answered in English is ambiguous, since it can signify either "not available" or "not applicable".

It should be stressed that more countries answered the 1993 than the 1992 survey. The SPACE system is gradually reaching its cruising speed. Nevertheless, the information could still be improved.

### I. Prison populations

#### I.1. State of prison populations pénitentiaires at 1 September 1993

The situation in prisons at a given date ("stock" data) is shown in five tables. All the absolute numbers recorded are systematically presented. In this way readers are not only provided with our proposed indicators but also have the raw data to enable them to use that information in any other way they may deem appropriate.

##### 1. *Situation in prisons*

- a. total number of prisoners;
- b. total number of prisoners;
- b. detention rate (per 100 000 inhabitants): number of prisoners present on 1 September 1993 in relation to the number of inhabitants on the same date (Fig. 1). The average detention rate is 99 per 100 000 inhabitants.

The average rate for the new member States of eastern Europe is 167 per 100 000 inhabitants.

- c. total prison capacity;
- d. occupancy rate (per 100 places): number of prisoners in relation to the number of available places (Fig. 2).

##### 2. *Variations in the number of prisoners*

The calculation of rates of increase over five years reveals contrasting trends:

- reduction: Turkey (-39,6%), Cyprus (-14,2%), Finland (-13,0), England and Wales (-6,1%).
- increase: Northern Ireland (6,5%), Denmark (6,7%), Ireland (7,9%), France (10,1%), Belgium (11,7%), Iceland (15,7%), Scotland (16,2%).
- marked increase: Switzerland (20,3%), Austria (21,1%), Sweden (22,9%), Germany (26,4%), Norway (27,7%), Luxembourg (32,0%), Portugal (33,3%), Netherlands (34,6%), Italy (46,5%), Greece (52,1%), Spain (55,8%).

##### 3. *Demographic structure*

- a. median age;
- b. prisoners aged under 21 years: number and percentage;
- c. female prisoners: number and percentage;
- d. foreign prisoners: number and percentage.

##### 4. *Legal status (numbers)*

In surveys preceding SPACE, a dichotomous variable was used to classify the legal status of the prison population: "sentenced" prisoners were those whose sentence was final while all prisoners who had not received a final sentence were classified as "unsentenced". The latter group, defined negatively, necessarily covered various legal categories: prisoners under investigation or awaiting trial, prisoners sentenced at first instance who had appealed and so on.

This method has sometimes been disputed by certain users. However, the proposed dichotomy appears to be the least undesirable in terms of international comparability. It then remains to specify the content of the "unsentenced" category, which, moreover, varies from one country to another. The SPACE system therefore adopts a five-fold classification:

- 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.

5. Legal status (rates)

In order to compare the situations of the various populations, we suggest four indicators. The first two were used in previous surveys:

- a. percentage of unsentenced prisoners at 1 September 1993: the number of "unsentenced prisoners" at that date as a percentage of the total number of prisoners at the same date. Here "unsentenced prisoners" means all prisoners who have not been finally sentenced.
- b. unsentenced prisoner rate at 1 September 1993: the number of "unsentenced prisoners" at that date in relation to the number of inhabitants at the same date, expressed per 100 000 inhabitants (Fig. 3).
- c. percentage of untried prisoners on 1 September 1993: the number of "prisoners awaiting trial" at that date as a percentage of the total number of prisoners at the same date.
- d. untried prisoner rate at 1 September 1993: the number of "prisoners awaiting trial" at that date in relation to the number of inhabitants at the same date, expressed per 100 000 inhabitants (Fig. 4).

For the calculation of the last two rates, only prisoners who come under the "untried" heading are taken into account.

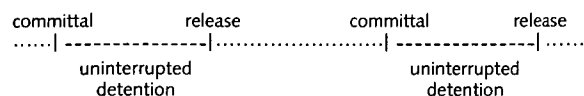
1.2. Committals to prison in 1992 and length of imprisonment

The stock data which have just been discussed are supplemented by information on committals to prison during the period in question ("flow" data) and lengths of imprisonment.

6. Committal to prison

- a. total number of first committals in 1992;

The concept of committal to prison raises a number of problems: what is being counted here is not the number of persons concerned – in that case the term used would have been number of persons admitted – but the number of admissions counted during the year. The aim is to measure the frequency, in a given country, of an event which may be repeated. The same person may therefore be counted several times (committals for several offences during the same year, committals for the same offence at different stages of the proceedings):



The expression "uninterrupted imprisonment" takes no account of movements into and out of prison for reasons connected with a prisoner's appearance before a judicial authority during proceedings, those associated with short-term leave or other comparable cases.

- b. committal rate (per 100 000 inhabitants): the number of committals to prison in 1992 in relation to the average number of inhabitants during the period

considered. Given the information available, the number actually used was the figure supplied by the authorities for the number of inhabitants on 1 September 1992 (Fig. 5).

- c. first committals before final sentence: number and percentage.

7. Indicator of the average length of imprisonment

- a. total number of days of imprisonment in 1992;
  - b. average number of prisoners in 1992;
- (b) = (a) / 365

- c. indicator of the average length of imprisonment (D): quotient of the average number of prisoners in 1992 (P) and the flow of admissions during that period (E):  $D = 12 \times P/E$  – length expressed in months (Fig. 6).

Anyone using the indicator of the average length of imprisonment must be aware of its limitations. It hypothesises a no-change situation in the prison population which is seldom confirmed in practice. For the prison population to remain stationary two conditions must be satisfied: 1. the number of committals must not change from one year to another: 2. the exit rate must be the same for all the groups of committals (identical release tables). Such an indicator does not allow the situation to be assessed over the short term, especially if there are significant variations in the number of committals or the exit rate resulting from a measure with immediate effects (for example an amnesty). On the other hand, the indicator does make it possible to highlight variations over the medium term (for example ten years).

8. Legislative (or other) measures

Legislative (or other) measures during the last twelve months which directly influence trends in the number of prisoners (amnesties, collective pardons, etc.).

1.3. Escapes (1992)

The topic selected for the variable part of the survey was escapes. This is not a straightforward concept since there are clearly several ways of escaping from prison. The classification adopted here is that proposed by Mrs Annie Kensey of the French Prison Administration, which we considered quite suitable. Nevertheless, certain countries did question whether particular categories should be classed as escapes. Their decisions in this regard have been respected and where appropriate the relevant statistics have been included in footnotes. The overall totals are therefore not always comparable.

9.1. Numbers

- a. Total number of escapes
- b. Number of escapes by prisoners under the supervision of the prison administration from a closed prison or during administrative transfer;

c. Number of escapes by prisoners under the supervision of services other than the prison administration (hospital, under escort, etc);

d. Number of escapes by prisoners from open or semi-open prisons;

e. Number of escapes by prisoners during authorised absences (failure to return x number of hours after appointed time (specify x)).

### 9.2. *Escape rate per 1 000 prisoners*

For each type of escape, an escape rate has been calculated, relating the number of escapes in the year to the average number of prisoners given in table 7 (calculated on the basis of the number of days of imprisonment).

## II. Community sanctions and measures ordered in 1991

The questionnaire did not attempt to cover all the non-custodial measures and sanctions which may exist in the various countries. The sanctions and measures counted must have been ordered as principal penalties by criminal courts (adults and juveniles combined).

Before describing the statistics collected, reference should be made to the measures and sanctions covered and the terminology used in both languages:

1. Dispense de peine après déclaration de culpabilité – Exemption from punishment following finding of guilt;

2. Suspension du prononcé de la condamnation après déclaration de culpabilité (sans mise en détention) – Pronouncement of sentence deferred following finding of guilt (without committal);

3. Amende – Fine;

4. Travail au profit de la communauté – Community service;

5. Sursis total à l'exécution d'une peine d'emprisonnement – Prison sentence imposed, with execution being fully suspended;

6. Sursis partiel à l'exécution d'une peine d'emprisonnement – Prison sentence imposed, with part to be served, and with part to be suspended;

7. Autres formes de "probation" après déclaration de culpabilité, non visées par les items (1) à (6) (à l'exclusion des mesures et sanctions propres aux mineurs) – Other cases of "probation", following finding of guilt, not covered by items (1) to (6); (not including measures and sanctions in the field of juvenile criminal law).

### 10. *Sentences of imprisonment*

prison sentences without full or partial suspension (peine d'emprisonnement sans sursis) ordered in 1991.

a. number of sentences

b. number of inhabitants (average for 1991)

c. rate of sentences: number of sentences of imprisonment without full or partial suspension ordered in

1991 in relation to the total population (expressed per 100 000 inhabitants)

These very general figures must be related to other indicators including, firstly, the breakdown of sentences according to their length.

### 11. *Prison sentences according to length*

This also concerns prison sentences ordered in 1991 without full or partial suspension. The classes defined a priori were as follows: "under 3 months", "3 to 6 months", "6 months to one year" and "one year and over". There were considerable variations in circumstances.

Tables 11 to 14 show the numbers corresponding to the various measures and sanctions ordered in 1991.

### 12. *Suspensions of sentence ordered in 1991*

#### 13. *Other measures ordered in 1991*

a. exemption from punishment;

b. pronouncement of sentence deferred;

c. day fine;

d. community service.

No statistics have been presented on ordinary fines since the coverage of the information supplied appears to vary greatly from one country to another (particularly in the case of road traffic offences).

#### 14. *Other cases of probation (measures ordered in 1991)*

Finally, we have attempted to present a synopsis of the situation in Table 15. This table consists of 21 lines x 7 columns (with Canada excluded), a total of 147 cells.

1. The dotted lines indicate that the statistical information is not available. This applies in 48 cases (33%). Such a situation is a matter of regret.

2. The stars indicate that the question is not applicable since the measure referred to does not exist. They are used in 44 cases (30%).

3. In the remaining 55 cases we have compared the use of the various non-custodial measures with the number of unsuspended prison sentences (expressed as a percentage).

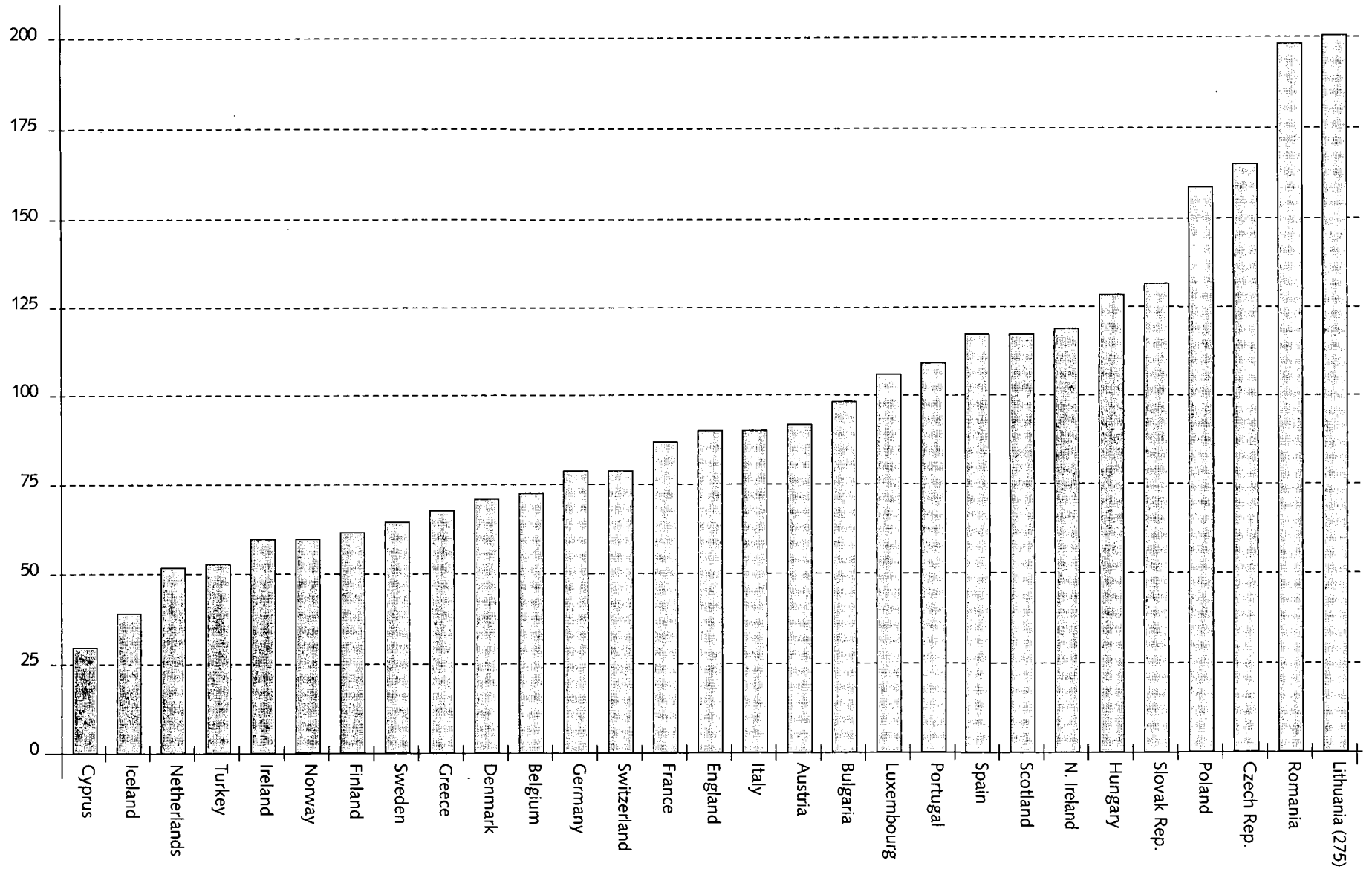
Thus in France, for example, for every 100 immediate prison sentences imposed there were 4 day fines and 13 community service orders.

It is therefore possible to specify for each country which penalties are used most. The task of comparing these data on unsuspended prison sentences with the distribution of sentences according to length, and even with the prison data set out in the first part, is left to the reader.

Paris, 10 November 1994

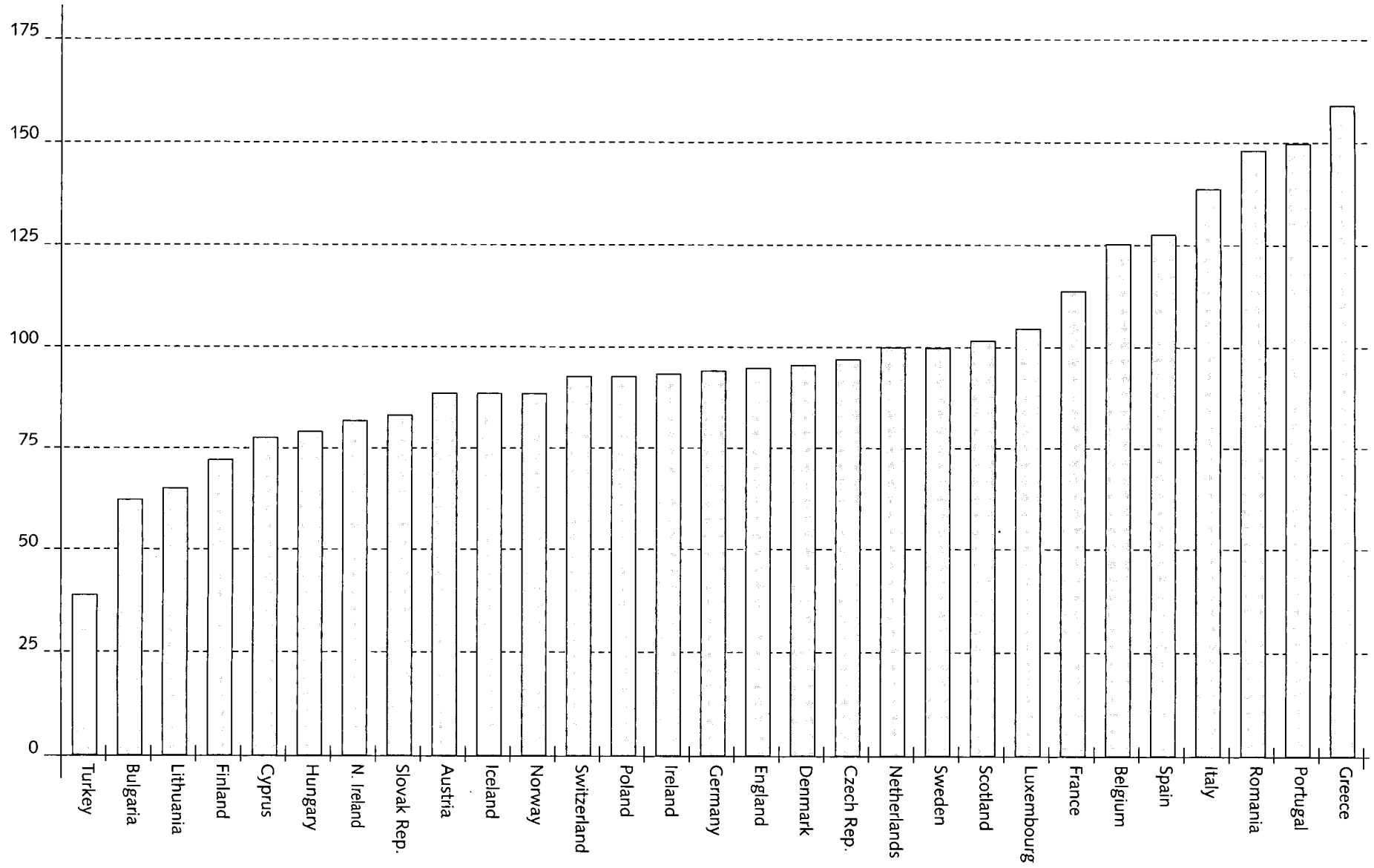
Pierre Tournier  
Researcher at the CNRS  
CESDIP, 4, rue de Mondovi 75001 PARIS

Figure 1 - Rate of imprisonment at 1 September 1993 (per 100 000 inhabitants)



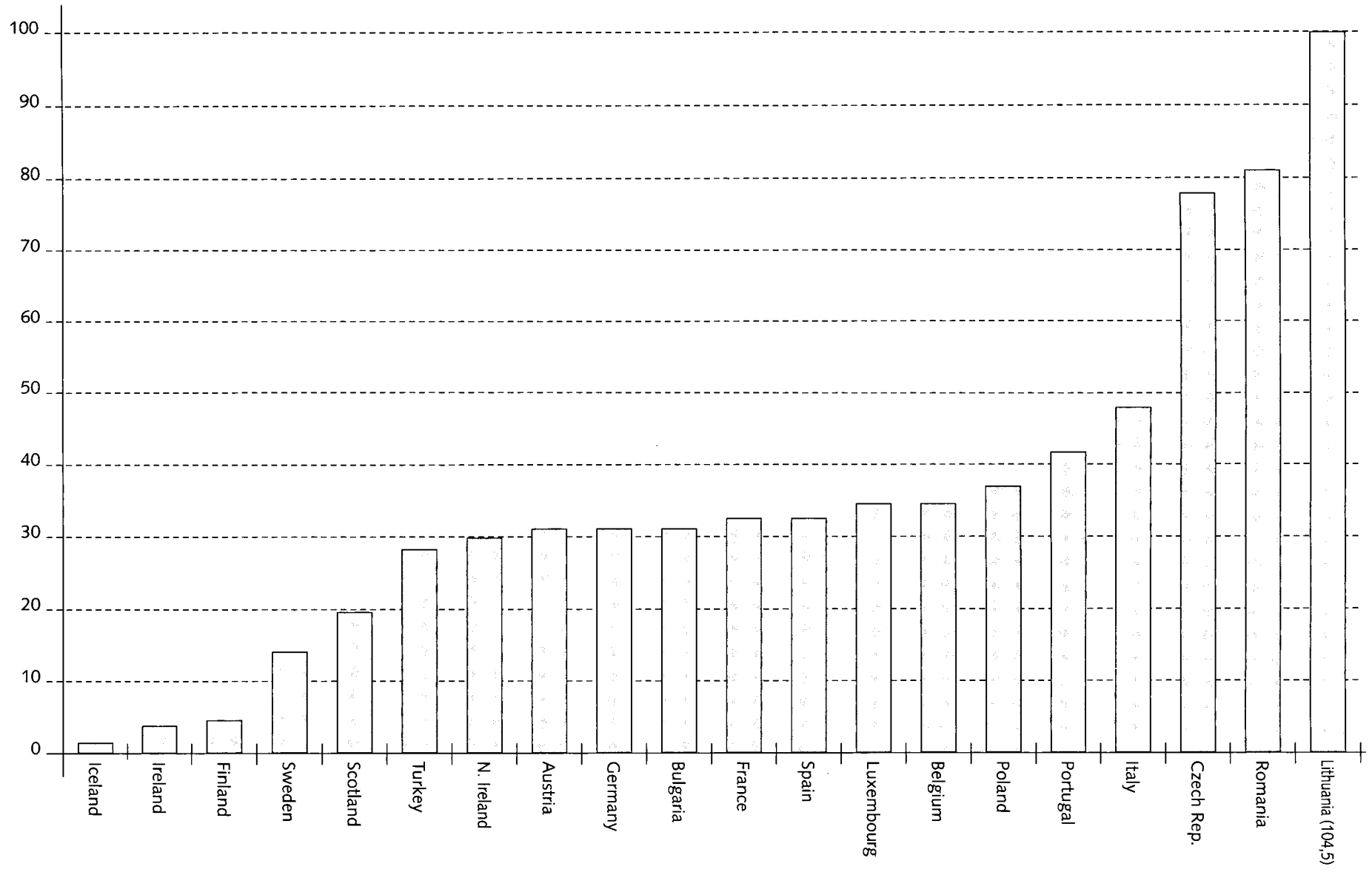
Source : S.PACE 93.1

Figure 2 - Prison occupancy rate at 1 September 1993 (per 100 places)



Source : S.PACE 93.1

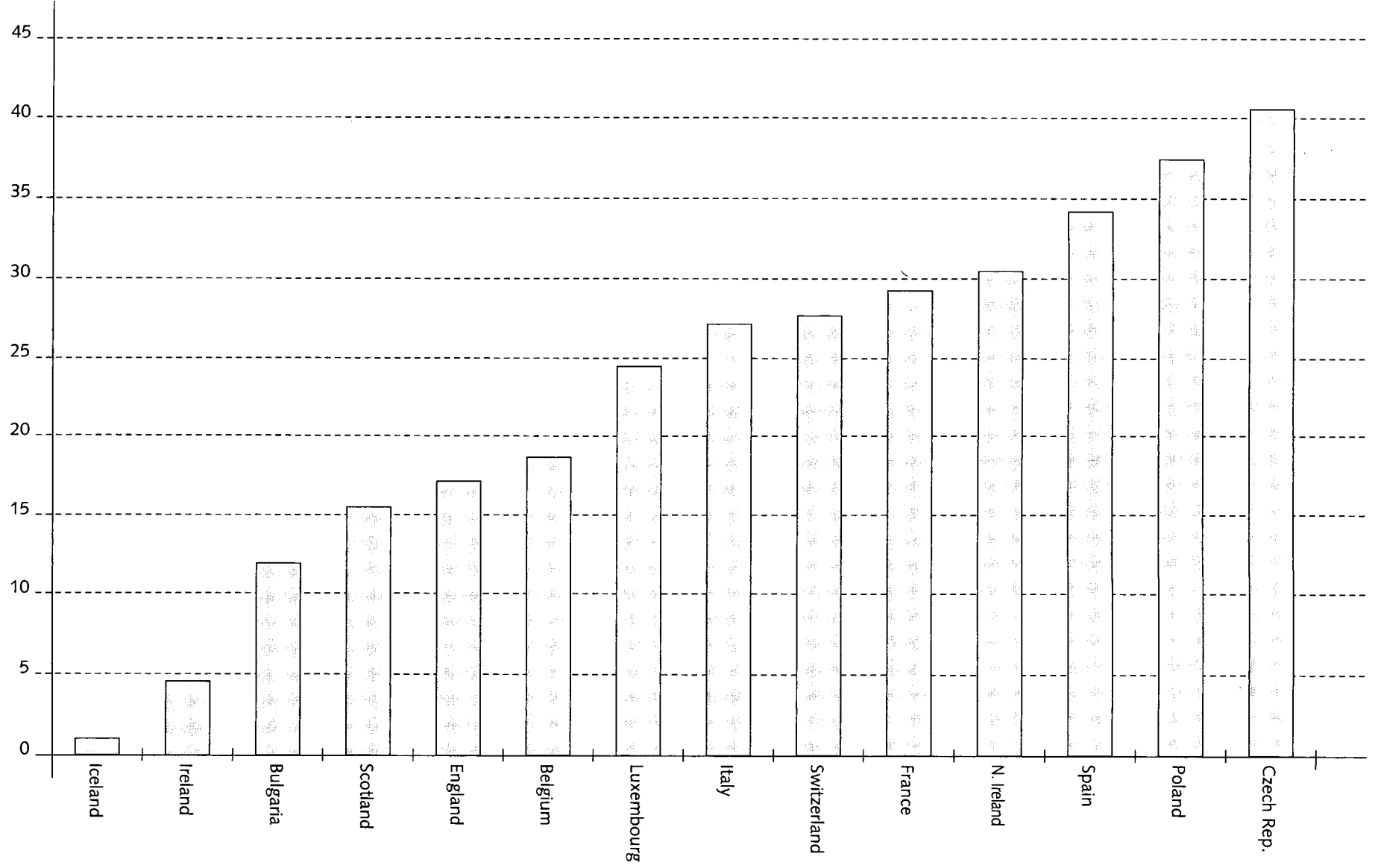
Figure 3 - Pre-trial detention rate at 1 September 1993 (per 100 000 inhabitants)



Source : S.PACE 93.5



Figure 4 - Rate of detention of prisoners awaiting judgment at 1 September 1993 (per 100 000 inhabitants)



Source: S.PACE 93.5

Figure 5 - Committal rate in 1992 (per 100 000 inhabitants)

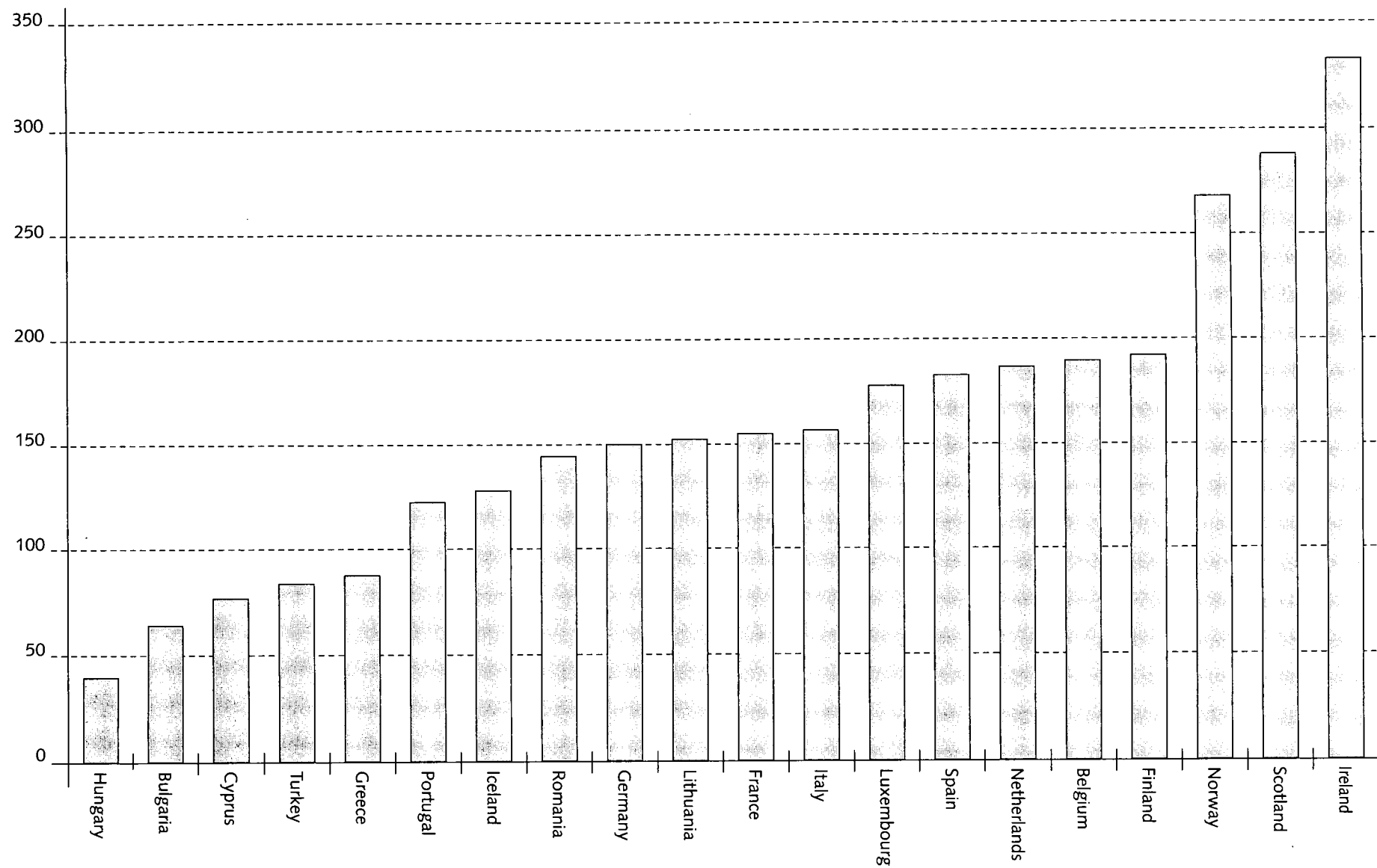
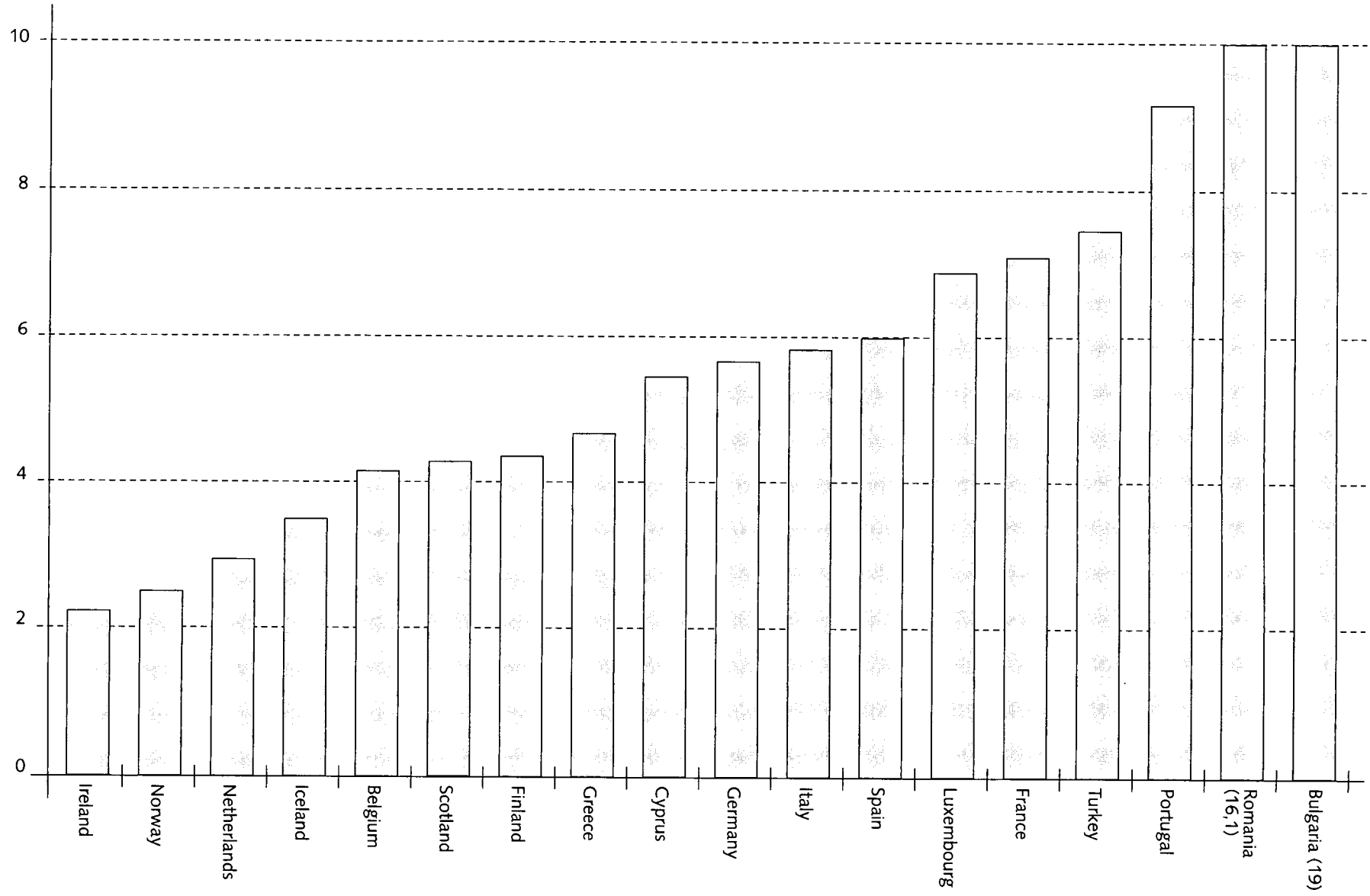
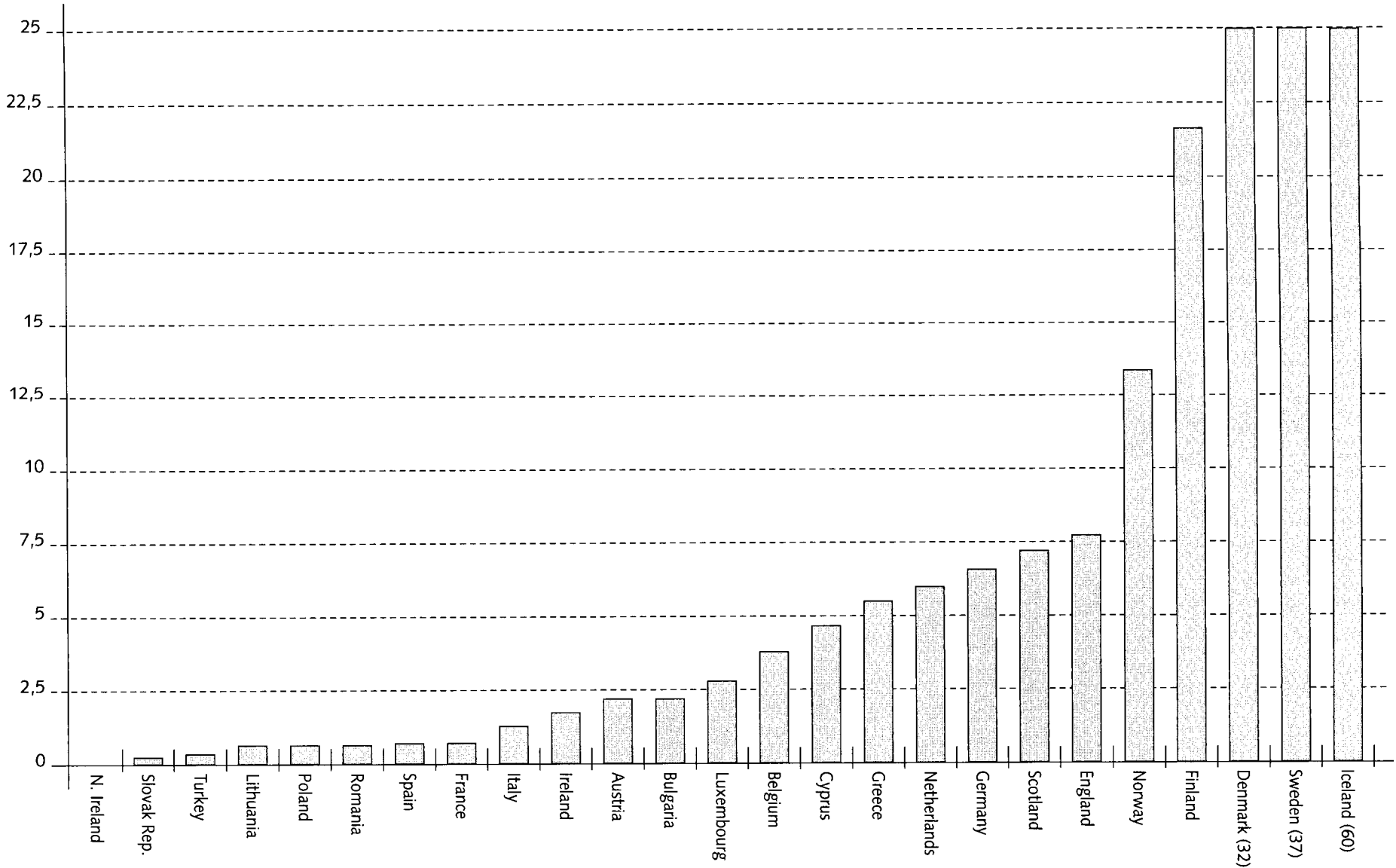


Figure 6 - Average length of imprisonment in months (in 1992)



Source : S.PACE 93.7

Figure 7 - Escapes of prisoners under the supervision of the prison administration from a closed prison or during administrative transfer: rate per 1 000 prisoners



Source: S.PACE 93.92

## 1. Situation in prison at 1.9.1993

- (a) total number of prisoners  
 (b) rate of imprisonment (per 100 000 inhabitants)  
 (c) total prison capacity  
 (d) occupancy rate (per 100 places)

Reference: Council of Europe, S.PACE 93.1

	(a)	(b)	(c)	(d)
Germany (*)	65 838	81,0	69 958	94,1
Austria	7 099	91,0	7 971	89,1
Belgium	7 203	72,1	5 746	125,4
Bulgaria (*)	8 364	98,9	13 102	63,8
Cyprus	188	30,0	240	78,3
Denmark	3 702	71,0	3 780	97,9
Spain	45 711	114,9	36 000	127,0
Estonia	...	...	...	...
Finland	3 132	61,8	4 296	72,9
France	51 134	86,3	45 945	111,3
Greece (*)	6 524	68,0	4 08	159,6
Hungary	13 196	132,0	16 223	81,3
Ireland	2 108	59,8	2 265	93,1
Iceland	103	38,9	115	89,6
Italy	50 794	89,0	37 567	135,2
Lithuania	10 324	275,0	15 300	67,5
Luxembourg	425	107,5	40	106,0
Malta	...	...	...	...
Norway (*)	2 607	60,0	2 899	89,9
Netherlands (*)	7 843	51,0	7 813	100,4
Poland	61 895	160,0	66 969	92,4
Portugal	10 904	111,0	7 267	150,0
Slovak Republic	7 221	136,0	8 479	85,2
Czech Republic	16 567	165,0	16 611	99,7
Romania	46 189	200,0	30 886	149,5
United Kingdom				
England and Wales (*)	45 633	89,0	46 964	97,2
Scotland	5 900	115,0	5 746	102,7
Northern Ireland (*)	1 902	118,0	2 253	84,4
Slovenia	...	...	...	...
Sweden (*)	5 794	66,0	5 715	101,4
Switzerland (*)	5 627	81,0	6 097	92,3
Turkey	31 304	51,6	79 985	39,1
Canada (*)	12 968	...	12 363	104,9

(\*) See remarks p. 51

## 2. Changes in the number of prisoners (numbers at 1 September)

Reference: Council of Europe, S.PACE 93.2

	1988	1989	1990	1991	1992	1993
Germany (*)	52 076	51 729	48 792	49 658	...	65 838
Austria	5 862	5 771	6 231	6 655	6 913	7 099
Belgium	6 450	6 761	6 525	6 035	7 116	7 203
Bulgaria	...	...	...	7 822	8 749	8 364
Cyprus	219	191	218	...	193	188
Denmark	3 469	3 378	3 243	...	3 406	3 702
Spain	29 344	31 137	32 902	36 562	35 246	45 711
Estonia	...	...	...	...	...	...
Finland	3 598	3 103	3 106	3 130	3 295	3 132
France	46 423	45 102	47 449	48 675	49 323	51 134
Greece (*)	4 288	4 564	...	5 008	6 252	6 524
Hungary	...	...	...	14 629	...	13 196
Ireland	1 953	1 980	...	2 114	2 155	2 108
Iceland	89	113	104	101	101	103
Italy	34 675	30 594	32 588	32 368	46 152	50 794
Lithuania	...	...	...	...	...	10 324
Luxembourg	322	345	352	348	352	425
Malta	221	...	...	...	...	...
Norway	2 041	2 171	2 260	2 510	...	2 607
Netherlands	5 827	6 461	6 662	...	7 397	7 843
Poland	...	...	...	...	...	61 895
Portugal	8 181	8 458	9 059	8 092	9 183	10 904
Slovak Republic	...	...	...	...	6 507	7 221
Czech Republic	...	...	...	...	13 279	16 567
Romania	...	...	...	36 542	44 610	46 189
United Kingdom						
England and Wales	48 595	48 481	45 649	46 310	46 350	45 633
Scotland	5 076	4 786	...	4 860	5 357	5 900
Northern Ireland	1 786	1 780	1 733	1 660	1 811	1 902
Slovenia	...	...	...	...	...	...
Sweden	4 716	4 796	4 895	4 731	5 431	5 794
Switzerland	4 679	4 714	5 074	5 688	5 400	5 627
Turkey	51 810	48 413	46 357	26 544	...	31 304
Canada (*)		...	...	...	12 520	12 968

(\*) See remarks p. 51

### 3. Prison population at 1.9.93: demographic structure

- (a) median age
- (b) prisoners under 21 years of age: number and percentage
- (c) female prisoners: number and percentage
- (d) foreign prisoners: number and percentage

Reference: Council of Europe, S.PACE 93.3

	(a)	(b)		(c)		(d)	
Germany	...	...	...	2 803	4,3	...	...
Austria	28	...	...	341	4,8	1 853	26,1
Belgium	28	700	9,7	348	4,8	2 924	40,6
Bulgaria (*)	33	...	...	280	4,9	118	1,4
Cyprus	35	6	3,2	6	3,2	76	40,4
Denmark	...	...	...	178	4,8	515	13,9
Spain	32	1 831	4,0	4 300	9,4	7 295	16,0
Estonia	...	...	...	...	...	...	...
Finland	32	161	5,1	111	3,5	50	1,6
France	29	5 190	10,1	2 100	4,1	15 238	29,8
Greece (*)	37	...	...	300	4,6	...	...
Hungary	...	730	5,5	748	5,7	384	2,9
Ireland (*)	28	691	32,8	34	1,6	...	...
Iceland	31	13	12,6	3	2,9	3	2,9
Italy	33	2 529	5,0	2 775	5,5	7 593	14,9
Lithuania	...	327	3,2	298	2,9	64	0,6
Luxembourg	31	39	9,2	16	3,8	209	49,2
Malta	...	...	...	...	...	...	...
Norway	30	151	5,8	121	4,6	342	13,1
Netherlands	29	969	12,4	339	4,3	2 276	29,0
Poland	33	6 935	11,2	1 484	2,4	958	1,5
Portugal	32	879	8,1	795	7,3	918	8,4
Slovak Republic	31	1 233	17,1	216	3,0	123	1,7
Czech Republic	28	1 073	6,5	274	1,7	195	1,2
Romania	30	4 410	9,5	1 428	3,1	349	0,8
United Kingdom							
England and Wales (*)	27	8 016	17,6	1 681	3,7	2 718	6,0
Scotland	...	875	14,8	179	3,0	14	0,2
Northern Ireland	...	367	19,3	36	1,9	...	...
Slovenia	...	...	...	...	...	...	...
Sweden (*)	33	178	3,9	234	5,2	1 151	25,4
Switzerland (*)	31	117	2,9	346	6,1	1 904	47,1
Turkey	...	6 611	21,1	1 010	3,2	217	0,7
Canada	34	...	...	285	2,2	916	7,1

(\*) See remarks p. 51

#### 4. Prison population at 1.9.93: legal status (numbers)

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

Reference: Council of Europe, S.PACE 93.4

	(a)	(b)	(c)	(d)	(e)
Germany (*)	40 723	...	(c+d)	(c+d)	3 690
Austria (*)	4 694	(b+d)	***	(b+d)	270
Belgium (*)	3 693	451	***	1 827	1 232
Bulgaria (*)	5 749	...	1 593	1 022	***
Cyprus (*)	...	...	...	...	...
Denmark (*)	...	...	...	...	...
Spain	32 102	***	***	13 609	***
Estonia	...	...	...	...	...
Finland (*)	2 860	(b+d)	***	(b+d)	***
France	31 142	2 069	***	17 640	382
Greece (*)	...	...	2 358	...	...
Hungary (*)	...	...	...	...	...
Ireland (*)	1 942	...	...	166	...
Iceland (*)	99	1	***	3	0
Italy (*)	23 374	3 093	7 417	15 544	1 366
Lithuania	6 387	159	2 728	...	...
Luxembourg (*)	288	36	***	98	3
Malta	...	...	...	...	...
Norway (*)	...	...	...	...	...
Netherlands (*)	...	...	...	...	...
Poland (*)	46 985	...	...	14 578	332
Portugal (*)	6 822	(b+c+d)	(b+c+d)	(b+c+d)	249
Slovak Republic (*)	...	...	...	...	...
Czech Republic (*)	8 757	...	3 742	4 068	...
Romania (*)	27 451	6 332	(c+d)	(c+d)	985
United Kingdom					
England and Wales (*)	(a+b)	(a+b)	2 804	8 603	610
Scotland (*)	4 858	...	131	807	104
Northern Ireland (*)	1 415	...	...	487	0
Slovenia	...	...	...	...	...
Sweden (*)	4 530	(b+c+d)	(b+c+d)	(b+c+d)	74
Switzerland (*)	4 040	...	...	1 908	...
Turkey (*)	13 798	(b+c+d)	(b+c+d)	(b+c+d)	0
Canada	12 968	0	0	0	0

(\*) See remarks p. 51

\*\*\* : not applicable



## 5. Prison population at 1.9.93: legal status (rates)

- (a) percentage of unsentenced prisoners
- (b) unsentenced prisoners per 100 000 inhabitants
- (c) percentage of untried prisoners
- (d) untried prisoners per 100 000 inhabitants

Reference: Council of Europe, SPACE 93.5

	(a)	(b)	(c)	(d)
Germany	38,1	30,9	...	...
Austria	33,9	30,8	...	...
Belgium	48,7	35,1	25,4	18,3
Bulgaria	31,3	30,9	12,2	12,1
Cyprus	...	...	...	...
Denmark	...	...	...	...
Spain	29,8	34,2	29,8	34,2
Estonia	...	...	...	...
Finland	8,7	5,4	...	...
France	39,1	33,7	34,5	29,8
Greece	...	...	...	...
Hungary	...	...	...	...
Ireland	7,9	4,7	7,9	4,7
Iceland	3,9	1,5	2,9	1,1
Italy	54,0	48,0	30,6	27,2
Lithuania	38,1	104,9	...	...
Luxembourg	32,2	34,7	23,1	24,8
Malta	...	...	...	...
Norway	...	...	...	...
Netherlands	...	...	...	...
Poland	24,1	38,5	23,6	37,7
Portugal	37,4	41,6	...	...
Slovak Republic	...	...	...	...
Czech Republic	47,1	77,8	24,6	40,5
Romania	40,6	81,1	...	...
United Kingdom				
England and Wales	...	...	18,9	16,8
Scotland	17,7	20,3	13,7	15,7
Northern Ireland	25,6	30,2	25,6	30,2
Slovenia	...	...	...	...
Sweden	21,8	14,4	...	...
Switzerland	...	...	33,9	27,5
Turkey	55,9	28,9	...	...
Canada	...	...	...	...

## 6. Committal flow for 1992

- (a) number of first committals  
 (b) committal rate (per 100 000 inhabitants)  
 (c) first committals before final sentence: number and percentage

Reference: Council of Europe, SPACE 93.6

	(a)	(b)	(c)	
Germany (*)	121 410	149,4	...	...
Austria	...	...	...	...
Belgium	19 395	193,5	8 909	45,9
Bulgaria	5 468	64,2	3 765	68,8
Cyprus	447	74,1	316	70,7
Denmark	...	...	...	...
Spain	70 665	181,2	63 663	90,1
Estonia	...	...	...	...
Finland	9 851	195,5	1 525	15,5
France	91 545	155,3	72 030	78,7
Greece	9 231	87,9	...	...
Hungary (*)	3 324	33,3	...	...
Ireland	11 485	328,3	5 628	49,0
Iceland	328	125,0	85	25,9
Italy	90 426	156,7	...	...
Lithuania (*)	5 721	152,4	...	...
Luxembourg	670	174,2	492	73,4
Malta	...	...	...	...
Norway (*)	11 778	271,1	4 128	35,0
Netherlands	28 558	187,2	14 800	51,8
Poland (*)	...	...	...	...
Portugal	12 156	123,4	10 946	90,0
Slovak Republic	...	...	...	...
Czech Republic	...	...	...	...
Romania	33 150	144,9	...	...
United Kingdom				
England and Wales(*)	100 990	...	57 551	57,0
Scotland	14 681	287,8	13 549	92,2
Northern Ireland	...	...	...	...
Slovenia	...	...	...	...
Sweden (*)	...	...	...	...
Switzerland (*)	...	...	...	...
Turkey (*)	49 996	82,4	...	...
Canada (*)	...	...	...	...

(\*) See remarks p. 52

## 7. Indicator of the average length of imprisonment (1992)

- (a) total number of days spent in prison in 1992
- (b) average number of prisoners in 1992
- (c) indicator of the average length of imprisonment (in months)

Reference: Council of Europe, SPACE 93.7

	(a)	(b)	(c)
Germany	20 945 303	57 384	5,7
Austria	2 565 000	7 027	...
Belgium	2 505 042	6 863	4,2
Bulgaria (*)	...	...	...19,0
Cyprus	75 539	207	5,6
Denmark	1 312 905	3 597	...
Spain (*)	...	...	6,0
Estonia	...	...	...
Finland	1 285 000	3 521	4,3
France	18 906 875	51 800	6,8
Greece	1 286 250	3 524	4,6
Hungary	...	...	...
Ireland (*)	...	...	2,2
Iceland	36 426	100	3,6
Italy	16 108 728	44 133	5,9
Lithuania	...	...	...
Luxembourg	136 801	375	6,7
Malta	...	...	...
Norway	906 456	2 483	2,5
Netherlands	2 670 450	7 316	3,0
Poland	22 475 694	61 577	...
Portugal (*)	...	...	9,1
Slovak Republic	2 368 120	6 488	...
Czech Republic	...	...	...
Romania (*)	...	...	16,1
United Kingdom			
England and Wales	6 700 000	45 817	...
Scotland	1 923 930	5 271	4,3
Northern Ireland	...	...	...
Slovenia	...	...	...
Sweden	1 910 045	5 233	...
Switzerland	...	...	...
Turkey (*)	...	...	7,5
Canada	...	...	...

(\*) See remarks p. 52

## Remarks – Table 1

Reference: Council of Europe, S.PACE 93.1

**Germany:** the data refer to the situation at 30.9.93. In contrast to the previous surveys, these data appear to include the five new *Länder*.

**Bulgaria:** the data refer to the situation at 31.12.93. The prison administration lacks places in closed establishments, which are 953 prisoners above capacity. Vacant places in open and semi-open establishments cannot be used for security reasons.

**Greece:** the data relate to the situation at 1 January 1993.

**Norway:** the numbers given in (a) do not include prisoners who are legally outside ordinary prisons. (c) = 2 749 ordinary places + 150 special places (infirmaries, security cells, etc.).

**Netherlands:** (c) = places which can be used.

### United Kingdom

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

**Northern Ireland:** the data relate to the situation at 26.8.93.

**Sweden:** (a) corresponds to the number of prisoners registered. The number of prisoners present is 5 326. The difference is due to persons serving their sentences outside prison in institutions for the treatment of drug addicts, persons in hospital and escapees. (b) calculated on the basis of number present is 61 per 100 000.

**Switzerland:** the data derive from a special survey undertaken annually in all Swiss prisons. The figures relate to all persons in prison, whether or not sentenced, on 21 April 1993. The results of this survey are the only data available on persons in prison who have not (yet) been sentenced.

**Canada:** the data only relate to prisoners in federal institutions ("Adult correctional service of Canada").

## Remarks – Table 2

Reference: Council of Europe, S.PACE 93.2

**Germany:** in contrast to the previous surveys, the 1993 one appears to include the 5 new *Länder*.

**Greece:** for 1993, data at 1 January.

**Canada:** the data only relate to prisoners in federal institutions ("Adult correctional service of Canada").

## Remarks – Table 3

Reference: Council of Europe, S.PACE 93.3

**Bulgaria:** indicators (a) and (c) only relate to sentenced prisoners.

**Greece:** indicator (a) only relates to sentenced prisoners

**Ireland:** (a) et (b) ont été estimés à partir de données de 1992.

### United Kingdom

**England and Wales:** (b) includes persons aged 21 years who began serving their sentences while they were under the age of 21 and who have remained in a young offenders' institution. (b) does not include non-criminal prisoners. (d) is an estimate: it includes all those who are not of British nationality (including all prisoners whose nationality has not been recorded but whose country of birth has been recorded as being outside the United Kingdom).

**Sweden:** the data only relate to the sentenced population (4 530).

**Switzerland:** Indicators (a), (b) and (d) only relate to sentenced prisoners. The numbers relate to the situation at 1 September. The percentages have been calculated in relation to the total numbers given in table 1. These rates are therefore estimates (problem of dates).

## Remarks – Table 4

Reference: Council of Europe, S.PACE 93.4

**Germany:** no indication of where prisoners in category (b) are recorded. (c) and (d) are recorded together (21 425). The contents of category (e) are not known.

**Austria:** (b) and (d) recorded together (2 135).

### Belgium:

(e)= internees (Social Defence Act)	789
aliens (administrative measures)	344
beggars and vagrants	81
habitual offenders at the Government's disposal	2
juveniles (under 18 years of age in provisional custody)	16

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

**Denmark:** inconsistent data: (a)+(b)+(c)+(d)+(e) = 3 539, whereas the total number of prisoners given is 3 702.

**Cyprus:** inconsistent data: (a)+(b)+(c)+(d)+(e) = 194, whereas the total number of prisoners given is 188.

**Finland:** (b) and (d) recorded together (272).

**Greece:** only category (c) is reported, accompanied by the heading "untried". No information about the remainder!

**Hungary:** inconsistent data: (a)+(b)+(c)+(e) = total number of prisoners and (d) = 3 557.

**Ireland:** (a) + (d) = total number of prisoners, (a) and (d) have been estimated on the basis of 1992 data; (b), (c) and (e) are unavailable. No more information.

**Iceland:** (d) relates more specifically to prisoners not yet sentenced.

**Italy:** (e) relates to prisoners subject to a security measure.

**Luxembourg:** (e) = minors sentenced to custody by the juvenile court.

**Norway:** inconsistent data: (a)+(b)+(c)+(d)+(e) = 2 690, whereas the total number of prisoners is 2 607.

**Netherlands:** inconsistent data: (a)+(b)+(c)+(d)+(e) = 10 454, whereas the total number of prisoners was 7 843.

**Poland:** no data for (b) and (c); no information about where these two categories are recorded.

**Portugal:** (b), (c) and (d) recorded together (3 833). (e) = prisoners subject to a security measure.

**Slovak Republic:** data according to legal status inconsistent.

**Czech Republic:** no information about (b) and (e), data not available.

**Romania:** (c) and (d) appear to be recorded together (11 421). (e) concerns prisoners sentenced for a petty offence.

#### **United Kingdom**

**England and Wales:** (a) and (b) are recorded together (33 616). No special status is granted to prisoners who have appealed or who are within the statutory limit for doing so, so no record is kept of the numbers in this group. They are included with those finally sentenced. (e) concerns "non-criminal prisoners".

**Scotland:** no information about where category (b) is recorded.

**Northern Ireland:** (a)+(d)+(e) = total prisoners. No information about (b) and (c).

**Sweden:** (b), (c) and (d) recorded together (1190). (e) concerns certain prisoners who are drug addicts, special detention for juveniles, unauthorised aliens awaiting extradition, persons who are to be placed in psychiatric establishments and persons who have not complied with probation conditions.

**Switzerland:** (a) concerns convicted persons serving a sentence on 1 September 1993. (d) concerns persons detained on remand on 21 April 1993. No data on (b), (c) and (e).

**Turkey:** (b), (c) and (d) recorded together (17 506).

#### **Remarks – Table 6**

*Reference: Council of Europe, S.PACE 93.6*

**Germany:** in the absence of available information for 1.9.92, indicator (b) has been calculated on the basis of the detention rate and the prison population on 30.9.93.

**Hungary:** in the absence of available information for 1.9.92, indicator (b) has been calculated on the basis of the detention rate and the prison population on 1.9.93. The figure for entries (3 324) seems particularly low. For 1990, the Hungarian administration had reported 13 639. We have no information for 1991. We have not

therefore calculated an average length of detention on the basis of such data.

**Lithuania:** in the absence of available information for 1.9.92, indicator (b) has been calculated on the basis of the detention rate and the prison population on 1.9.93.

**Norway:** in the absence of available information for 1.9.92, indicator (b) has been calculated on the basis of the detention rate and the prison population on 1.9.93.

**Poland:** sentenced prisoners entering = 14 642.

#### **United Kingdom**

**England and Wales:** (a) = only the first committal in 1992 for a given offence is counted, which means that a person initially remanded to prison in 1992 and subsequently admitted after sentence in 1992 for the same offence is counted only once. Similarly, for (c), a person admitted before being found guilty in 1992 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 9 and 10 of the questionnaire refer). We have therefore not calculated indicator (b).

**Sweden:** sentenced prisoners entering = 6 390.

**Switzerland:** sentenced prisoners entering = 10 463.

**Turkey:** in the absence of available information for 1.9.92, indicator (b) has been calculated on the basis of the detention rate and the prison population on 1.9.93.

**Canada:** 7 370 sentenced prisoners admitted in 1992-1993.

#### **Remarks – Table 7**

*Reference: Council of Europe, S.PACE 93.7*

**Bulgaria:** in the absence of an estimate of the average prison population in 1992, (c) has been calculated on the basis of the population on 1.12.92.

**Spain:** in the absence of an estimate of the average prison population in 1992, (c) has been calculated on the basis of the population on 1.9.92.

**Ireland:** in the absence of an estimate of the average prison population in 1992, (c) has been calculated on the basis of the population on 1.9.92.

**Portugal:** in the absence of an estimate of the average prison population in 1992, (c) has been calculated on the basis of the population on 1.9.92.

**Romania:** in the absence of an estimate of the average prison population in 1992, (c) has been calculated on the basis of the population on 1.9.92.

**Turkey:** in the absence of an estimate of the average prison population in 1992, (c) has been calculated on the basis of the population on 1.9.93.

## 8. Legislatives (or other) measures...

... during the last 12 months which directly influence trends in the number of prisoners (amnesty, collective pardon, etc.)

Reference: Council of Europe, S.PACE 93.8

**Austria:** collective pardon at Christmas.

**Belgium:** several ministerial circulars regarding the non-enforcement of imprisonment in default of paying fines and provisional release pending a pardon;

- repeal of the begging and vagrancy legislation;
- royal decree granting a collective pardon to mark the Belgian presidency of the European Communities: remission of sentences for petty offences and six months' remission for lesser and criminal offences.

**Cyprus:** 58 prisoners due for release one month after the Christmas or Easter holidays were freed before these holidays on the orders of the President of the Republic.

**Finland:** community work experiment extended to four new regions (1992).

**France:** collective pardon decree of 2.7.92. Ten days' remission per month or fraction of a month remaining to be served, subject to a maximum six months' remission.

**Greece:** Acts 2172/93 and 2207/94 have already resulted in a fall in the Greek prison population. The main purpose of these acts is to improve penal policy and respect for fundamental rights and to demonstrate that detention on remand is absolutely exceptional in character.

**Iceland:** Parliament has voted community service legislation which will come into force on 1.7.95.

**Lithuania:** amnesty in 1993.

### Remarks – Table 9.1

Reference: Council of Europe, S.PACE 93.9.1

**Germany:** data relating to categories (c) and (e) are unavailable. It is not clear what is covered by total (a), which is greater than (b) + (d).

**Austria:** (e) - failure to return means more than 12 hours late.

**Belgium:** category (c) is not recorded. (e) is not classified as an escape but as "failure to return for at least one night": the prisoner has been authorised to leave the prison but has not returned. These are not escapes in the strict sense of the term (those concerned have evaded the execution of their sentence). (e) = 380, following leave = 194, following permission to leave the prison = 148, serving semi-custodial sentence = 33, on weekend leave = 5.

**Denmark:** category (c) is included in (b). Category (e) is not recorded in total escapes. It totals 2 727 (1 921 less than and 806 more than 24 hours late).

**Finland:** (b) also covers establishments which are theoretically closed but structurally very open. (d) concerns open establishments.

**France:** (b) = 26 escapes concerning 45 prisoners; (d) only concerns open establishments; semi-open unavailable; (e) failure to return means more than 48 hours late.

**Italy:** for category (e), the Italian administration makes the following distinctions: "outside house leave" (24), "outside on bonus leave" (47), "community based measure" (32), "from home leave" (56).

**Norway:** (e) is not included in escapes; (e) = 243 ie 1,5% of authorised absences. The data on (c) are not available. It is not clear what corresponds to total (a) = 131, when (b)+(d) = 109.

**Poland:** (e) is not included in escapes.

**Portugal:** (e) is not included in escapes but is classified as an unauthorised absence from the establishment. In 1992, 3 267 authorisations to leave the prison were granted, with 111 prisoners not returning until the following day.

### United Kingdom

**England and Wales:** total (a) only comprises category (b), broken down into 232 escapes from prison and 115 escapes during transfer. No data on category (c). Category (d) - "absconders" - = 1 943; category (e) - "temporary release failures" - = 3 478.

**Northern Ireland:** (e) is not included in escapes. (e) = 76 over the period 1.4.92 - 31.3.93; failure to return means more than 24 hours late and represents 2,3% of authorised absences.

**Sweden:** (b) comprises 12 escapes from high security prison (national closed prison), 156 from medium security prison (local closed prison), 4 during transfer from high security prison and 23 during transfer from medium security prison. Prisoners being transferred are not always strictly supervised. It is not possible to distinguish in the statistics between cases where there was strict supervision and others. Statistics are only produced by type of establishment. (c): not all hospitalised prisoners are supervised. (d): 415, including 7 during administrative transfer. (e): 1 075, including 769 granted leave of absence. In total, approximately 50 000 leaves of absence were granted in 1992. They vary in length from several to 72 hours.

- 30 escapes following authorised absence linked to work or study. A total of 900 benefitted from such measures in 1992.

- 65 during leisure activities outside prison. Approximately 23 000 such authorisations were granted in 1992.

- 16 escapes from an outside work site (gardening, etc...)

- 195 escapes during periods spent outside prison under section 34 of the Correctional Treatment in

(continued p. 60)

### 9.1. Escapes in 1992 : numbers

- (a) total number of escapes
- (b) closed prison or administrative transfer
- (c) under the supervision of a non-prison service
- (d) from open or semi-open prisons
- (e) failure to return after authorised absence

Reference: Council of Europe, SPACE 93.9.1

	(a)	(b)	(c)	(d)	(e)
Germany (*)	1 589	370	...	918	...
Austria (*)	243	16	0	131	96
Belgium (*)	249	26	...	223	***
Bulgaria	255	20	22	30	183
Cyprus	3	1	0	2	0
Denmark (*)	449	116	***	333	***
Spain	871	31	21	59	760
Estonia	...	...	...	...	...
Finland (*)	736	76	4	129	527
France (*)	278	45	25	5	203
Greece	112	20	22	28	42
Hungary	...	...	...	...	...
Ireland	372	4	0	294	74
Iceland	8	6	2	0	0
Italy (*)	213	52	2	0	159
Lithuania	26	8	3	12	3
Luxembourg	3	1	0	2	0
Malta	...	...	...	...	...
Norway (*)	131	33	...	76	***
Netherlands	1 235	44	0	292	899
Poland (*)	324	49	18	257	***
Portugal (*)	62	...	...	...	***
Slovak Republic	156	2	4	6	144
Czech Republic	34	...	...	...	...
Romania	54	38	0	16	0
United Kingdom					
England and Wales (*)	347	347	...	***	***
Scotland	178	38	5	54	81
Northern Ireland (*)	2	0	2	0	***
Slovenia	...	...	...	...	...
Sweden (*)	1 721	195	43	408	1 075
Switzerland	...	...	...	...	...
Turkey	246	16	84	146	0
Canada (*)	195				

(\*) See remarks p. 53

## 9.2. Escapes in 1992 : rates per 1 000 prisoners

- (a) overall total
- (b) closed prison or administrative transfer
- (c) under the supervision of a non-prison service
- (d) from open or semi-open prisons
- (e) failure to return after authorised absence

Reference : Council of Europe, SPACE 93.9.2

	(a)	(b)	(c)	(d)	(e)
Germany	27,7	6,4	...	16,0	...
Austria	34,6	2,3	0,0	18,6	13,7
Belgium	36,3	3,8	...	32,5	...
Bulgaria (*)	29,4	2,3	2,5	3,5	21,1
Cyprus	14,5	4,8	0,0	9,7	0,0
Denmark	124,8	32,2	...	92,6	...
Spain (*)	24,7	0,9	0,6	1,7	21,5
Estonia	...	...	...	...	...
Finland	209,0	21,6	1,1	36,6	149,7
France	5,4	0,9	0,5	0,1	3,9
Greece	31,8	5,7	6,2	7,9	12,0
Hungary	...	...	...	...	...
Ireland (*)	172,6	1,9	0,0	136,4	34,3
Iceland	80,0	60,0	20,0	0,0	0,0
Italy	4,8	1,2	0,0	0,0	3,6
Lithuania (*)	2,5	0,8	0,3	1,2	0,2
Luxembourg	8,0	2,7	0,0	5,3	0,0
Malta	...	...	...	...	...
Norway	52,8	13,3	...	30,6	...
Netherlands	168,8	6,0	0,0	39,9	122,9
Poland	5,3	0,8	0,3	4,2	...
Portugal (*)	6,8	...	...	...	...
Slovak Republic	24,0	0,3	0,6	0,9	22,2
Czech Republic (*)	2,6	...	...	...	...
Romania (*)	1,2	0,8	0,0	0,4	0,0
United Kingdom					
England and Wales	7,6	7,6	...	***	***
Scotland	33,8	7,2	0,9	10,2	15,5
Northern Ireland	1,1	0,0	1,1	0,0	...
Slovenia	...	...	...	...	...
Sweden	328,9	37,3	8,2	78,0	205,4
Switzerland	...	...	...	...	...
Turkey (*)	7,9	0,5	2,7	4,7	0,0
Canada (*)	26,5	...	...	...	...

(\*) See remarks p. 60



**10. Prison sentences ordered in 1991 (without full or partial suspension):  
rate per 100 000 inhabitants**

- (a) number of sentences
- (b) number of inhabitants (average for 1991)
- (c) sentences per 100 000 inhabitants

*Reference: Council of Europe, S.PACE 93.10*

	(a)	(b)	(c)
Germany (*)	37 171	64 074 000	58,0
Austria (*)	...	7 836 300	...
Belgium (*)	...	10 000 339	...
Denmark	14 671	5 154 297	284,6
Finland	11 533	5 013 750	230,0
France	92 383	57 055 500	161,9
Greece	94 447	9 505 706	993,6
Ireland (*)	17 417	3 600 000	483,8
Italy	100 289	57 251 699	175,2
Lithuania	2 890	3 741 700	77,2
Norway(*)	4 597	4 249 830	108,2
Netherlands	19 243	15 069 797	127,7
Poland	41 972	38 363 500	109,4
Portugal	7 992	9 856 311	81,1
Slovak Republic(*)	5 431	5 295 877	102,6
Czech Republic	9 119	10 500 000	86,8
United Kingdom			
England and Wales	61 249	51 099 500	119,9
Scotland	12 036	5 107 000	235,7
Northern Ireland	2 270 1	594 399	142,4
Sweden	13 422	8 642 500	155,3
Switzerland	12 190	6 875 400	177,3
Canada (*)	...	28 117 600	...

(\*) See remarks p. 60

### 11. Prison sentences ordered in 1991 according to length (without full or partial suspension)

- (a) total number
- (b) under 3 months
- (c) 3 to 6 months
- (d) 6 months to one year
- (e) one year and over

Reference: Council of Europe, S.PACE 93.11

	(a)	(b)	(c)	(d)	(e)
Germany	37 171 100,0	< 10 047 > < 27,0 >		12 214 32,9	14 910 40,1
Austria	... 100,0	... ...	...	...	...
Belgium	... 100,0	... ...	4 887	< 1 812 >	>
Denmark	14 671 100,0	11 343 77,3	1 471 10,0	1 021 7,0	836 5,7
Finland	11 533 100,0	4 563 39,6	3 972 34,4	1 711 14,8	1 286 11,2
France	92 383 100,0	37 757 40,9	23 126 25,0	15 886 17,2	15 614 16,9
Greece	94 447 100,0	80 813 85,6	7 024 7,4	3 790 4,0	2 820 3,0
Ireland	17 417 100,0	... <	... 90	... >	... < 10 >
Italy	100 289 100,0	23 620 23,6	30 159 30,1	20 985 20,9	25 525 25,4
Lithuania	2 890 100,0	0 0,0	0 0,0	88 3,0	2 802 97,0
Norway (*)	4 597 100,0	2 142 46,7	586 12,7	972 21,1	897 19,5
Netherlands	19 243 100,0	10 979 57,0	3 630 18,9	2 441 12,7	2 193 11,4
Poland (*)	41 972 100,0	*** *,*	470 1,1	5 286 12,6	36 216 86,3
Portugal	7 992 100,0	1 278 16,0	4 316 54,0	< 2 398 > 30,0	>
Slovak Republic (*)	5 431 100,0	*** *,*	1 381 25,4	1 509 27,8	2 541 46,8
Czech Republic	9 119 100,0	67 295 0,7	1 491 3,2	7 266 16,4	79,7
United Kingdom England and Wales	61 249 100,0	11 843 19,3	14 526 23,7	14 149 23,1	20 731 33,9
Scotland	12 036 100,0	4 663 38,7	4 303 35,8	1 755 14,6	1 315 10,9
Northern Ireland	2 270 100,0	418 18,4	456 20,1	742 32,7	654 28,8
Sweden	13 422 100,0	5 892 43,9	2 564 19,1	2 672 19,9	2 294 17,1
Switzerland	12 190 100,0	10 009 82,1	705 5,8	392 3,2	1 084 8,9
Canada	...	...	...	...	...

(\*) See remarks p. 60

## 12. Suspended sentences ordered in 1991

- (a) total
- (b) fully suspended without supervision
- (c) fully suspended with supervision
- (d) partially suspended without supervision
- (e) partially suspended with supervision

Reference: Council of Europe, S.PACE 93.12

	(a)	(b)	(c)	(d)	(e)
Germany		< 76 533 >		...	...
Austria	13 458	< 12 552 >		< 1 495 >	
Belgium (*)	...	...	...	...	...
Denmark (*)	6 245	< 5 079 >		< 1 166 >	
Finland	16 312	< 16 312 >		***	***
France (*)	216 872	172 955	23 386	8 564	10 967
Greece	...	11 069	...	...	...
Ireland (*)	...	...	...	...	...
Italy (*)	...	...	***	***	3 379
Lithuania	4 591	621	2 892	1 006	72
Norway (*)	...	2 035	476	...	...
Netherlands (*)	34 632	14 112	639	19 136	745
Poland	79 775	< 79 775 >		***	***
Portugal	...	...	240	****	***
Slovak Republic	***	***	***	***	***
Czech Republic	...	...	...	***	***
United Kingdom					
England and Wales (*)	29 286	26 5133	1 625	1 148	***
Scotland	***	***	***	***	***
Northern Ireland	...	2 095	***	...	...
Sweden (*)	***	***	***	***	***
Switzerland (*)	34 908	< 34 908 >		***	***
Canada (*)	...	...	...	80 705	42 395

(\*) See remarks p. 60

### 13. Other measures ordered in 1991

- (a) exemption from punishment
- (b) pronouncement of sentence deferred
- (c) day-fine
- (d) community service

Reference: Council of Europe, S.PACE 93.13

	(a)	(b)	(c)	(d)
Germany (*)	102 167	1 200	521 291	11 762
Austria	165	851	...	...
Belgium (*)	...	4 492	...	...
Denmark (*)	1 934	4 030	***	526
Finland (*)	2 323	***	51 950	130
France (*)	10 097	...	3 805	12 326
Greece	...	...	...	...
Ireland (*)	...	...	***	1 390
Italy	***	***	***	***
Lithuania (*)	...	2 229	0	2 019
Norway (*)	...	***	...	760
Netherlands	974	...	***	12 900
Poland (*)	...	6 945	***	3 609
Portugal (*)	***	96 3	623	22
Slovak Republic	830	***	...	***
Czech Republic(*)	2 148	***	...	***
United Kingdom				
England and Wales (*)	123 529	...	***	42 495
Scotland	21 486	...	***	4 981
Northern Ireland (*)	5 097	...	***	636
Sweden	***	***	24 374	101
Switzerland	***	***	***	...
Canada	...	...	...	8 063

(\*) See remarks p. 61

Institutions Act. In the majority of cases, this involves treatment of drug abuse or alcoholism in therapeutic communities. In 1992, 700 such periods were granted.

**Canada:** 1992-1993 fiscal year.

#### Remarks – Table 9.2

*Reference: Council of Europe, S.PACE 93.9.2*

**Bulgaria:** in the absence of an estimate of the average prison population in 1992, we have taken the numbers on 1.12.92 to calculate the rates.

**Spain:** in the absence of an estimate of the average prison population in 1992, we have taken the numbers on 1.9.92 to calculate the rates.

**Ireland:** in the absence of an estimate of the average prison population in 1992, we have taken the numbers on 1.9.92 to calculate the rates.

**Lithuania:** in the absence of an estimate of the average prison population in 1992, we have taken the numbers on 1.9.92 to calculate the rates.

**Portugal:** in the absence of an estimate of the average prison population in 1992, we have taken the numbers on 1.9.92 to calculate the rates.

**Czech Republic:** in the absence of an estimate of the average prison population in 1992, we have taken the numbers on 1.9.92 to calculate the rates.

**Romania:** in the absence of an estimate of the average prison population in 1992, we have taken the numbers on 1.9.92 to calculate the rates.

#### United Kingdom

**Northern Ireland:** in the absence of an estimate of the average prison population in 1992, we have taken the numbers on 1.9.92 to calculate the rates.

**Turkey:** in the absence of an estimate of the average prison population in 1992, we have taken the numbers on 1.9.93 to calculate the rates.

**Canada:** in the absence of an estimate of the average prison population in 1992, we have taken the numbers on 1.9.93 to calculate the rates.

#### Remarks – Table 10

*Reference: Council of Europe, S.PACE 93.10*

**Germany:** in its reply, Germany systematically distinguishes between the law relating to adults and that relating to juveniles. Wherever possible, we have presented the total of the figures supplied, where necessary adding a note to clarify matters. It should be noted that this distinction is not in the spirit of the SPACE questionnaire. The data do not concern the new *Länder*.

**Austria:** the administration does not give the number of sentences of imprisonment ordered in 1991, but the number of sentences being served on 30 November 1991 - 4 523, broken down as follows: under 3 months

= 429, 3 to 6 months = 468, 6 months to one year = 621, one year and over = 3 005.

**Belgium:** the number of sentences of under 3 months is not known. Sentences of 3 to 6 months = 4 887; 6 months and over = 1 812. These data relate to 1990.

**Ireland:** the number of summary offences leading to a sentence of imprisonment ordered by a District Court in the year ending 31 July 1991 was 7 448. The number of indictable offences leading to a sentence of imprisonment ordered by a District Court over the same period was 9 969. It should be noted that many of these sentences could have been subject to an appeal.

**Norway:** (b) is the population at 1 January 1992.

**Slovak Republic:** (b) is the population at 1 January 1992.

**Canada:** no reply has been received to item 8 of the questionnaire "prison sentence without full or partial suspension"; however, it is indicated in a note that the numbers given under item 6.1 "prison sentence imposed, with part to be served, and with part to be suspended, without supervision" also applies to item 8. This appears to be illogical.

#### Remarks – Table 11

*Reference: Council of Europe, S.PACE 93.11*

**Norway:** (c) = 3 to 5 months (d) = 5 months to one year.

**Poland:** sentences of under 3 months are not applicable.

**Slovak Republic:** sentences of under 3 months are not applicable.

#### Remarks – Table 12

*Reference: Council of Europe, S.PACE 93.12*

**Belgium:** Covers simple and conditional suspensions for the year 1990. Length of suspension: 1 year and less = 550, 2 years = 368, 3 years = 7 928, 4 years = 106, 5 years = 5 487.

**Denmark:** partially suspended sentences, breakdown according to the part to be served: total = 1 166, under 3 months = 1 099, 3 to 6 months = 59, 6 months to one year = 3, one year and over = 5.

**France:** – partially suspended without supervision, breakdown according to the part to be served: total = 8 564, less than 3 months = 4 271, 3 to 6 months = 1 839, 6 months to one year = 1 319, one year and over = 1 135.

– partially suspended with supervision, breakdown according to the part to be served: total = 10 967, under 3 months = 3 186, 3 to 6 months = 2 532, 6 months to one year = 2 551, one year and over = 2 698.

**Ireland:** it is stated that the heading "prison sentence imposed, with execution being fully suspended and

without supervision" (item 5.1 of the questionnaire) is included under the heading 1.1 "exemption from punishment without condition". This makes heading 1.1 very heterogeneous and means that the figures have little significance.

**Italy:** = partially suspended with supervision, Art. 47 (2 322) and art. 47b (1 057). These two articles refer to Act no 354 of 26 July 1975 governing the Italian penal system and its subsequent amendments.

**Netherlands:** – partially suspended without supervision, breakdown according to the part to be served: total = 19 136, under 3 months = 12 259, 3 to 6 months = 2 815, 6 months to one year = 1 471, one year and over = 2 591.

– partially suspended with supervision, breakdown according to the part to be served: total = 745, under 3 months = 94, 3 to 6 months = 147, 6 months to one year = 276, one year and over = 228.

**Slovak Republic:** the information is not consistent with the data in the previous survey (sentences in 1990) when 6 740 sentences were "fully suspended without supervision" and 1 713 sentences "partially suspended without supervision"

**Czech Republic:** the information is not consistent with the data in the previous survey (sentences in 1990): the distinction between "not applicable" and "not available" is clearer in this survey.

#### **United Kingdom**

**England and Wales:** terminology – (b) et (c) = Fully suspended sentence without (or with) supervision order, (d) = Partly suspended sentence.

– partially suspended without supervision, breakdown according to the part to be served: total = 1 148, under 3 months = 23, 3 to 6 months = 67, 6 months to one year = 309, one year and over = 749.

**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.

**Canada:** column (d) is broken down as follows: "federal warrant of committal" = 4 878, "sentenced admissions to provincial custody" = 75 827. The information relates to the 1991/1992 fiscal year. It will be noted that these data do not correspond exactly to the units of account requested (sentences ordered by the courts in a given year). Breakdown of the 75 827 according to the part to be served: under 3 months = 68%, 3 to 6 months = 14%, 6 months to one year = 9%, one year and over = 10%.

Column (e) corresponds to all probation orders in 1991. Not all the provinces are represented. There are no figures for Ontario. Breakdown according to the part to be served: under 3 months = 3%, 3 to 6 months = 10%, 6 months to one year = 27%, one year and over = 59%.

#### **Remarks – Table 13**

*Reference: Council of Europe, S.PACE 93.13*

**Germany:** – in category (a) no account has been taken of decisions not to prosecute in the courts, with which the questionnaire is not concerned. Moreover, conditional exemptions from punishment with supervision are not applicable to either adults or juveniles. In the case of juveniles, it is not possible to distinguish exemptions from punishment without condition from conditional exemption from punishment without supervision (33 069). The figures for adults are as follows: "exemption from punishment without condition" = 684, "conditional exemption from punishment" = 68 114 ("reprimand with sentence reserved" = 3 474, "provisional discontinuance of proceedings by the courts" = 64 940). Total = 102 167

– the figure given in (b) only concerns juveniles; this measure is not applicable to adults.

– the figure given in (c) only concerns adults.

– community service for adults = 1 367 (1990), community service for juveniles = 10 395. Community service in place of imprisonment in cases of non-payment of fines = 5 951. This does not involve a principal penalty, which is all the questionnaire is concerned with.

**Belgium:** Covers simple and conditional suspensions for the year 1990.

**Denmark:** exemption from punishment without condition = 1 138, conditional exemption from punishment with or without supervision = 796.

**Finland:** exemption from punishment without condition

**France:** exemption from punishment without condition. A distinction is drawn between community service (TIG) as a principal punishment (5 328) and total suspension subject to community service (6 998).

**Ireland:** as noted under table 12, the figure given under item 1.1 exemption from punishment without condition (331 865) covers widely varying situations. Conditional exemption from punishment with supervision = 1 133. Data on deferred pronouncements of sentence without supervision are unavailable; deferred pronouncements of sentence with supervision = 1237.

**Lithuania:** data on unavailable exemption from punishment without condition; conditional exemption from punishment without supervision = 621, conditional exemption from punishment with supervision = 663. Deferred pronouncements of sentence are always accompanied by supervision.

**Norway:** statistics on conditional exemptions from punishment without supervision are unavailable; conditional exemption from punishment with supervision = 4; exemption from punishment without condition = 1! In the previous survey (sentences in 1990) (b) = 143, (c) and (d) were not applicable.

**Poland:** for the item "exemption from punishment without condition", Poland supplies the figure 5 679 but states that this exemption applies to the end of the sentence; as such, it refers to a reduction in sentences currently being served, which is not covered by this questionnaire. It is not clear whether the same problem applies to conditional exemption from punishment without supervision (729) and conditional exemption from punishment with supervision (15 747).

– in the Polish penal system, deferred pronouncements of sentence are conditional. The breakdown into with and without supervision is not known.

– community service orders are classified as "restrictions on liberty", as referred to in table 14. It is not clear whether the reported number of punishments in table 14 includes the 3 609 community service orders. If so, it would not be in the spirit of the questionnaire.

**Portugal:** these refer to deferred pronouncements with supervision; there is no information on deferred pronouncements without supervision. The 22 community service orders should be supplemented by 364 cases of "substitution of required days of work for a fine".

**Czech Republic:** the information is not consistent with the data in the previous survey (sentences in 1990): the distinctions between "not applicable" and "not available" are clearer in this survey.

#### United Kingdom

**England and Wales:** 1. exemption from punishment without condition (absolute discharge) = 21 504; 2. conditional exemption from punishment without supervision (conditional discharge) = 102 025; 3. conditional exemption from punishment with supervision – not applicable.

– deferred pronouncements of sentence: 1. without supervision – data not available; 2. with supervision = not applicable.

**Scotland:** 1. exemption from punishment without condition = 16 783; 2. conditional exemption from punishment without supervision = 191. The courts can require the offender to produce a financial surety in order to guarantee a period of good behaviour. Following the expiry of that period the sum is returned to the offender if he has committed no further offence. 3. conditional exemption from punishment with supervision = 4 512.

No statistics are available regarding pronouncement of sentence deferred following a finding of guilt. The statistics only take account of the final decisions at the end of each period of deferral.

**Northern Ireland:** 1. exemption from punishment without condition = 850; 2. conditional exemption from punishment without supervision = 2 676; 3. conditional exemption from punishment with supervision = 1 571. The last figure includes 636 community service orders which we have also included in column (d).

#### 14. Other forms of probation (measures ordered in 1991)

*Reference: Council of Europe, S.PACE 93.14*

##### Italy:

Art.90 of Act no 309 of 1990 on drug abuse, figures unavailable.

##### Norway:

– Parole – security sentence 28

##### Poland:

punishment involving "restriction of liberty" 5 628  
additional penalty (for example, ban on driving) 140

##### Portugal:

provisional suspension of proceedings  
decision not to continue with criminal case 73

##### United Kingdom

###### England and Wales:

Probation order 18 319  
this figure concerns 17-20 year olds; there is no information on those aged 21 and over

Supervision order 6 287  
(10-16 years = 5 979, 17-20 years = 308);  
we have no information on those aged 21 and over

**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) 7 161

2. Ordinary probation may also be combined with a prison sentence of up to three months 886

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 381

**Canada:** 1. «Federal/Provincial parole and mandatory supervision» (1991) 9 433

2. «Probation and provincial parole» (1991/92) 95 726

#### Remarks – Table 15

*Reference: Council of Europe, S.PACE 93.15*

**Austria:** there is no denominator for calculating these indices (see Table 10).

**Belgium:** the number of sentences of under 3 months is not known (see Table 10). There is thus no denominator for calculating these indices.

**Canada:** there is no denominator for calculating these indices (see Table 10).

### 15. Weighting of the various sanctions and measures in relation to unsuspended prison sentences (per cent)

FS Suspension  
 PS Partial suspension  
 EP Exemption from punishment  
 DP Punishment deferred  
 DF Day-fine  
 CS Community service  
 OP Other probations

Reference: Council of Europe, S.PACE 93.15

	FS	PS	EP	DP	DF	CS	OP
Germany	206	...	275	3	1402	32	...
Austria (*)	...	...	...	...	...	...	...
Belgium (*)	...	...	...	...	...	...	...
Denmark	35	8	13	27	***	4	***
Finland	141	***	20	***	450	1	***
France	214	21	11	...	4	13	***
Greece	...	...	...	...	...	...	...
Ireland	...	...	...	...	***	8	...
Italy	3	***	***	***	***	...	...
Lithuania	122	37	...	77	0	70	***
Norway	44	...	...	***	...	17	...
Netherlands	77	103	5	...	***	67	***
Poland	190	***	...	17	***	9	14
Portugal	...	***	***	1	45	0	1
Slovak Republic	***	***	15	***	...	***	***
Czech Republic	...	***	24	***	...	***	***
United Kingdom							
England and Wales	46	2	201	...	***	69	...
Scotland	***	***	179	...	***	41	***
Northern Ireland	92	...	224	...	***	28	***
Sweden	***	***	***	***	181	1	63
Switzerland	286	***	***	***	***	...	***
Canada (*)	...	...	...	...	...	...	...

(\*) See remarks p. 62



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# Council of Europe Annual Penal Statistics

## S.PACE: 1994 survey

The present Bulletin contains the results of the third survey carried out in accordance with the SPACE procedure. The first part of the presentation covers the state of prison populations at 1 September 1994 and the committal flow in 1993 (Questionnaire I). In addition to the usual data, the survey gives, for the first time information on convicted prisoners broken down according to the nature of the offence for which they were sentenced (topic chosen for the variable module). The second part deals with certain community sanctions and measures, ordered in 1992 (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. The following are some examples:

1. Some questionnaires are not returned (Albania, Bulgaria, Estonia, Latvia, Malta, Moldova, Romania, Slovenia) or are returned without part II (Spain, Hungary, Ireland, Iceland, Netherlands).

2. When 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. One also finds "blanks" and unexplained symbols – (...), (---), (/) etc – despite the fact that we have explicitly asked the 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 distribution (distribution of the total number of prisoners according to penal situation, distribution of convicted prisoners according to the 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" in one year 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 distribution is not available (for example, the numbers 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 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 SPACE that the administrations concerned ensure a degree of continuity, i.e., make sure that the person responsible for completing the questionnaire has copies of the questionnaires sent by his administration in the 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 the 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 symbol <\*\*\*>.

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## I. Prison populations

### I.1. State of prison populations at 1 September 1994

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

Table 1. *Situation of the prisons*

- (a) total number of prisoners;
- (b) detention rate (per 100,000 inhabitants): number of prisoners at 1 September 1994 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 in relation to the number of available places.

#### Remarks

**Germany:** unlike the surveys prior to 1993, the information appears to include the five new Lander.

**Spain:** two categories of capacity are indicated, "capacidad optima" = 29 813 and "capacidad operativa" = 45 446.

**Greece:** the data relate to the situation at 1 January 1994.

**Netherlands:** capacity = places which can be utilised

#### **United Kingdom**

**England and Wales:** the capacity indicated under (c) relates 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 penal statistics refer to the situation at 25 August 1994

**Sweden:** (a) corresponds to the number of prisoners registered. The number of actual prisoners is 5 308. The difference is due to persons serving their sentences outside prison in institutions for the treatment of drug addicts, persons in hospital or escapees. (b) calculated on the basis of prisoners present is 60 per 100 000 inhabitants.

**Switzerland:** we have no information on the total number of prisoners at 1 September 1993. The administration has, in fact, supplied the number of convicted prisoners aged 18 or over serving sentences on 1 September 1994 (4 141), the number of untried prisoners at 30 March 1993 (1 851) and the number of "detentions by police order pending expulsion and deprivations of freedom for the purpose of assistance, etc" without indicating a date (310).

Consequently, the only figures which can be calculated relate to the population of sentenced prisoners: median age 30,5 years; 2,5% under the age of 21; 6,3% females; 49,0% aliens.

The data on the nature of the offence have not been reproduced as they are based on the notion of primary offence (hence it is not possible to establish a breakdown of the population of convicted prisoners which was the purpose of this item).

**Canada:** The figures relate solely to those imprisoned in federal institutions (Adult Correctional Service of Canada).

#### **Legislative (and other) measures ...**

... introduced during the last twelve months which directly affect variations in the number of prisoners (amnesty, collective pardon etc.)

**Cyprus:** 27 prisoners due for release one month after the Christmas and Easter holidays were released before these holidays by decision of the President of the Republic.

**Finland:** extension of community service to the whole of Finland as of 1 April 1994.

**France:** Decree on collective pardon of 13 July 1993: five days remission per month or part thereof remaining to be served, subject to a maximum pardon of 4 months.

**Lithuania:** adoption of various measures as alternatives to imprisonment.

**Luxembourg:** Law of 13 June 1994 on the rules governing penalties – the law adds new sanctions to the catalogue of penalties which can be substituted for prison sentences, particularly short sentences. Most of the new sanctions are penalties which hitherto could be imposed as ancillary measures. The law upgrades them to penalties which can be imposed instead of a custodial sentence.

**Portugal:** Law No.15/94 of 11 May: amnesty and collective pardon.

**Czech Republic:** 2 347 convicted prisoners were released conditionally.

#### **United Kingdom**

**Scotland:** early release (after serving half or 2/3 of the sentence) of 600 prisoners sentenced to short terms of imprisonment by applying transitional measures provided by the Prisoners and Criminal Proceedings Act applicable as from 1 October 1993.

Table 2. *Variations in the number of prisoners*

#### **Remarks**

**Germany:** Unlike the earlier surveys, those for 1993 and 1994 seem to include the five new Lander.

**Greece:** for 1993 and 1994, data at 1 January.

**Canada:** the figures relate solely to those imprisoned in federal institutions (Adult Correctional Service of Canada).

Table 3. *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**

**Greece:** figure (a) relates solely to convicted prisoners.

**Ireland:** figure (d) is based on place of birth. All prisoners born outside the Republic of Ireland are regarded as aliens.

#### **United Kingdom**

**England and Wales:** b) comprises persons aged 21 who were under 21 when they began serving their sentences and who have remained in institutions for young offenders. (b) does not include "non-criminal prisoners". (d) is an estimate: it includes all prisoners who do not have British nationality (including all prisoners whose nationality has not been registered but whose country of birth has been registered as outside the United Kingdom).

**Sweden:** figures (a), (b) and (d) relate solely to convicted prisoners (4 711).

Table 4. *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.

**Remarks**

**Germany:** it is not known where prisoners in category (b) are recorded; (c) and (d) are taken together (20 355). There is no information on the content of category (e).

**Austria:** (b) and (d) are taken together (1,672).

**Belgium:** (e) internees (Social Defence Law), (831); aliens (administrative measures), (304); vagrants, (45); recidivists at the disposal of the Government, (1); minors under 18 years old in provisional custody, (4).

**Cyprus:** figures inconsistent  $(a)+(b)+(c)+(d)+(e) = 196$ , whereas the total number of prisoners is given as 157.

**Denmark:** figures inconsistent  $(a)+(b)+(c)+(d)+(e) = 3\,728$  whereas the total number of prisoners is given as 3 828.

**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.

**Finland:** (b), (c) and (d) are taken together (275).

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

**Hungary:** figures inconsistent  $(a)+(b)+(c)+(d)+(e) = 14\,554$ , whereas the total number of prisoners is given as 13 196.

**Ireland:** figures at 5 September 1994. (b), (c), and (e) are not available; no further information is provided.

**Lithuania:** figures inconsistent  $(a)+(b)+(c)+(d)+(e) = 12\,893$ , whereas the total number of prisoners is given as 11 776.

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

**Norway:** it is not known where heading (b) is recorded. Other cases: 53 imprisoned for non-payment of fines, 73 imprisoned as a restrictive measure.

**Netherlands:** there is no information available for categories (b), (c) and (e).

**Poland:** no information on (b) and (c); it is not known where these categories are recorded.

**Portugal:** (b), (c) and (d) are taken together (3 821).

**Slovak Republic:** figures inconsistent (the sum of the categories is greater than the total number of prisoners).

**Czech Republic:** it is not known where categories (b) and (c) are recorded.

**United Kingdom**

**England and Wales:** (a) and (b) are taken together (35 980). 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". Moreover,  $(a)+(c)+(d)+(e) = 49\,194$  whereas the total number of prisoners is 49 392. The reasons for this inconsistency are unknown.

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

**Northern Ireland:**  $(a)+(b)+(e) =$  total number of prisoners. There is no information available regarding (b) and (c).

**Sweden:** (b), (c) and (d) are taken together (986). (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.

**Turkey:** (b),(c) and (d) are taken together (24 830).

Table 5. *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 1994: 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 1994: 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 1994; the ratio between 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 1994: 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 6. *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.

#### Remarks

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

**Spain:** it is not known where those convicted of wounding with intent to harm are recorded.

**France:** "rape" = rape and indecent assault.

**Greece:** figures inconsistent (the sum of the categories is not equal to the total number of convicted prisoners).

**Lithuania:** figures inconsistent (the sum of the categories is less than the total number of convicted prisoners).

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

**Poland:** surprisingly, no figures are given for "drug-related offences"; it is not known where those convicted for these offences are recorded.

**Portugal:** figures at 31 December 1994.

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

**Czech Republic:** breakdown according to offence is inconsistent (the sum of the categories is greater than the total number of convicted prisoners).

**Sweden:** figures at 1 October 1994.

**Turkey:** It is not known where wounding with intent to harm and robbery with violence are recorded.

## 1.2. Committal flow in 1993 and length of imprisonment

Table 7. *Committal flow*

(a) Total number of first committals in 1993;

(b) Committal rate (per 100 000 inhabitants); the number of committals for 1993 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

**Poland:** convicted prisoners entering prison = 15 442.

#### United Kingdom

**England and Wales:** (a) = only the first committal in 1993 for a given offence has been counted. This means that a person initially remanded in prison before sentencing in 1993 and subsequently admitted in 1993 after sentence for the same offence is counted only once. Similarly, for (c), a person admitted in 1993

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).

**Scotland:** number given under (a) – 17 420 – is the number of sentenced receptions where there is not already a prison sentence: direct sentences (9 895) and sentences for non-payment of fines (7 525). Persons previously detained as unconvicted prisoners are regarded as coming within this category. The figures provided for 1990 covered all admissions and included persons already imprisoned. The corresponding figures for 1993 are 12 496 for direct committals and 9 616 for committals for non-payment of fines.

– The number given under (c) is the number of remand receptions, admissions of prisoners awaiting trial, i.e., not yet found guilty (11 953), and admissions of prisoners convicted and awaiting sentence (1 449).

In Scotland, one remand reception is counted for each admission to prison. Therefore a person who is placed in provisional detention for a short period, released, and then again placed in provisional detention (whether before or after being found guilty) is counted twice. However, a person imprisoned before being found guilty and kept in prison after being convicted, without being released in the mean time, is counted once.

The total number of committals entered under (a) is therefore not equal to the sum of these two categories.

**Turkey:** figures inconsistent; the number given in item 9 is lower than that in item 10.

Table 8. *Indicator of average length of imprisonment*

(a) total number of days spent in prison in 1993;

(b) average number of prisoners in 1993: (b) = (a)/365;

(c) indicator of average length of imprisonment (D): quotient of the average number of prisoners in 1993 (P) by the flow of admissions during that period (E):  $D = 12 \times P/E$  – length expressed in months.

#### Remarks

**Lithuania:** the indicator of the average length of imprisonment has been calculated by taking the number at 1 September 1993 (10 324) as the average number of prisoners in 1993

**Netherlands:** the figure given in (a) is implausible (more than 27 million). The number prisoners on 1 September 1993 has been used to calculate the indicator of the average length of imprisonment.

**Portugal:** the indicator of the average length of imprisonment was calculated by taking the number of prisoners on 1 September 1993 (10 904) as the average number of prisoners in 1993.

Figure 1 - Rate of imprisonment at 1 September 1994 (per 100 000 inhabitants)

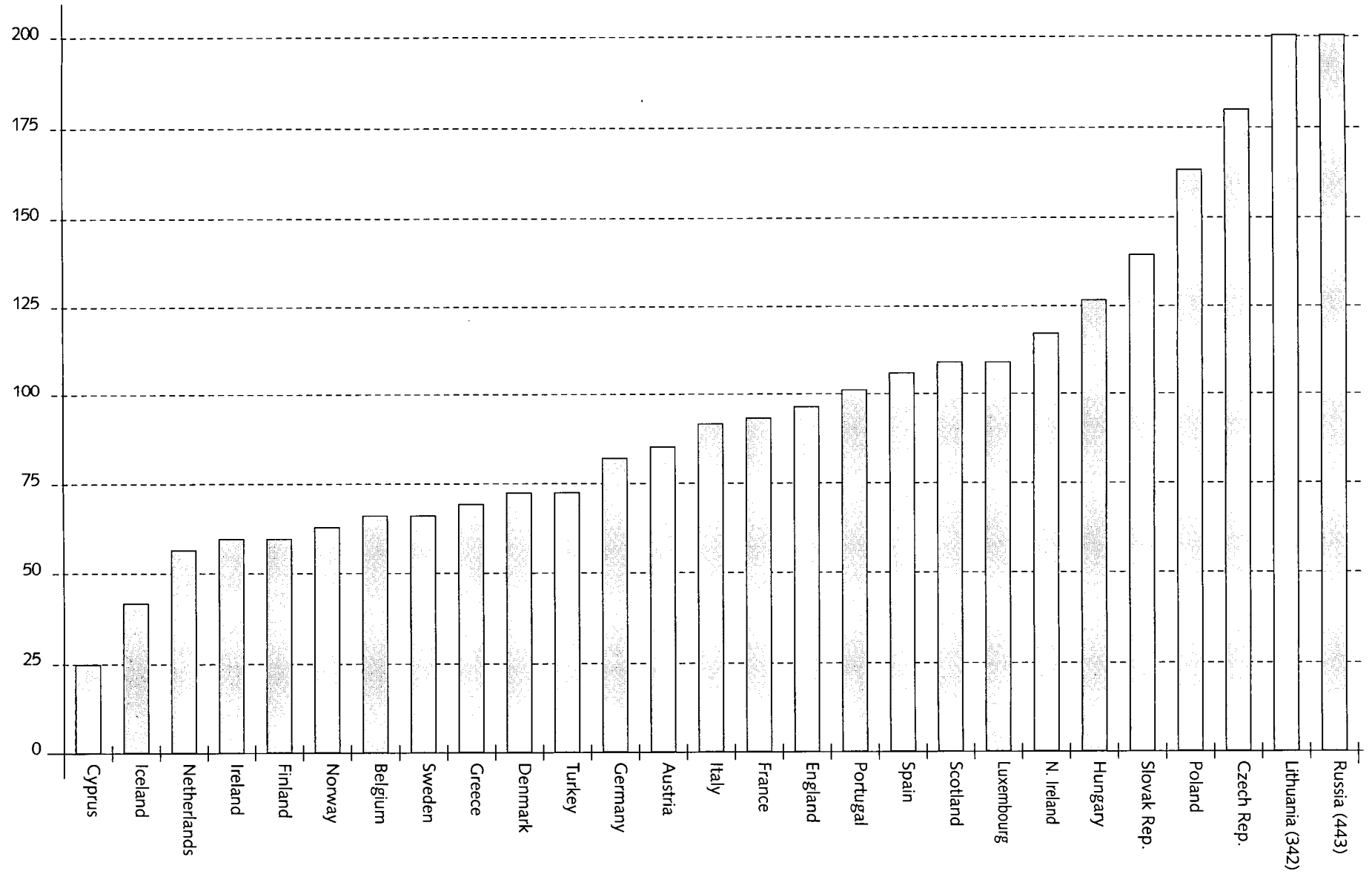
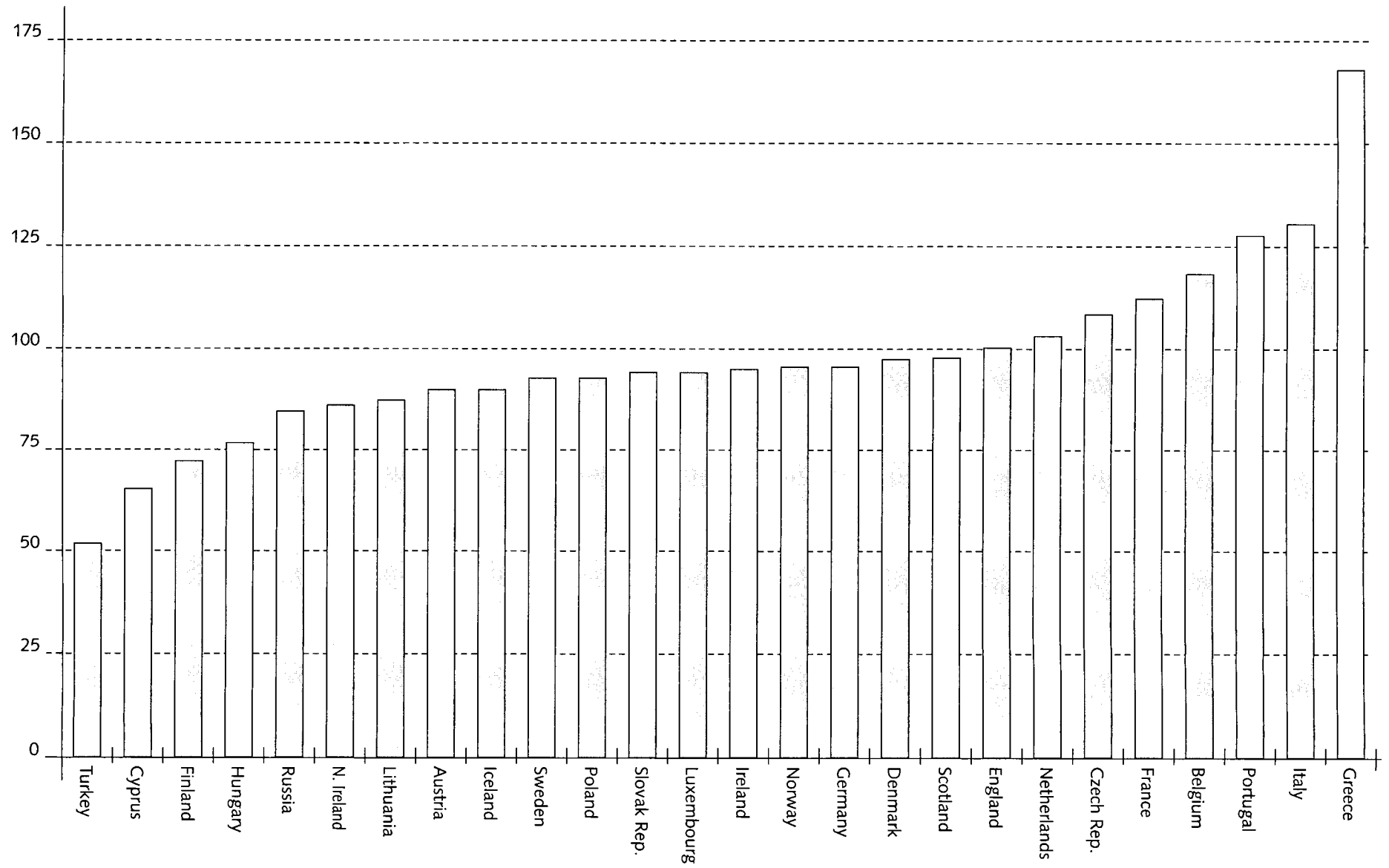


Figure 2 - Prison occupancy rate at 1 September 1994 (per 100 places)



Source: S.PACE 94.1

Figure 3 - Pre-trial detention rate at 1 September 1994 (per 100 000 inhabitants)

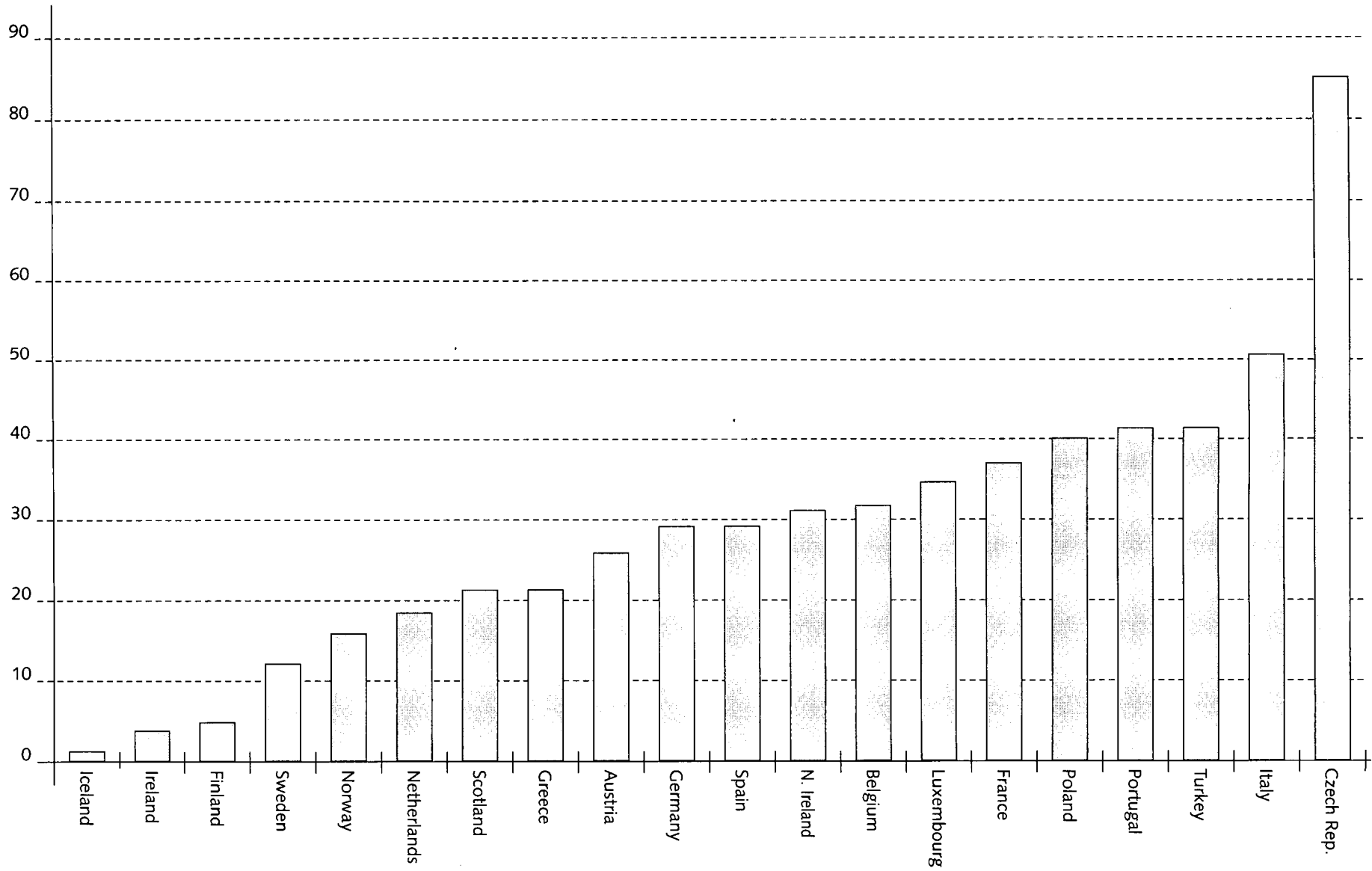
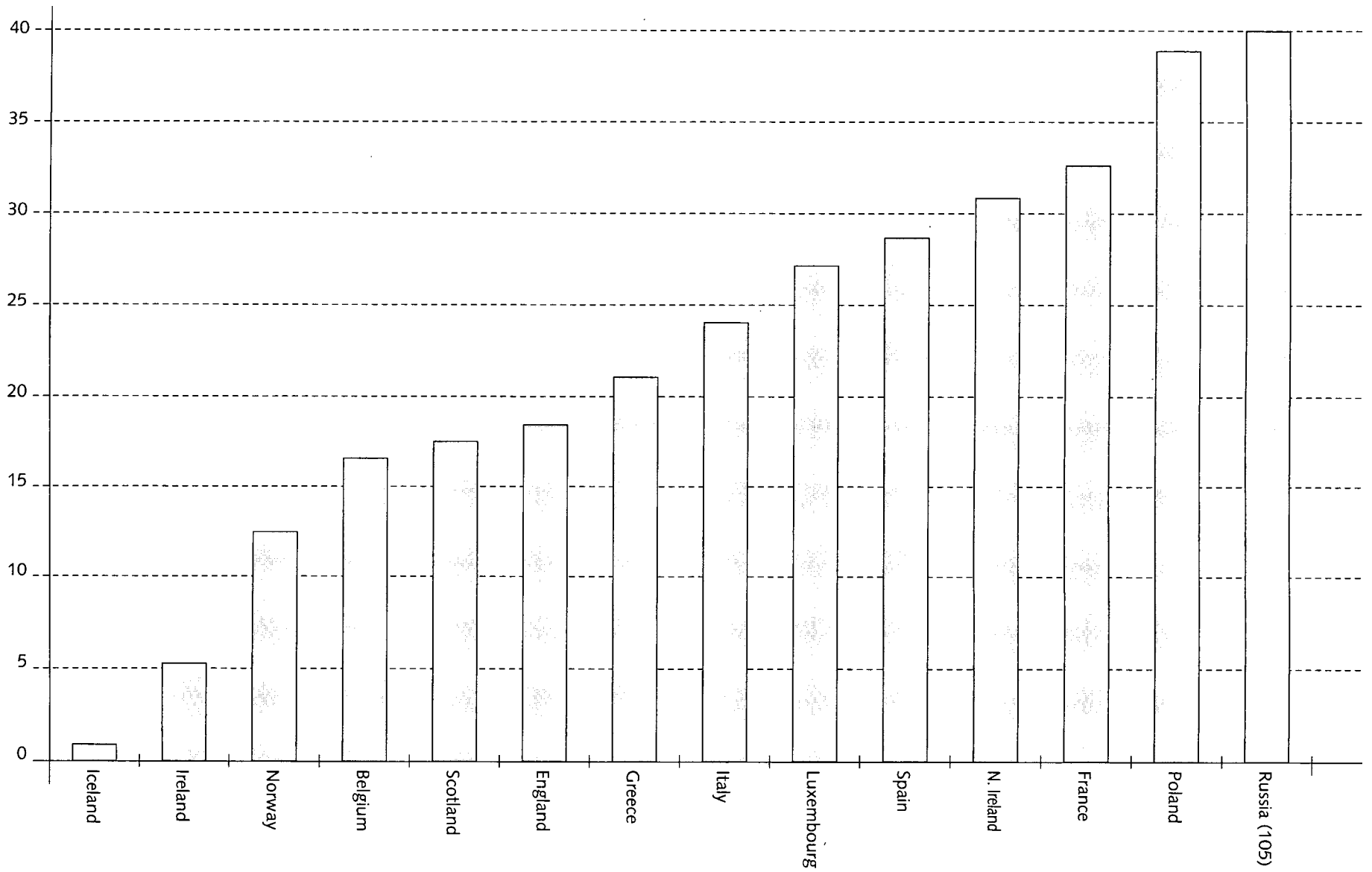


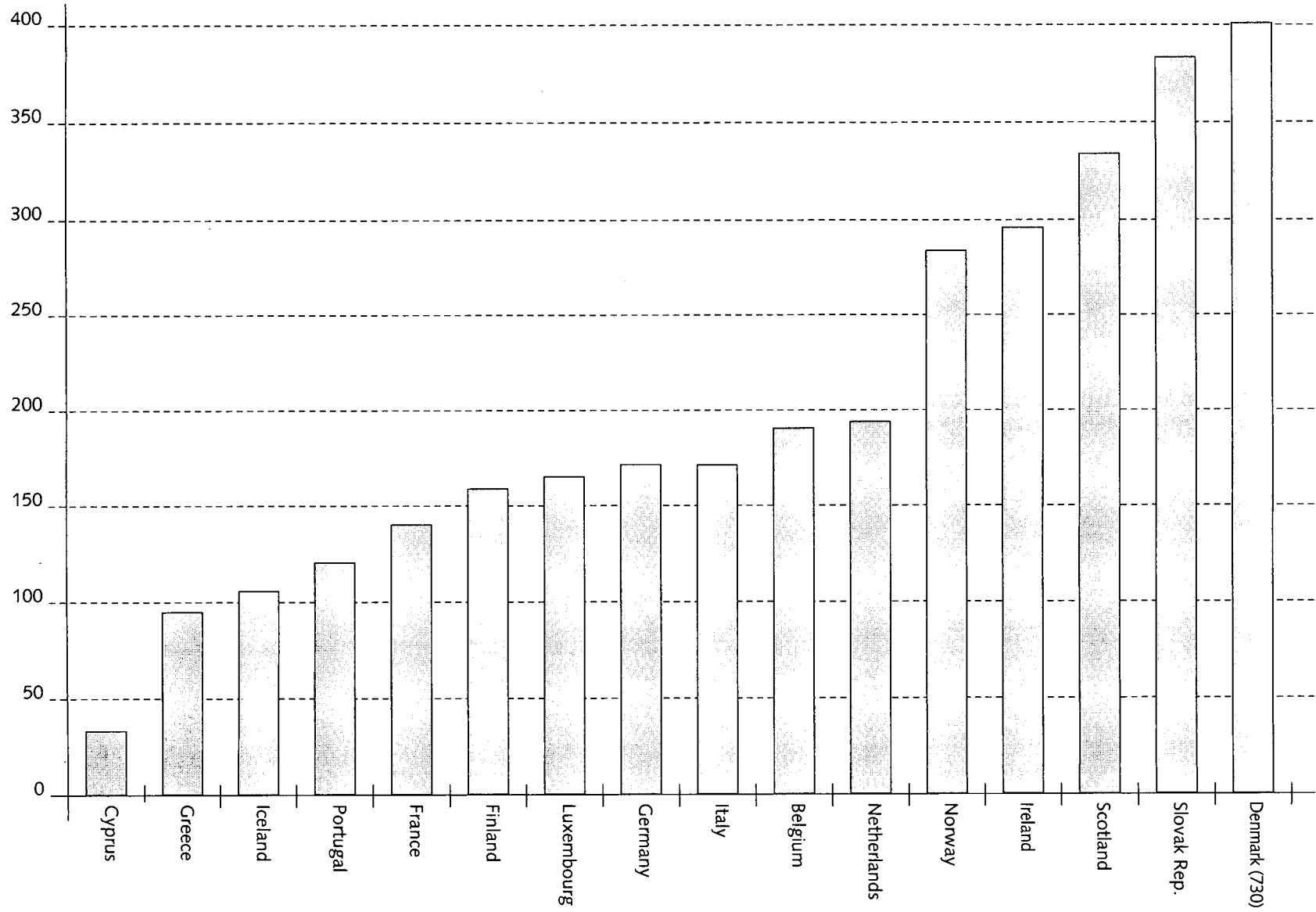


Figure 4 - Rate of detention of prisoners awaiting judgment at 1 Septembre 1994 (per 100 000 inhabitants)



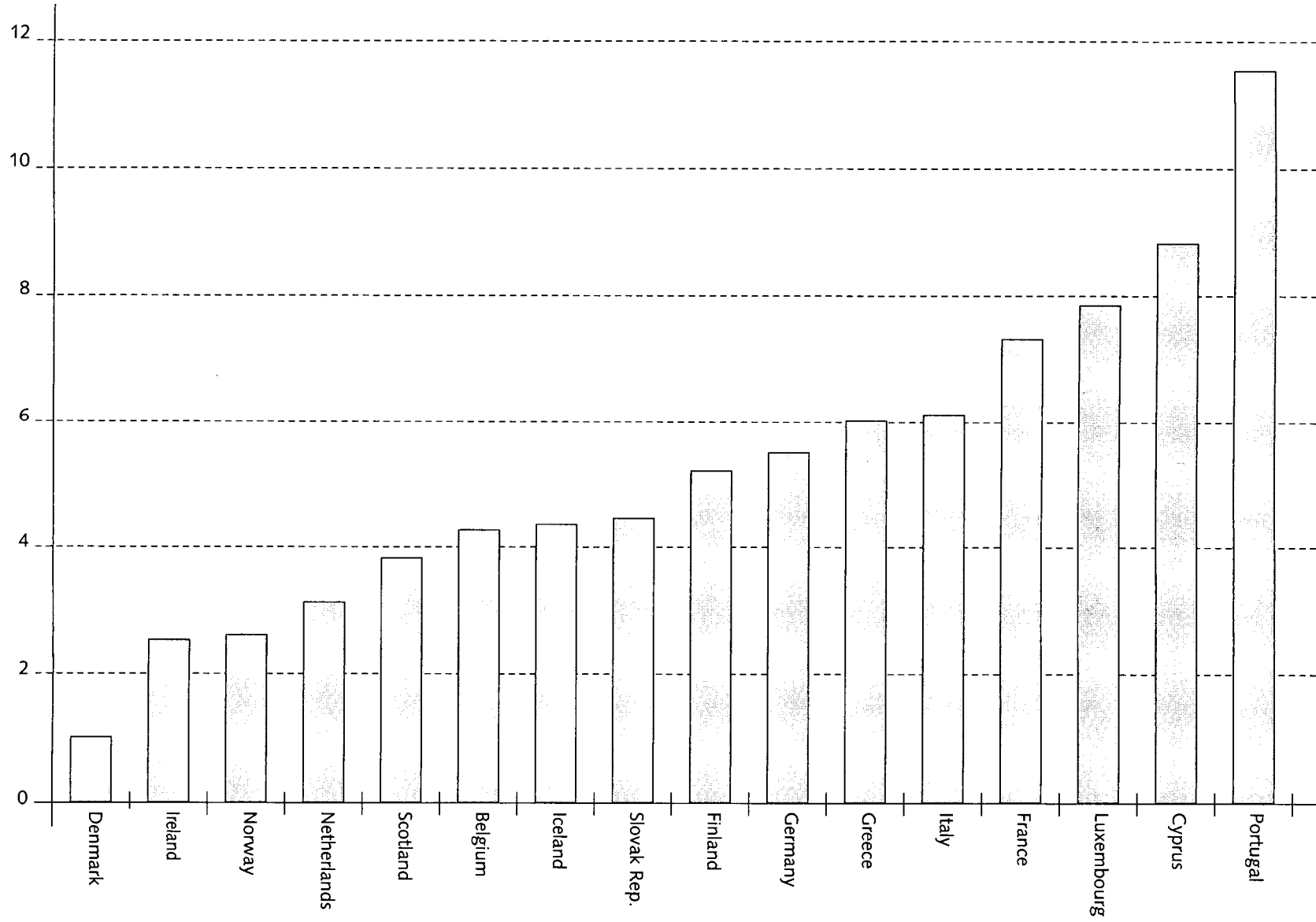
Source : S.PACE 94.5

Figure 5 - Committal rate in 1993 (per 100 000 inhabitants)



Source : S.PACE 94.6

Figure 6 - Average length of imprisonment in months (in 1993)



Source : S.PACE 94.8

## II. Sanctions and measures applied in the Community ordered in 1992

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. Pronouncement of sentence deferred following finding of guilt, without committal (*Suspension du prononcé de la condamnation après déclaration de culpabilité*)
3. Day fine (*jour amende*)
4. Community service (*travail au profit de la communauté*)
5. Prison sentence imposed, with enforcement being fully suspended (*Sursis total à l'exécution d'une peine d'emprisonnement*)
6. Prison sentences imposed, with part to be served and part 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 9. *Prison sentences*

For purposes of comparison, we also asked for the number of prison sentences without full or partial suspension ordered in 1992.

- (a) number of sentences
- (b) number of inhabitants (average for 1992)
- (c) sentence rate: number of sentences of imprisonment without full or partial suspension ordered in 1992 in relation to the number of inhabitants (per 100 000 inhabitants).

### Remarks

**Germany:** the German reply consistently distinguishes between matters pertaining to the law governing adults and that governing minors. Wherever possible we have given the total of the numbers provided, adding explanatory notes where required. It should be noted that the distinction is not in line with the aim of the SPACE questionnaire. In principle, the information covers all the Länder.

**Austria:** the figures supplied by the administration represent the number of sentences being enforced on 30 November 1992 and not the number of prison sentences passed in 1992.

**Belgium:** the figures supplied in Questionnaire II relate to 1993.

**Ireland:** the part of the questionnaire containing this information has not been received.

**Netherlands:** the figures supplied were for 1993 and not for the year requested (1992); they will be published in the next survey.

Tables 10 and 11. *Prison sentences according to length*

These tables also relate to prison sentences ordered in 1992, without full or partial suspension.

### Remarks

**Finland:** "three to less than 5 months", "five months to one year".

**Ireland:** the part of the questionnaire containing this information was not received.

Tables 12 to 14 give the figures for the various measures and sanctions ordered in 1992.

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 1 143 with supervision. Of 5 835 deferred sentences, 5 254 were measures without supervision and 581 with supervision.

**Denmark:** partial suspension of enforcement, broken down according to the part to be served: total = 1 166; "under 3 months" = 1 099; "3 to 6 months" = 59; "six months to one year" = 3; "one year and over" = 5.

**France:** partially suspended without supervision, broken down according to the part to be served: total = 8 519; "less than 3 months" = 3 973; "3 to 6 months" = 1 864; "6 months to one year" = 1 524; "one year and over" = 1 158.

– partially suspended with supervision, broken down according to the part to be served: total = 12 236; less than 3 months = 3 431; "3 to 6 months" = 2 932; 6 months to one year = 2 849; one year and over = 3 024.

### United Kingdom

**England and Wales:** partially suspended without supervision, broken down according to the part to be served: total = 623; "less than 3 months" = 4; "3 to 6 months" = 36; "6 months to one year" = 166; "one year and over" = 417.

**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) 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).

#### Remarks

**Germany:** (a) does not include decisions not to prosecute, as these measures are not covered by the questionnaire. Moreover, conditional exemption from punishment with supervision of the measure is not applicable to either of minors or adults. In the case of minors, a distinction cannot be made between unconditional exemption and conditional exemption from punishment without supervision (27 997). In the case of adults, the figures are as follows: "unconditional exemption from punishment" = 533, "conditional exemption from punishment without supervision" = 70 607, ("reprimand with sentence reserved" = 3 300, "provisional discontinuance of proceedings by the courts" = 67 307). Total = 99 137.

– the figure given under (b) only relates to minors; the measure is not applicable to adults.

– the figure given under (c) only relates to adults.

– community service for adults = 1 224, community service for minors = 13 514. Community service imposed to obviate a custodial sentence in the case of non-payment of a fine = 5 951. These are not primary penalties, the only penalties covered by the questionnaire.

**Cyprus:** 146 unconditional exemptions from punishment, 19 conditional exemptions without supervision, 77 conditional exemptions with supervision.

**Denmark:** unconditional exemption from punishment = 1 138, conditional exemption from punishment with or without supervision = 796.

**Finland:** the exemptions from punishment are unconditional.

**France:** the exemptions from punishment referred to are unconditional. A distinction is made between community service (*travail d'intérêt général* – TIG) ordered as a primary punishment (5 912) and full suspension of a prison sentence accompanied by a community service order (7 707).

**Ireland:** only the figures for unconditional exemption from punishment with supervision are available (1 039); no further information concerning exemption from punishment is available. Only the figures for deferred sentences with supervision are available (1 062).

**Lithuania:** 1 360 unconditional exemptions from punishment, 1 221 conditional exemptions from punishment without supervision, 973 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.

**Czech Republic:** these are suspended sentences without supervision of the measure.

#### United Kingdom

**England and Wales:** unconditional exemption from punishment (absolute discharge) = 23 800. 2. conditional exemption from punishment without supervision (conditional discharge) = 109 800. 3. conditional discharge with supervision = not applicable.

**Scotland:** 1. unconditional exemption from punishment = 17 454. 2. conditional exemption from punishment without supervision = 187. 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 = 5 239.

– no statistics are available for pronouncement of sentence deferred following finding of guilt. The statistics only include final decisions at the end of each period of suspension.

**Northern Ireland:** 1. unconditional exemption from punishment = 740; 2. conditional exemption from punishment without supervision = 2 723; conditional exemption from punishment with supervision = 1 553. This last figure includes 543 community service sentences which have also been included in column d.

#### Table 14. *Other cases 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 205 suspended sentences and 20 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, i.e. 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.

## 1. Situation of the prisons at 1 September 1994

- (a) Total number of prisoners
- (b) Detention rate (per 100 000 inhabitants)
- (c) Total prison capacity
- (d) Rate of occupancy (per 100 places)

Reference: Council of Europe, S.PACE 94.1

	(a)	(b)	(c)	(d)
Germany (*)	67 626	83,0	70 702	95,6
Austria	6 806	85,0	7 614	89,4
Belgium	7 138	64,8	6 002	118,9
Cyprus	157	24,7	240	65,4
Denmark	3 828	72,0	3 913	97,8
Spain (*)	41 169	105,9	...	...
Finland	2 974	59,0	4 053	73,4
France	53 758	90,3	48 109	111,5
Greece (*)	6 881	71,0	4 087	168,4
Hungary	13 196	128,1	16 867	78,2
Ireland	2 053	58,6	2 174	94,4
Iceland	102	38,2	114	89,5
Italy	51 299	89,7	39 896	128,6
Lithuania	11 776	342,0	13 400	87,9
Luxembourg	437	109,0	466	93,8
Norway	2 689	62,0	2 817	95,5
Netherlands (*)	8 535	55,0	8 305	102,8
Poland	61 694	163,6	67 087	92,0
Portugal	10 023	101,0	8 305	126,9
Slovak Republic	7 781	139,0	8 305	93,7
Czech Republic	18 199	181,6	17 139	106,2
United Kingdom				
England and Wales (*)	49 392	96,0	49 085	100,6
Scotland	5 594	109,0	5 635	99,3
Northern Ireland (*)	1 911	117,0	2 207	86,6
Sweden (*)	5 780	66,0	6 306	91,7
Switzerland (*)	...	...	...	...
Turkey	43 432	72,4	80 502	54,0
Canada (*)	13 879	...	12 123	114,5
Russia	664 700	443,0	781 800	85,0

(\*) See remarks p. 75

## 2. Variations in the number of prisoners (Numbers at 1 September)

Reference: Council of Europe, S.PACE 94.2

	1988	1989	1990	1991	1992	1993	1994
Germany (*)	52 076	51 729	48 792	49 658	...	65 838	67 626
Austria	5 862	5 771	6 231	6 655	6 913	7 099	6 806
Belgium	6 450	6 761	6 525	6 035	7 116	7 203	7 138
Bulgaria	...	...	...	7 822	8 749	8 364	...
Cyprus	219	191	218	...	193	188	157
Denmark	3 469	3 378	3 243	...	3 406	3 702	3 828
Spain	29 344	31 137	32 902	36 562	35 246	45 711	41 169
Finland	3 598	3 103	3 106	3 130	3 295	3 132	2 974
France	46 423	45 102	47 449	48 675	49 323	51 134	53 758
Greece (*)	4 288	4 564	...	5 008	6 252	6 524	6 881
Hungary	...	...	14 629	...	...	13 196	13 196
Ireland	1 953	1 980	...	2 114	2 155	2 108	2 053
Iceland	89	113	104	101	101	103	102
Italy	34 675	30 594	32 588	32 368	46 152	50 794	51 299
Lithuania	...	...	...	...	...	10 324	11 776
Luxembourg	322	345	352	348	352	425	437
Malta	221	...	...	...	...	...	...
Norway	2 041	2 1771	2 260	2 510	...	2 607	2 689
Netherlands	5 827	6 461	6 662	...	7 397	7 843	8 535
Poland	...	...	...	...	...	61 895	61 694
Portugal	8 181	8 458	9 059	8 092	9 183	10 904	10 023
Slovak Republic	...	...	...	...	6 507	7 221	7 781
Czech Republic	...	...	...	...	13 279	16 567	18 199
Romania	...	...	...	36 542	44 610	46 189	...
United Kingdom							
England and Wales	48 595	48 481	45 649	46 310	46 350	45 633	49 392
Scotland	5 076	4 786	...	4 860	5 357	5 900	5 594
Northern Ireland	1 786	1 780	1 733	1 660	1 811	1 902	1 911
Slovenia	...	...	...	...	...	...	...
Sweden	4 716	4 796	4 895	4 731	5 431	5 794	5 780
Switzerland	4 679	4 714	5 074	5 688	5 400	5 627	...
Turkey	51 810	48 413	46 357	26 544	...	31 304	43 452
Canada (*)	...	...	...	...	12 520	12 968	13 879
Russia (*)	...	...	...	...	...	...	664 700

(\*) See remarks p. 75

### 3. Population imprisoned at 1 September 1994 : demographic structure

- (a) Median age
- (b) Prisoners under 21 years of age: number and percentage
- (c) Female prisoners: number and percentage
- (d) Alien prisoners: number and percentage

Reference : Council of Europe, S.PACE 94.3

	(a)	(b)		(c)		(d)	
Germany	...	...	...	2 712	4,0	...	...
Austria	28	...	...	335	4,9	1 789	26,3
Belgium	28	604	8,5	385	5,4	2 898	40,6
Cyprus	32	15	9,6	2	1,3	57	36,3
Denmark	...	...	...	171	4,5	597	15,6
Spain	32	1 019	2,5	3 997	9,7	6 666	16,2
Finland	34	136	4,6	112	3,8	48	1,6
France	29,2	5 456	10,2	2 183	4,1	15 854	29,5
Greece (*)	37	246	3,6	327	4,8	...	...
Hungary	27	674	5,1	704	5,3	477	3,6
Ireland (*)	...	568	27,7	36	1,8	155	7,8
Iceland	31,7	10	9,8	3	2,9	1	1,0
Italy	34	...	...	2 347	4,6	7 530	14,7
Lithuania	...	...	...	470	4,0	85	0,7
Luxembourg	31	21	4,8	19	4,4	205	46,9
Norway	31	148	5,5	133	5,0	329	12,2
Netherlands	30	1 027	12,0	391	4,6	2 607	30,5
Poland	32,7	...	...	1 435	2,3	1 178	1,9
Portugal	34	516	5,2	840	8,4	963	9,6
Slovak Republic	29,9	1 112	14,3	253	3,3	150	1,9
Czech Republic	33	...	...	598	3,3	2 186	12,0
United Kingdom							
England and Wales (*)	27	8 451	17,1	1 898	3,8	2 841	5,8
Scotland	...	680	12,2	173	3,1	11	0,2
Northern Ireland	...	367	19,2	42	2,2	...	...
Sweden (*)	33	220	4,7	290	5,0	1 497	31,8
Switzerland (*)	...	...	...	...	...	...	...
Turkey	...	2 686	6,2	1 403	3,2	388	0,9
Canada	34	450	3,2	300	2,2	1 465	10,6
Russia	32,3	90 000	13,5	21 700	3,3	...	...

(\*) See remarks p. 75



#### 4. Population imprisoned at 1 September 1994 : legal structure (numbers)

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

Reference: Council of Europe, S.PACE 94.4

	(a)	(b)	(c)	(d)	(e)
Germany (*)	43 446	...	(c+d)	(c+d)	3 827
Austria (*)	4 631	(b+d)	***	(b+d)	503
Belgium (*)	3 661	491	***	1 801	1 185
Cyprus (*)	...	...	...	...	...
Denmark (*)	...	...	...	...	...
Spain (*)	29 621	***	***	11 194	354
Finland (*)	2 699	(b+c+d)			***
France	31 832	2 278	***	19 362	286
Greece (*)	4 481	...	...	2 026	...
Hungary (*)	...	...	...	...	...
Ireland (*)	1 908	...	...	185	...
Iceland	100	0	***	2	0
Italy	28 915	2 338	6 155	13 881	0
Lithuania.(*)	...	...	...	...	...
Luxembourg (*)	301	27	***	108	1
Norway (*)	2 019	...	***	544	126
Netherlands (*)	5 605	...	...	2 930	...
Poland (*)	46 428	...	...	14 821	445
Portugal (*)	5 933	(b+c+d)			269
Slovak Republic (*)	...	...	...	...	...
Czech Republic (*)	9 674	...	...	8 521	4
United Kingdom					
England and Wales (*)	35 980	...	3 215	9 359	640
Scotland (*)	4 525	...	112	893	64
Northern Ireland (*)	1 046	...	...	505	0
Sweden (*)	4 711	(b+c+d)			83
Switzerland (*)	...	...	...	...	...
Turkey (*)	18 602	(b+c+d)			0
Canada	13 879	0	0	0	0
Russia	...	...	...	156 900	...

(\*) See remarks p. 75

\*\*\*: Not applicable

## 5. Population imprisoned at 1 September 1994 : 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 94.5

	(a)	(b)	(c)	(d)
Germany	35,8	29,7	...	...
Austria	32,0	27,2	...	...
Belgium	48,7	31,6	25,2	16,4
Cyprus	...	...	...	...
Denmark	...	...	...	...
Spain	28,1	29,7	27,2	28,8
Finland	9,3	5,5	...	...
France	40,8	36,8	36,0	32,5
Greece	29,6	21,0	29,6	21,0
Hungary	...	...	...	...
Ireland	7,1	4,1	9,0	5,3
Iceland	2,0	0,7	2,0	0,7
Italy	43,6	50,6	27,1	24,3
Lithuania	...	...	...	...
Luxembourg	31,1	33,9	24,7	26,9
Norway	24,9	15,4	20,2	12,5
Netherlands	34,3	18,9	...	...
Poland	24,7	40,2	24,0	39,1
Portugal	40,8	41,2	...	...
Slovak Republic	...	...	...	...
Czech Republic	46,8	85,1	...	...
United Kingdom				
England and Wales	...	...	26,0	18,2
Scotland	19,1	20,8	16,0	17,4
Northern Ireland	26,4	30,9	26,4	30,9
Sweden	18,5	12,2	...	...
Switzerland	...	...	...	...
Turkey	57,2	41,4	...	...
Canada	...	...	...	...
Russia	...	...	23,6	104,6

## 6. Distribution of convicted prisoners according to the primary offence at 1 September 1994 (in %)

- (a) Homicide
- (b) Wounding with intent to harm
- (c) Rape
- (d) Robbery with violence
- (e) Other forms of theft
- (f) Drugs
- (g) Other cases

Reference: Council of Europe, S.PACE 94.6

	(a)	(b)	(c)	(d)	(e)	(f)	(g)
Germany (*)	...	...	...	...	...	...	...
Austria	...	...	...	...	...	...	...
Belgium	14,4	13,5	5,7	35,1	5,9	14,1	11,3
Cyprus	0,6	0,6	0,0	2,6	13,4	13,4	69,4
Denmark	...	...	...	...	...	...	...
Spain (*)	5,7	...	4,4	43,5	1,6	31,0	13,8
Finland	...	33,3	1,9	11,2	31,5	6,3	15,8
France (*)	9,8	5,2	11,6	7,5	22,6	19,9	23,4
Greece (*)	...	...	...	...	...	...	...
Hungary (*)	...	...	...	...	...	...	...
Ireland	...	...	...	...	...	...	...
Iceland	4,0	7,0	7,0	4,0	47,0	11,0	20,0
Italy	...	...	...	...	...	...	...
Lithuania (*)	...	...	...	...	...	...	...
Luxembourg(*)	16,0	2,0	6,3	19,3	22,6	24,5	9,3
Norway	8,2	11,2	2,7	5,9	22,3	24,5	25,2
Netherlands	32,0	29,4	15,1	23,5			
Poland (*)	5,5	17,2	2,5	39,3	14,2	...	21,3
Portugal	13,7	1,1	3,0	15,1	26,6	30,2	10,3
Slovak Republic	...	...	...	...	...	...	...
Czech Republic	...	...	...	...	...	...	...
United Kingdom							
England and Wales (*)	10,1	1,0	4,6	14,3	26,2	9,7	34,1
Scotland	...	...	...	...	...	...	...
Northern Ireland	...	...	...	...	...	...	...
Sweden (*)	4,8	7,8	3,2	8,0	17,9	16,9	41,4
Switzerland	...	...	...	...	...	...	...
Turkey (*)	23,4	...	8,9	...	26,0	2,3	39,4
Canada	...	...	...	...	...	...	...
Russia	...	...	...	...	...	...	...

(\*) See remarks p. 75

## 7. Committal flow for 1993

- (a) Total number of first committals  
 (b) Committal rate (per 100 000 inhabitants)  
 (c) First committals before final sentence : number and %

Reference: Council of Europe, SPACE 94.7

	(a)	(b)	(c)	
Germany	141 641	174,3	...	...
Austria	...	...	...	...
Belgium	18 983	190,0	10 282	54,2
Cyprus	244	38,9	...	...
Denmark	37 975	729,7	...	...
Spain	...	...	...	...
Finland	7 999	157,8	1 436	18,0
France	83 149	140,3	64 255	77,3
Greece.	8 889	92,7	...	...
Hungary	...	...	...	...
Ireland	10 448	296,4	...	...
Iceland	286	108,0	82	28,7
Italy	99 448	174,3	...	...
Lithuania	...	...	...	...
Luxembourg	652	165,0	503	77,1
Norway	12 228	281,4	3 028	24,8
Netherlands	29 754	193,5	15 604	52,4
Poland (*)	...	...	...	...
Portugal	11 446	116,5	9 842	86,0
Slovak Republic	20.407	384,3	5 198	25,5
Czech Republic	...	...	...	...
United Kingdom				
England and Wales (*)	117 310	...	63 236	53,9
Scotland	17 420	339,5	13 412	77,0
Northern Ireland	...	...	...	...
Slovenia	...	...	...	...
Sweden (*)	...	...	...	...
Switzerland (*)	...	...	...	...
Turkey (*)	...	...	...	...
Canada	...	...	...	...
Russia	...	...	...	...

(\*) See remarks p. 75

## 8. Indicator of average length of imprisonment (1993)

- (a) Total number of days spent in prison in 1993  
 (b) Average number of prisoners in 1993  
 (c) Indicator of average length of imprisonment (in months)

Reference: Council of Europe, SPACE 94.8

	(a)	(b)	(c)
Germany	23 671 521	64 853	5,5
Austria	2 622 160	7 184	...
Belgium	2 508 590	6 873	4,3
Cyprus	66 417	182	9,0
Denmark	1 282 683	3 514	1,1
Spain	...	...	...
Finland	1 248 660	3 421	5,1
France	18 981 158	52 003	7,5
Greece.	1 627 804	4 460	6,0
Hungary	...	...	...
Ireland	786 575	2 155	2,5
Iceland	38 482	105	4,4
Italy	18 579 595	50 903	6,1
Lithuania (*)	...	...	...
Luxembourg	156 544	429	7,9
Norway	967 168	2 650	2,6
Netherlands (*)	...	7 843	3,2
Poland	...	...	...
Portugal (*)	...	...	11,4
Slovak Republic	2 795 535	7 659	4,5
Czech Republic	5 714 440	15 656	...
United Kingdom			
England and Wales	16 300 000	44 658	...
Scotland	2 057 523	5 637	3,9
Northern Ireland	...	...	...
Slovenia	...	...	...
Sweden	...	...	...
Switzerland	...	...	...
Turkey (*)	...	...	...
Canada	...	...	...
Russia	...	...	...

(\*) See remarks p. 75

## 9. Prison sentences ordered in 1992 (without full or partial suspension): rate per 100 000 inhabitants

- (a) Number of sentences  
 (b) Number of inhabitants (average for 1992)  
 (c) Sentence rate per 100 000 inhabitants

Reference: Council of Europe, S.PACE 94.9

	(a)	(b)	(c)
Germany (*)	33 443	81 290 000	41,1
Austria (*)	...	...	...
Belgium (*)	12 888	10 045 158	128,3
Cyprus	275	718 250	38,3
Denmark	14 671	5 171 370	283,7
Spain	...	...	...
Finland	27 845	5 041 992	552,3
France	101 567	57 374 000	177,0
Greece	90 618	9 589 306	995,0
Hungary	...	...	...
Ireland (*)	...	...	...
Iceland	...	...	...
Italy	110 772	56 852 683	194,8
Lithuania	9 431	3 800 000	248,2
Luxembourg	379	392 500	96,6
Norway	9 317	4 286 630	217,4
Netherlands (*)	...	...	...
Poland	45 778	38 461 353	119,0
Portugal	...	...	...
Slovak Republic	5 054	5 305 016	95,3
Czech Republic	7 430	10 500 000	70,8
United Kingdom			
England and Wales	58 000	44 626 500	130,0
Scotland	14 429	5 111 200	282,3
Northern Ireland	2 109	1 625 116	129,8
Sweden	13 836	8 714 500	158,8
Switzerland	12 350	6 875 363	179,6
Turkey (*)	...	...	...
Canada	...	...	...
Russia	....	...	...

(\*) See remarks p. 75

**10. Prison sentences ordered in 1992 according to length (without full or partial suspension): numbers**

- (a) Total
- (b) Less than 3 months
- (c) 3 to 6 months
- (d) 6 months to one year
- (e) One year and more

Reference: Council of Europe, S.PACE 94.10

	(a)	(b)	(c)	(d)	(e)
Germany	33 443	< 8 525 >		11 196	13 722
Austria	...	...	...	...	...
Belgium	12 888	4 389	2 888	2 581	3 030
Cyprus	...	...	...	...	...
Denmark	14 671	11 343	1 471	1 021	836
Spain	...	...	...	...	...
Finland (*)	27 845	16 886	7 979	2 031	949
France	101 567	41 856	26 179	17 387	16 145
Greece	90 618	76 393	7 237	3 657	3 331
Hungary	...	...	...	...	...
Iceland	...	...	...	...	...
Ireland	...	...	...	...	...
Italy	110 772	24 707	32 541	23 980	29 544
Lithuania	9 431	0	0	86	9 345
Luxembourg	379	46	75	104	154
Norway	9 317	7 014	584	837	882
Netherlands	...	...	...	...	...
Poland	45 778	***	812	6 373	38 593
Portugal	...	...	...	...	...
Slovak Republic	5 054	***	297	928	3829
Czech Republic	7 430	<	3 907	>	3 523
United Kingdom					
England and Wales	58 000	10 700	13 900	12 800	20 600
Scotland	14 429	5 055	5 600	2102	1 672
Northern Ireland	2 109	361	490	696	562
Sweden	13 836	6 153	2 456	2 749	2 478
Switzerland	12 350	9 827	734	429	1 360
Turkey	...	...	...	...	...
Canada	...	...	...	...	...
Russia	...	***	...	35 200	186 400

(\*) See remarks p. 75

\*\*\*: Not applicable

**11. Prison sentences ordered in 1992 according to length (without full or partial suspension): percentages**

- (a) Total
- (b) Less than 3 months
- (c) 3 to 6 months
- (d) 6 months to one year
- (e) One year and more

Reference: Council of Europe, S.PACE 94.11

	(a)	(b)	(c)	(d)	(e)
Germany	100,0	< 25,5 >		33,5	41,0
Austria	...	...	...	...	...
Belgium	100,0	34,1	22,4	20,0	23,5
Cyprus	...	...	...	...	...
Denmark	100,0	77,3	10,0	7,0	5,7
Spain	...	...	...	...	...
Finland (*)	100,0	60,6	28,7	7,3	3,4
France	100,0	41,2	25,8	17,1	15,9
Greece	100,0	84,3	8,0	4,0	3,7
Hungary	...	...	...	...	...
Iceland	...	...	...	...	...
Ireland	...	...	...	...	...
Italy	100,0	22,3	29,3	21,7	26,7
Lithuania	100,0	0,0	0,0	1,0	99,0
Luxembourg	100,0	12,1	19,8	27,4	40,6
Norway	100,0	75,2	6,3	9,0	9,5
Netherlands	...	...	...	...	...
Poland	100,0	***	1,8	13,9	84,3
Portugal	...	...	...	...	...
Slovak Republic	100,0	***	5,9	18,4	75,7
Czech Republic	100,0	< 52,6 >			47,4
United Kingdom					
England and Wales	100,0	18,4	24,0	22,1	35,5
Scotland	100,0	35,0	38,8	14,6	11,6
Northern Ireland	100,0	17,1	23,2	33,0	26,6
Sweden	100,0	44,5	17,8	19,9	17,9
Switzerland	100,0	79,6	5,9	3,5	11,0
Turkey	...	...	...	...	...
Canada	...	...	...	...	...
Russia	...	...	...	...	...

(\*) See remarks p. 75

\*\*\*: Not applicable



## 12. Suspended sentences ordered in 1992

- (a) Total
- (b) Fully suspended, without supervision
- (c) Fully suspended, with supervision
- (d) Partially suspended, without supervision
- (e) Partially suspended, with supervision

Reference: Council of Europe, S.PACE 94.12

	(a)	(b)	(c)	(d)	(e)
Germany	...	...	...	...	...
Austria	14 711	< 13 039 >		< 1 672 >	
Belgium (*)	15 557	...	...	....	
Cyprus	...	305	...	...	...
Denmark (*)	6 245	< 5 079 >		< 1 166 >	
Spain	...	...	...	...	...
Finland	15 637	12 870	2 767	***	***
France (*)	229 466	184 245	24 466	8 519	12 236
Greece	...	9 822	...	...	...
Hungary	...	...	...	...	...
Iceland	...	...	...	...	...
Ireland	...	...	...	...	...
Italy	...	...	...	***	5 075
Lithuania	0	0	0	0	0
Luxembourg	273	187	32	43	11
Norway	8 406	6 686	597	< 1 123 >	
Netherlands	...	...	...	...	...
Poland	86 310	< 86 310 >		***	***
Portugal	...	...	275	...	...
Slovak Republic	8 677	< 4 627 >		< 4 050 >	
Czech Republic	***	***	***	***	***
United Kingdom					
England and Wales (*)	22 623	20 900	1 100	623	***
Scotland	***	***	***	***	***
Northern Ireland	2 239	2 239	***	***	***
Sweden (*)	***	***	***	***	***
Switzerland	36 123	< 36 123 >		***	***
Turkey	...	...	...	...	...
Canada	...	...	...	...	...
Russia	...	...	...	...	...

(\*) See remarks p. 75

\*\*\* : Not applicable

### 13. Other measures ordered in 1992

- (a) Exemption from punishment
- (b) Pronouncement of sentence deferred
- (c) Day-fine
- (d) Community service

Reference: Council of Europe, S.PACE 94.13

	(a)	(b)	(c)	(d)
Germany	99 137	1 203	472 184	14 738
Austria	157	887	...	...
Belgium	***	5 835	***	***
Cyprus (*)	242	173	...	...
Denmark (*)	1 934	***	***	571
Spain	...	...	...	...
Finland (*)	1 789	***	...	170
France (*)	8 223	...	4 329	13 619
Greece	...	...	...	...
Hungary	...	...	...	...
Ireland (*)	...	...	...	1 745
Iceland	...	...	...	...
Italy	***	***	***	***
Lithuania (*)	3 554	3 251	0	3 994
Luxembourg	***	0	***	0
Norway (*)	475	...	***	889
Netherlands	...	...	...	...
Poland	29 185	7 458	***	4 802
Portugal	...	103	...	40
Slovak Republic	3 875	***	1 461	***
Czech Republic (*)	***	18 446	***	***
United Kingdom				
England (*)	133 600	***	***	44 100
Scotland (*)	22 880	...	***	5 558
Northern Ireland (*)	5 016	...	***	543
Sweden	***	***	25 127	76
Switzerland	***	***	***	...
Turkey	...	...	...	...
Canada	...	...	...	...
Russia	146 000	...	...	...

(\*) See remarks p. 75

\*\*\*: Not applicable

14. Other cases of probation (measures ordered in 1991)

Reference: Council of Europe, S.PACE 93.14

	Nature of the case	Numbers
Denmark	– suspended sentences/probation without fixed sentence	4 030
Italy	– suspended prison sentence for drug use	116
Luxembourg	– Debarment from driving	1 904
England	– “probation order” (young persons)	15 000
	– “probation order” (adults)	28 900
	– “supervision order” (young persons)	5 800
Poland	– penalties involving a “limitation of freedom”	6 272
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).	6 610
	2. Ordinary probation can also be combined with a prison sentence of up to three months.	785
	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). On this case the court is urged by the legislator 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.	395
Russia	– labour for criminal offences without deprivation of freedom	83 000
	– conditional deprivation of freedom with a probationary period	100 200
	– deprivation of the right to occupy certain posts	53 000

15. Weight of the various sanctions and measures in 1992 compared with prison sentences without suspension (per 100)

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

Reference: Council of Europe, S.PACE 94.15

	(a)	(b)	(c)	(d)	(e)	(f)	(g)
Germany	...	...	296	4	1 411	44	...
Austria	...	...	...	...	...	...	...
Belgium	...	...	***	45	***	***	***
Cyprus	...	...	88	63	...	...	***
Denmark	35	8	13	***	***	4	27
Spain	...	...	...	...	...	...	...
Finland	56	***	6	***	...	1	***
France	205	20	8	...	4	13	***
Greece	...	...	...	...	...	...	...
Hungary	...	...	...	...	...	...	...
Ireland	...	...	...	...	...	...	...
Iceland	...	...	...	...	...	...	...
Italy	...	5	***	***	***	***	0
Lithuania	0	0	38	34	0	42	***
Luxembourg	58	14	***	0	***	0	502
Norway	98	15	6	...	***	12	...
Netherlands	...	...	...	...	...	...	...
Poland	189	***	64	16	***	10	14
Portugal	...	...	...	...	...	...	...
Slovak Republic	92	80	77	***	29	***	***
Czech Republic	***	***	***	248	***	***	***
United Kingdom							
England and Wales	38	1	230	...	***	76	86
Scotland	***	***	159	...	***	39	***
Northern Ireland	106	***	234	...	***	26	***
Sweden	***	***	***	***	182	1	56
Switzerland	292	***	***	***	***	...	***
Turkey	...	...	...	...	...	...	...
Canada	...	...	...	...	...	...	...
Russia	...	...	...	...	...	...	...

(\*) See remarks p. 76

\*\*\* : Not applicable

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## News from the member States

### Laws, bills, regulations

#### Austria

The Amending Law to the Austrian Code of Criminal Procedure (Strafprozeßänderungsgesetz 1993).

The provisions concerning remand in custody have been amended and the position of the investigation judge strengthened.

The Amending Law to the Austrian Penal Execution Code (Strafvollzugsnovelle 1993) concerns i.a. a fundamental reorganisation of prison work and a substantial increase of the earnings of the sentenced prisoners now benefit of unemployment insurance.

Moreover, the conditions allowing prisoners to communicate with their families etc have been improved.

#### Belgium

Law of 12 January 1993 repealing the Begging and Vagrancy Act. Beggars and vagrants are no longer subject to imprisonment.

Ministerial Circular of 23 July 1992: entry into force of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

Ministerial Circular of 28 December 1992: staff arrangements for optional vaccination against hepatitis B.

Ministerial Circular of 19 January 1993: arrangements on staff training leave or exemption from duties for training purposes.

Ministerial Circular of 15 March 1993: in specified exceptional circumstances, prisoners allowed to declare the place of detention as their address.

Ministerial Circular of 4 May 1993: all visitors to prisons required to go through electronic (metal-detecting) "gates".

#### Cyprus

The *prison law* is under revision and the relevant bill has already been laid before the House of Representatives for enactment.

Another *bill revising the Probation of Offenders Law* has been laid before the House of Representatives for enactment introducing community service as an alternative non-custodial sanction which will be combined with the consent of the offender, to the probation order. This is expected to increase the prospects of rehabilitation especially for young offenders as they avoid interruption of the links with society and the stigma of having been sent to prison which, in a small country like Cyprus, cannot be easily erased.

#### Denmark

Cirkulære nr. 8 af 10. januar 1994, nr. 61 af 25. marts 1994 om ændring af cirkulære om udgang til indsatte. (Circulars to amend the Circular on Leave for Prisoners).

Cirkulære af 10. januar 1994 om ændring af cirkulære om behandling af sager om løsladelse på prøve mv. (Circular to amend the Circular on Treatment of Cases about Release on Parole etc).

Vejledninger af 10. januar 1994 om udgang til afsonere og om løsladelse på prøve. (Guidances to the Circular on Leave for Prisoners and the Circular on Treatment of Cases about Release on Parole etc).

Cirkulære af 18. maj 1994 om iværksættelse af frihedsstraf eller forvring mv. (Circular to replace the Circular on Execution of Serving of Imprisonment or Detention etc from 26 August 1983).

Lov nr. 367 af 18. maj 1994 om ændring af straffeloven og lov om udgifterne i strafferetsplejen. (Amendment to the Danish Criminal Code and the Code on Expenses in Administration of Justice, concerning expenses during custody).

Lov nr. 369 af 18. maj 1994 om ændring af straffeloven og retsplejeloven. (Amendment to the Danish Criminal Code and the Administration of Justice Act, concerning payment of fines by reduction of the wages).

Cirkulære af 25. januar 1995 vedrørende udgifter og udlæg til forsorgs foranstaltninger (Circular on expenses and outlay to welfare arrangements).

Justitsministeriets bekendtgørelse af 20. februar 1995 om indeholdelse i løn for bøder m.v. (Ministry of Justice order concerning payment of fines etc by reduction of the wages).

Cirkulære af 8. marts 1995 om ændring af cirkulære om de indsatte adgang til udlevering af egne effekter m.v. og anvendelse af penge (Circular to amend the Circular on the Rights of Inmates to Retain their Personal Effects etc and to spend money).

Cirkulære af 4. april 1995 om ændring af cirkulære om udgang til indsatte (Circular to amend the Circular on Leave for Prisoners).

Cirkulære af 9. maj 1995 om ændring af cirkulære om de indsatte adgang til brevveksling og besøg m.v. (Circular to amend the Circular on the Right of Inmates to Exchange letters and to Receive Visits etc).

Cirkulære af 9. maj 1995 om ændring af cirkulære om varetægtsarrstatters adgang til brevveksling og besøg m.v.

(Circular to amend the Circular on the Rights of Remand Prisoners to Correspondence and Visits, etc.)

## Finland

*Enforcement of Sentences Act*, issued on December 12, 1889/39 amended in Helsinki on January 31, 1995. The amendment came into force on May 1, 1995. The main change in the amendment concerns compulsory prison work. Until now according to the law the prisoners were obliged to work during working hours and now it gives them alternatives: they can choose whether they work, study or take part in prison activities during working hours.

*Penal Custody Decree*, issued on June 13, 1975/431 amended in Helsinki on June 16, 1995. The amendment came into force July 1, 1995. The main change in the amendment is the same as in the before mentioned Enforcement of Sentences Act, the Decree contains more detailed rules.

*Regulations of the Ministry of Justice concerning:*

19/11/95 Payment of board and lodging from the wages paid in open institutions, from the wages of the prisoner performing his own work or going on work release, as well as from benefits provided by authorities.

18/11/95 Wages in open institutions and s.c. activity payment.

17/11/95 Defining, payment and accounting of remuneration and cash allowance.

16/11/95 Updating of the catalogue concerning refusals of visiting rights.

15/11/95 Examination of a prisoner and the room at his disposal.

14/11/95 Setting and implementing a disciplinary punishment.

13/11/95 Letters and telephone calls.

12/11/95 Ascertaining a prisoner's state of intoxication.

11/11/95 Visits and examination of a prisoner's visitor.

9/11/95 Conditional release of a prisoner.

8/11/95 Granting a short leave to a prisoner.

7/11/95 Commitment to an open institution and cancellation of the commitment.

6/11/95 Decision on fulfilling a prisoner's participation obligation.

## France

Circular of 25 January 1993 on crime prevention policy

Decree of 8 February 1993 amending various provisions of the Code of Criminal Procedure (3rd part: Decrees)

Circular of 24 February 1993. Law 93-2 of 4 January 1993 instituting a reform of criminal procedure (Provisional detention; examining judge; service of decisions; remedies; dangerous prisoner; transfer; removal from cell; handcuffs; visiting permission)

Circular of 11 March 1993 on applying to under-age persons the provision on payment of criminal damages (Article 12 (1) of Order 45-174 of 2 February 1945)

Decree of 15 March 1993 on amendment of certain provisions of the Code of Criminal Procedure (3rd part: Decrees, Book V)

Circular of 18 March 1993 on examination of the position regarding social security cover for prisoners. National Health Insurance Scheme circular of 5 August 1992

Circular of 25 March 1993 on responses to urban crime: an overview of court practice

Circular of 25 March 1993 on judicial policy in cities

Circular of 26 March 1993 on regular health inspection of prisons by outlying services of the Ministry of Health and Humanitarian Action

Decree of 27 March 1993 on care provided in prison by public health services

Decree of 29 March 1993 on reform of the Criminal Code (2nd part: Decrees of the Conseil d'Etat), amending certain provisions of criminal law and criminal procedure

Circular of 14 May 1993 containing observations on provisions of the new Criminal Code and the Act concerning its entry into force

Circular of 8 June 1993 on voluntary testing for human immunodeficiency virus (HIV) in prisons

Circular of 22 July 1993. Law 93-913 of 19 July 1993 postponing the entry into force of the new Criminal Code

Circular of 31 July 1993 on implementation of Decrees 93-193 of 8 February 1993 and 93-347 of 15 March 1993 amending certain provisions of the Code of Criminal Procedure

Circular of 24 August 1993 providing a general introduction to Law 93-1013 of 24 August 1993 amending Law 93-2 of 4 January 1993 (Criminal Procedure Reform Act – Official Gazette of 25 August 1993, p. 11991).

Circular of 30 August 1993. Law 93-1013 of 24 August 1993 amending Law 93-2 of 4 January 1993 (Criminal Procedure Reform Act).

Circular JUSD9430001C of 18 January 1994: commentaries on the regulatory section of the new criminal code and the regulatory changes required by its entry into force.

Circular JUSE9340147C of 4 February 1994: rules governing the detention of minors.

Circular JUSD9430004C of 14 February 1994: General description of Law No. 94-89 of 1 January 1994 laying down a non-reducible penalty and concerning the new criminal code and certain criminal procedure provisions.

Circular JUSA9400077C of 22 February 1994: effect of the entry into force of the new penal code on the execution of sentences.

Note of 31 March 1994: 1994 Action Programme of the General Delegation for the Fight against Drugs and Drug Addiction.

Circular JUS9430016C of 14 April 1994: Criminal policy guidelines – prevention of recidivism and the development of non-custodial sentences.

Agreement of 27 October 1994: Preparation for and supervision following release from prison, prevention of recidivism.

Note of 15 December 1994 on Circular No.45 DH/DGS/DSS/DAP of 8 December 1994 prisoners' health care and social welfare and guide to the methods to be used.

Circular JUSE9440152C of 16 December 1994: Agreement on co-operation between the Ministry of Justice and the Ministry of Labour, Employment and vocational Training.

Circular JUSE9540110C of 3 March 1995: Implementation of cultural programmes intended for persons placed in the hands of legal authorities.

Circular JUSE9540028C of 11 April 1995: Circular on guidelines for teaching in penal establishments.

### **Greece**

Law 2145/93 on sentence enforcement, speeding up and updating of administration of justice, and other matters.

Law 2172/93 amending or replacing provisions of Law 1756/1988 (the Judicature Act), the Code of Civil Procedure, the Criminal Code; the Code of Criminal Procedure and other provisions.

Law 2207/94 on remand and review of remand, suspended sentences, conditional release, speeding up of policy procedures, and other matters.

### **Hungary**

Modification of the Penal Rules, law IX of 1994

Declaration of the entry into force

– of the European Convention on and of the Complementary Protocol of 13 December 1957 law XVIII of 1994

– of the European Convention on Mutual Extradition and of the Complementary Protocol of 20 April 1959 Assistance in Criminal Matters law XIX of 1994

– of Convention on The Transfer of Sentenced Persons of 23 March 1983, law XX of 1994.

*The XCII. Article of 1994, about the modification of the 1st law of 1973, related to the implementation of sanctions.*

It is an important step, that the tribunal, after six months, and the Supreme Court after a year, examine the necessity to carry out compulsory care. The former regulation enabled the attorney, to decide so.

*The III. Article of 1995, enact the entry into force of the European Convention of 26 November 1987, in Strasbourg, for the prevention of torture and inhuman or degrading treatment or punishment.*

*The XLI. Article of 1995, provides modifications of the provisions of the law on sanctioning mainly juvenils.*

This Article modifies the law on corrections, (11. Art. of 1979.) concerning provisional release from a prison or a remand house, and supervision.

*The Decree of the Ministry of Justice of 1995, January /I.6./ regulates the supervision of the foreigners police concerning the implementation of custody in prisons, based on the LXXXVI. law of 1993, which provides the stay and immigration of foreigners in Hungary.*

*The Decree of the Ministry of Justice 21/1994/XII.30/ concerning changes in correctional institutions.*

The new name of the institutions reflects better the regional, national and penitentiary character of prisons or institutions concerned.

The Decree which entered into force on 1st March 1995, replaces the order of the Ministry of Justice, concerning the penal establishments.

*The 9/1995/III.8/ Decree of the Ministry of Justice enacting the enforcement of the Convention on the Transfer of sentenced persons. According to the Decree, if any doubt raises concerning the enforcement of the Convention, the competent Court should refer to the Ministry of Justice, and the attorney to the attorney general.*

### **Iceland**

The Althing (Parliament) has adopted the legislation on community service which will be part of the Icelandic Penal Code from 1 July 1995 on.

### **Italy**

*Decree of 20 December 1994: Selection criteria for prison officer cadets to be appointed as volunteer reservists*

This recent decree was expedient in view of the imperious need for staffing, inter alia to make up the shortages occasioned by the institutional functions required of the Prison Police Force. It also supplements all clauses of Legislative Decree No. 443/1993 which regulates the standards to be applied in assessing the physical, mental and attitudinal fitness of candidates



undergoing the competition for Prison Police Force cadets but, apart from a few references in Article 5, does not specify any procedures and makes no provision for appointment of reserve officers to the Prison Police Force covered by Law No. 198 of 7 June 1975.

*Decree of 13 January 1995:* Extension of the validity of the personal identity cards already issued to officials of the disbanded Warders Corps.

*Law of 16 February 1995:* Extension of the provisions in Article 41 bis of Law No. 354 of 26 July 1975 on waiving of the normal rules on conditions of imprisonment.

*Circular No. 60248 of 27 February 1995 concerning Law No. 216 of 19 July 1991 as incorporated into Law No. 465 of 27 July 1994:* Projects in aid of minors exposed to risk of involvement in criminal activities; 1995 funding plan (Article 4 of the law).

In implementing the fifth five-year plan for the current year, in respect of which a 10 billion lire appropriation was made under Law No. 465 of 27 July 1994, the Ministry of Justice has planned various operations aimed at crime prevention and social rehabilitation in the field of juvenile delinquency, meeting the need to identify the areas of intervention where the degree of social hardship is highest and most evident.

These projects are intended for young persons or groups of young persons aged between 11 and 18 years who are in circumstances of severe deprivation of educational and social opportunities and in any case have already entered the criminal justice circuit and already reside in districts classed as high-risk areas owing to pronounced levels of social disintegration compounded by a strong presence of organised juvenile crime.

The projects must provide for the requisite flexible operational methods and must be localised so as to ensure more satisfactory organisation in such a problematic, high-risk sector and guard against growth in the incidence of crime.

*Legislative Decree No. 152 of 7 May 1995:* Provisions on further commitment of the armed forces in operations concerning surveillance of the national territory and on adaptation of structures and functions relating to suppression of organised crime

The application of this new arrangement was approved in view of the extraordinary and urgent need for deployment of units of the armed forces in police operations against organised crime in Sicily and Calabria and within the boundaries of the Municipality and Province of Naples for the fulfilment of specific organised crime fighting objectives, and in order to ensure more general maintenance of law and order and guarantee the security of citizens. This decree further provides for reinforcement of certain structures and functions in order to step up prevention of organised crime and thus ensure more general maintenance of law and order and guarantee the security of citizens.

*Legislative Decree No. 181 of 19 May 1995:* Emergency measures for the implementation of the single statute on drug dependence, approved by Presidential Decree No. 309 of 9 October 1990

The decree was adopted to ensure prompt interventions in support of drug abuse prevention and cure activities, and to amend the single statute in some respects.

*Decree of 11 March 1995:* Alteration to the special prison construction programme.

*Legislative Decree No. 200 of 12 May 1995:* Application of Article 3 of Law No. 216 of 6 March 1992 concerning career restructuring for subordinate Prison Police Force personnel.

*Decree of 25 February 1995:* Prison Police Force training for the performance of prisoner transfer duty in conjunction with Carabinieri officers.

The decree was put into effect under Article 4 of Law No. 395 of 15 December 1990 which confers on the Prison Police Force responsibility for prisoners and detainees, this duty being delegated to reinforce the designated personnel.

Provision was also made for the practical training of prison police officers having attended a familiarisation course on prisoner transfer.

*Legislative Decree No. 269 of 5 July 1995:* Emergency measures concerning prison administration staff

This was prompted by the unusual and urgent need to increase the strength of the Prison Police Force and to set up canteens and child-minding services for dependents of prison administration staff.

*Order No. 59 of 7 December 1994 by the President of the Provincial Council*

Regulations on criteria for provision of financial aid in respect of drug addiction and alcoholism

The order concerns activities aimed at prevention, cure and rehabilitation for types of drug addiction and alcoholism. The programme involves awareness and information campaigns to prevent non-therapeutic use of narcotics and alcohol, eg organisation of congresses, round tables or courses of instruction for the public at large, public health workers, families and bodies concerned with young people's education; alternatively, booklets and other information material are produced and distributed where preventive measures form the main activity of a substantial and prominent agency or sector.

Such work will be vital to co-operation with the school, judicial and police authorities, the voluntary sector and the public health, education and training structures operating in the territory, with the aim of making co-ordinated and comprehensive assistance available to drug addicts or alcoholics.

## Malta

Draft Prison Regulations 1995.

Correctional Services System Plan for Malta.

## Netherlands

*The Special Admissions to Psychiatric Hospitals Act* came into force on 17 January 1994. This act replaces the Insanity Act of 1884. It governs the conditions under which citizens may be confined to a psychiatric institution against their will. It also sets out the internal legal position for forcibly confined patients, stipulating, for instance, the conditions under which their civil rights may be curtailed. This includes a complaints procedure through the Medical Inspectorate of Mental Health (GHIGV) to the District Court.

*Decree of 23 February 1993*, in force from 24 February 1993, changing the *rules on committal for failure to comply with a judicial order (gijzeling)*. This is a means of coercion enshrined in Dutch law similar in kind to a fine imposed for non-compliance with a court decision. The previous decree on this subject, dating from 1928, set out special arrangements for this category of detainees. Its provisions on the legal position had been superseded in many respects by developments and improvements in the prison system since the Second World War. There is no longer any need for specific regulations for this type of detention. The new decree therefore extends the regulations applying to unconvicted suspects held in detention centres to those detained for failure to comply with a judicial order.

*Decree of 13 December 1993 amending the Prison Order and the Aliens Decree*, in force from 14 December 1993. This decree, taking account of the serious shortage of prison cells, provides for the accommodation of those subject to alternative imprisonment and detained aliens in multiple-occupation cells.

*Act of 15 December 1993*, in force from 15 January 1993, concerning *detention under a hospital order (terbeschikkingstelling, TBS)* and observation. This act deals with some problems which have emerged since the introduction of new legislation in the TBS field in 1988. It sets out regulations for the clinical observation of suspects against their will. It also relaxes some of the terms applicable in the procedures for the imposition and extension of TBS. And it provides a clarification of the concept of 'violent crime'. TBS with care can only be imposed on those who have been convicted of a violent crime. In the past there was some uncertainty about the definition of this concept.

## Poland

Presently changes of the:

- IPenal Code
  - Penal Executive Code
  - Penal Procedure Code
- are under preparation.

The Polish Central Prison Administration has prepared amendments to the regulations on the implementation of sanctions concerning:

- the phone calls to the Police station by the inmate during 24 hours prison leave in Poland, (so called "24 hours visit outside prison");
- the obligation of an everyday call to the Police station during a 5 days prison leave;
- the possibility for inmates to obtain private medical care at their own expense;
- the authorisation for inmates to use phone boxes at their own expense or at the expense of the prison.

## Slovak Republic

The notice number 114/1994 of the Law digest by which the Order of the prison custody is issued. The notice is the executive regulation to the law number 156/1993 of the Law digest about prison custody.

The notice number 125/1994 of the Law digest by which the Order of the deprivation of liberty is issued. The notice is the executive regulation to the law number 59/1965 about the deprivation of liberty.

The notice number 135/1994 of the Law digest concerns the expulsion of persons from the country on the basis of a judgment. This notice modifies the methods of the Ministry of Justice of the Slovak Republic, of the Courts, of the Police institutions and Prison Administration in the field of the expulsion of persons from the territory of the country.

The Law number 33/1994 of the Law digest is another generally obligatory legal regulation by which the Law number 79/1992 of the Law digest about Prison Administration of the Slovak Republic changes and completes. The above mentioned amendment modifies the organisation of Prison Administration of the Slovak Republic, some new competencies of the officers of Prison Administration who perform a protective service of the law court as well as of the official buildings.

With regard to the conditions for the activity of Prison Administration of the Slovak Republic, they are liable to incessant changes.

The most significant regulations which were passed in the last period are:

- a. about classification of sentenced prisoners for work – the regulations modify the organisation and the conditions of activities intended for the employment of sentenced prisoners. Sentenced prisoners are classified for work in the internal service of the institutions, centres of adjacent economy and body corporates,
- b. about financial limits for the preparation of food and about board – the regulations modify financial limits for the preparation of food helpings for individual categories of sentenced prisoners, namely workers, non-workers, juveniles, pregnant women, transported prisoners, expelled prisoners as well as financial limits for the preparation of dietetics,

c. about the establishment of special advisory medical commissions – one commission has been established for the solution of problems connected with AIDS, and the further commission for tuberculosis of untried and sentenced prisoners,

d. about reception and the release of ill untried and sentenced prisoners in a hospital for untried and sentenced prisoners in Trencin – the regulation modifies provision of special medical care to untried and sentenced prisoners as well as other tasks in connection with their reception and release into this hospital,

e. about the performance of preventive cure in the institutions – the regulation modifies the enforcement of psychiatric, anti-addict, anti-alcoholic and sexologist cure during the deprivation of liberty.

### Sweden

Effective 1 July 1995, there are some minor changes in the *Prison Treatment Act* (SFS 1974:203):

- from 1 July national or local institutions (prisons) are called closed or open prisons. The closed institutions are classified according to their security level;
- an extended right to search an inmate is now possible through the change in the law;
- some minor changes in the regulations concerning leave for the inmates have also come into force on 1 July.

#### *Penological questions of major interest*

- a governmental order to the Swedish Prison and Probation Administration concerning a modernisation of the Remand Prisons (as a consequence of the CPT report);
- a planned prolonged and widened test with intensive supervision with electronic monitoring;
- the treatment of long term sentenced inmates especially those with expulsion;
- = young offenders/inmates.

### Switzerland

Order 3 concerning the Criminal Code, which expires at the end of 1995, is to be extended. The plan is to increase the maximum length of community service orders to 3 months and change the rate of conversion (to 4 hours' community service for one day's imprisonment). It is likewise planned to increase the maximum duration of semi-release to one year provided there is also close supervision of the person concerned.

### England and Wales

The Criminal Justice Act 1993 which has in recent months been fully implemented and the Criminal Justice Bill 1994 which is currently under consideration creates the Secure Training Order for persistent juvenile offenders between the ages of 12 and 15.

*The Criminal Justice and Public Order Act 1994*: this recently introduced act has created a number of new criminal offences and penalties.

*The Prisoners (Return to Custody) Act 1995*: this creates a new summary offence of failing to return to custody following the expiry of a period of release or a notice of recall.

*The Criminal Appeal Bill*: this bill is currently in its later stages of consideration in Parliament. The bill will establish an independent review body, the Criminal Cases Review Commission. The commission will exist to investigate possible miscarriages of justice and to refer appropriate cases to the courts. It will be independent of both the courts and government. The bill will also propose a number of reforms which will clarify and strengthen procedures governing appeals against sentence and conviction.

In addition a "Green Paper" (ie a consultation document) prepared by the Home Department is also under consideration with a view to possible introduction as legislation. This document proposes that the courts should have a single, new community sentence which brings together all the current options and which will allow the courts much greater choice and flexibility in matching a community sentence to the individual case.

### Northern Ireland

The Prison and Young Offenders Centre Rules. Statutory Rules of Northern Ireland, 1995.

### Scotland

The Scottish criminal justice legislation which recently came into force is the Prisoners and Criminal Proceedings (Scotland) Act 1993. This provides a new system of release for prisoners and replaces the old system of remission and parole.

*The Prisoners and Criminal Proceedings (Scotland) Act 1993*. This act came into force on 1 October 1993 and amended the law of Scotland with respect to the detention, transfer and release of persons serving sentences of imprisonment etc or remanded in custody. It also made further provision as regards evidence and procedure in criminal proceedings in Scotland.

*The Prisons and Young Offenders' Institution (Scotland) Rules 1994*. This legislation which is subordinate to the Prisons (Scotland) Act 1989 entailed a wide ranging review of procedures governing the management of Scottish penal establishments.

### Canada

Statutes of Canada 1992, Chapter 20 (Bill C-36 assented to 18 June 1992): an act respecting corrections and the conditional release and detention of offenders and to establish the office of Correctional Investigator.

Regulations respecting corrections and the conditional release and detention of offenders of 29 October 1992.

Bill C-45 amending the Corrections and Conditional Release Act, the Criminal Code, the Criminal Records

Act, the Prisons and Reformatories Act and the Transfer of Offenders Act (First reading, 21 June 1994).

#### **Russia**

Law of the Russian Federation of July 1995 on the imprisonment of accused persons or persons convicted of a crime.

Orders of the Government of the Russian Federation :

No.85 of 3 February 1994 on the approval of the list of types of work, occupations and positions in penal establishments offering work to prisoners and entitling them to retirement pensions on the grounds of special workings conditions.

No.477 of 3 May 1994 on the award to penal establishments and their production units of orders for

products, work and services to be carried out for the benefit of the State.

No.477 of 6 May 1994 on the approval of amounts of compensation (scales) for staff of penal establishments, including those involving special conditions of production, according to the type of establishment, the nature and complexity of the work carried out, and of remand centres under the control of the Ministry of Interior of the Russian Federation.

No. 1236 of 3 November 1994 on the Federal programme for the construction and reconstruction of Ministry of the Interior of the Russian Federation remand centres and prisons and the construction of housing for the staff of these establishments between now and the year 2000.

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## England and Wales

MIRRELS-BLACK Catriona: Disqualification from driving: an effective penalty?

The introduction of technology for the detection and prosecution of road traffic offenders is likely to result in increased numbers of drivers receiving penalty points and, ultimately, disqualification from driving. Due to the numbers convicted for driving whilst disqualified there has been some concern whether this is an effective penalty.

In this study ninety offenders were interviewed to assess whether disqualification from driving is effective as a means of retribution, deterrence and restraint.

Research and Planning Unit.

HEDDERMAN Carol: Panel assessment schemes for mentally disordered offenders.

Various schemes have been set up around the country to divert the mentally disordered out of the criminal justice system. This report describes the impact of three such multi-agency schemes in different parts of the country. It considers how those working in criminal justice, health and social service agencies viewed the scheme and presents the results of a survey designed to show what other diversion arrangements are in place or in planning around the country.

Research and Planning Unit.

NEE Claire and SIBBITT Rae: The probation response to drug misuse.

THE 1991 Criminal Justice Act made specific provision for the treatment of drug misusing offenders within a probation order. The aim of this study was to find out how the probation service dealt with offenders' drug misuse before the Act was implemented. The study was carried out between May 1991 and July 1992.

Research and Planning Unit.

FOSTER Janet and HOPE Timothy with assistance from DOWDS Lianne and SUTTON Mike: Housing, Community and Crime: The impact of the Priority Estates Projects.

This report examines the impact of the Priority Estates Project (PEP) on two «high crime» estates. It looks at the mechanisms of social control embodied in the PEP model and finds considerable evidence of a reduction in crime on the estates during the course of the research another set of social processes were found to foster the

growth of criminality on estates. These findings demonstrate the scope and limitations of informal social control and the need for concerted effort to tackle the underlying factors which lead to the development of criminal activity.

Home Office Research Study.

BARKER Mary and MORGAN Rod: Sex offenders: a framework for the evaluation of community-based treatment.

The Criminal Justice Act 1991 makes special provision for the handling of sex offenders, and thus is expected to result in their increased numbers on the probation service's caseload. This report represents the first stage of an evaluation of the treatment programmes offered by five probation services and the Gracewell clinic, and describes their management, resourcing and structure.

Home Office Research Study. (External Research)

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## Russia

### *Etudes*

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# News in brief

## Belgium

In November 1993 visit by the European Committee for the Prevention of Torture.

## Portugal

On 22 June 1993 the Director General of Prison Services approved a General Programme of Support to Drug-Addicted Prisoners. The programme is intended to standardise and step up work already being done, staff training, and reorganisation of prison clinical and technical services to cope with the special needs of this section of the prison population.

A technical committee on which various agencies are represented (Direcção Geral dos Serviços Prisionais, Instituto de Reinserção Social, Gabinete de Planeamento e de Coordenação do Combate à Droga) has been set up to implement the programme. The programme is already being implemented at eight prisons.

## Sweden

### *Intensive Surveillance Through Electronic Monitoring*

The government has introduced into Parliament a bill containing a proposal for experimental intensive surveillance through electronic monitoring. The background to the proposal is the urgent need to find alternatives to imprisonment. In this context, the present electronic surveillance techniques are of great interest. These techniques have been developed in the United States and include, inter alia, the wearing of a transmitter in a band around the wrist or ankle of the surveillance subject. The technique is described in greater detail in Appendix 1.

The experiment should provide knowledge as to how electronic surveillance functions under Swedish conditions and as to how correctional treatment should be fashioned for an undertaking of this type. The experiment is intended to provide basic data for a parliamentary committee, the Penal System Committee, which must consider whether intensive surveillance through electronic checks should become a permanent feature of the Swedish penal system.

According to the legislative proposals contained in the bill, a sentence of not more than two months imprisonment shall, in certain cases, be served outside prison, in the form of intensive surveillance through electronic monitoring. A prerequisite for this being put into effect is that the convicted person resides in one of the areas of operation of the probation authorities in Karlskroga, Lulå, North Malmö, South Malmö, Norrköping, or Sundsvall. The experiment will be conducted under the auspices of the probation authorities.

Under the proposed legislation, the convicted person will be enjoined from leaving his home other than

for certain reasons as determined by the probation authority, and a specifically stated times. Such reasons may be work, studies, treatment, participation in correctional treatment activities, or contact with the probation authority. Compliance with the prohibition will be checked during the entire period by means of electronic devices. Electronic monitoring may also be used to see whether the convicted person totally abstains from alcohol. In certain cases, the convicted person will be liable to pay a fee of 50 kronor per day as the programme progresses. In cases of abuse, the convicted person will be taken into a penal institution, where he will continue to serve his sentence.

It is proposed that the experiment be for a period of two years. It is intended that it should commence in the summer of 1994.

### *Different Technical Devices for Intensive Surveillance*

There are in the main two types of technical systems for intensive surveillance: continuous surveillance or active systems, on the one hand, and intermittent surveillance or passive systems on the other. In an active system, the surveillance subject is under continuous control when he is in a certain place, usually the home. By way of contrast, in a passive system the presence of the surveillance subject at the place in question is checked only at randomly chosen times.

An active system comprises three units – a transmitter, a receiver and a central computer. The surveillance subject wears a transmitter around the wrist or ankle. The transmitter is usually so constructed that it cannot be removed or otherwise manipulated without an alarm being sent to the central computer. The receiver is installed in the home of the surveillance subject and is connected to the telephone network. As long as the transmitter is within the range of the receiver, which is usually up to 25-45 meters, the receiver picks up the coded radio signals which are continuously emitted by the transmitter. However, should the surveillance subject distance himself further from the receiver than the range of the transmitter allows, the receiver informs the central computer thereof via the telephone network. In a corresponding manner, the central computer is informed when the receiver resumes receiving signals from the transmitter, ie when the surveillance subject is once more at a shorter distance from the receiver than the maximum range of the transmitter.

The central computer continuously compares the information received with information programmed into it as to the times when the surveillance subject is under curfew. The information received is stored in the computer's memory, and consequently a 'journal' is built up showing both the times at which the surveillance subject is enjoined to remain at home, and those times during the period in question when he has in fact left

and returned home. A printout of such a journal may resemble the example given below.

The first part of the example contains the weekly scheme for the surveillance subject. On Tuesday, for example, NN may leave home at 07.45 in order to go to work, and should be at home no later than 15.45. The same times apply on Wednesday, but on that day he is also permitted to be away from home between 19.00 and 21.45 in order to participate in a treatment programme. On Saturday and Sunday, NN may participate in a treatment programme and do community service.

The second part of the weekly report shows when the surveillance subject has in fact left home and when he has returned. As evident from the report, on Tuesday he came home at 17.30 instead of the fixed time, 15.45. This is noted in the report and at 15.50 the computer automatically announces that a breach of the rule has occurred.

In a passive system, the central computer rings up the surveillance subject at times chosen at random. The surveillance subject must then co-operate so that his presence can be checked. This is done in different ways in different systems. Certain systems use voice detectors. The surveillance subject provides a voice sample which the central computer then compares with programmed-in information concerning the surveillance subject's voice.

In another system there is special identification apparatus comprised of two units. One of these is affixed around the surveillance subject's wrist or ankle in such a way that a later check can detect whether there has been an attempt to remove the unit. The second unit is linked to the telephone network in surveillance subject, the latter places the unit borne by him into the unit linked to the telephone network. The central computer is thus notified via the telephone network whether identification has occurred.

A third method of identification employs visual electronic techniques. Camera equipment in the surveillance subject's home is activated by the surveillance subject when he is rung up by the central computer. The camera takes still photographs of the surveillance subject when he is rung up by the central computer. The camera takes still photographs of the surveillance subject and these are transmitted to the central computer via the telephone network. Identification occurs by comparing the still photographs with reference pictures of the surveillance subject which are stored in the computer memory. The surveillance staff can immediately receive the transmitted pictures on a special picture screen which is linked to the central computer. It is also possible to construct a passive system composed of a combination of several identification methods.

If the central computer is manned, the operator can immediately take steps in the event of a violation of a curfew. Should the computer be unmanned during certain times, eg during the night, a text announcement regarding the violation can, with the help of a beeper,

be communicated to the probation officer on duty. Another possibility, of course, is to postpone taking measures as a result of a violation, until the operator has had an opportunity to go through the information which the central computer received whilst it was unmanned.

Electronic equipment can also be used in order to check whether the surveillance subject has complied with a prohibition on the consumption of alcohol. Such checks may take place with the help of a breathalyser installed in the surveillance subject's home. The central computer rings up the surveillance subject at random times and instructs him to provide a breath test. The surveillance subject must then provide the test by blowing into the mouthpiece of the breathalyser. The results of the test are automatically transmitted to the central computer. In order to ensure that the correct person has submitted the sample, the breathalyser can be used in conjunction with the aforementioned camera.

It is also possible to have an alcohol detector built into a telephone apparatus installed in the home of the surveillance subject. The alcohol detector indicates whether the person speaking into the telephone has an alcohol level in his exhaled breath which exceeds a certain pre-programmed limit. A voice detector can be employed in order to check that it is the surveillance subject that is speaking into the telephone.

Finally, it should be mentioned that there are also portable receivers, which often have a longer range than those found in the surveillance subject's home. These afford the surveillance staff an opportunity to discreetly check the presence of the surveillance subject in a place other than his home, eg at the workplace. The checks are carried out by the officer involved carrying the receiver and passing through the place in question, in such a manner that the receiver comes within the range of the signals emitted by the surveillance subject's transmitter.

## Switzerland

Under Article 8 of the Federal Law of 5 October 1984 on the Confederation's role in penalty and measure enforcement, the Confederation is allowed to subsidise the development and testing of new methods and ideas relevant to the enforcement of penalties and measures or to institutions dealing with young people with serious social maladjustment (pilot schemes).

Since 1987 the Confederation has recognised and subsidised the following projects:

– Le Tram, Geneva: prison offering the type of drug-addiction treatment provided by measure-enforcement institutions;

– La Pâquerette, Geneva: prison sociotherapy centre providing treatment for prisoners with personality disorders;

– Pöschwies Prison, Regensdorf, canton of Zurich: trial move away from conventional sentence enforcement

to a differential-group system offering individualised treatment programmes;

– Dingi Prison, Lenzbourg, Aargau: special treatment programme for young adults with drug problems;

– Justice and Police Department, St. Gall: additional programme for mentally or physically impaired prisoners at Saxerriet Prison who are unable to satisfy the requirements of the ordinary regime; educational and therapeutic provision aimed at improving their quality of life, their integration into the community and the prison's ability to cater for this type of prisoner;

– Justice Department, Lucerne/Caritas: community service for adult offenders as a substitute for short prison sentences;

– Police Department, canton of Bern: community service introduced as a substitute for prison sentences of up to 30 days. The programme includes help with finding a job in suitable cases;

– Justice Department, canton of Zurich: community service programme for persons who are unemployed and socially maladjusted: programme using repair work as a means of rehabilitation (from both the employment and social standpoints) and a way of creating the desire and ability to adopt a different life pattern;

– Saint-Jean Prison (measures): progress through work; the prison programme (based on prisoner grouping and therapy) will have a third element – prisoner training – added to it;

– Justice and Police Department, canton of Vaud: community service as a substitute for short prison sentences; sentences of up to 14 days replaceable by work for a body or organisation with a social function;

– Justice Department, canton of Zurich, semi-detention Winterthur: programme of specialist help for men and women on semi-release with drug or alcohol problems; programme of socialisation and stimulus.

### **United Kingdom England and Wales**

The Prison Service is introducing a national framework for incentives and earned privileges in all establishments in England and Wales this year. The emphasis will be on prisoners' earning levels of privileges through assessed behaviour and participation in work or other constructive activity.

From July over 30 first phase establishments will be implementing approved incentives and earned privileges schemes. By the end of the year all establishments will be operating within the framework.

The elements of the national framework will be:

- a clear set of national aims;
- a list of key earnable privileges and instructions on their use;
- criteria and process for earning and losing the key and other, locally chosen privileges, and on the relationship with the disciplinary system;

– policy and guidance on privilege and regime levels and good practice incentive approaches; and

– effective monitoring and auditing.

In addition to providing that privileges generally are earned by prisoners through good behaviour and performance and participation in work and other constructive activities, the policy aims to encourage responsibility and provide a safer and better controlled environment for both prisoners and staff.

### *Home Leave and Temporary Release*

The Home Secretary announced changes in the home leave and temporary release schemes for prisoners in November. This followed a thorough review of the system of temporary release from prison. Under the new arrangements a set of stringent criteria and a rigorous risk assessment will apply to all prisoners seeking release on temporary licence.

It is the purpose of the new arrangements to improve public safety and increase public confidence by ensuring that prisoners are released only for precisely defined and specific purposes. Accordingly, the scope of facility licence and resettlement licence has been tightly drawn to stop unacceptable and excessive temporary release. In practice this will mean that fewer prisoners will be considered for release on temporary release licence and fewer grants will be made. We are, however, concerned that the new arrangements should be implemented with the minimum of disruption to establishments and we are therefore considering what transitional arrangements are necessary for particular classes or categories of prisoner.

The public, particularly the victims of serious crime, have every right to expect offenders sentenced to imprisonment by the courts not to be released from custody unreasonably early in their sentence length, or too frequently. Were this to occur the purpose of imprisonment would be undermined. The new system of release on temporary release on licence is therefore designed to strike a proper balance between the need to maintain public safety and the release of suitable prisoners for a specific and justified purpose. Training of staff has taken place and detailed instructions have been issued. The scheme took effect from April 25 with a review in the Autumn.

### **Canada**

While legislation has not yet been formally introduced into Parliament for debate and passage, it is anticipated that the following drafts will be placed on the agenda for the fall session of 1995 when the House reconvenes after the summer recess:

- Modifying current detention provisions that permit the National Parole Board to detain, until the end of sentence, high risk sex offenders who have been determined likely to commit an offence causing death or serious harm before the expiration of the sentence. The enactment eliminates the serious harm criterion for a

sexual offence involving a child and authorises the National Parole Board to detain an offender where it is satisfied that an offender is likely to commit a sexual offence involving a child before the expiration of the sentence.

– Amending the CCRA to provide that offenders who have been sentenced for new offences committed on conditional release be automatically returned to custody and that an offender who receives an additional consecutive sentence serve at least one-third of the new sentence before being eligible for parole.

– Enacting a number of minor technical amendments to the CCRA such as removing discrepancies between the English and French texts, clarifying the relationship between federal and provincial (offenders sentenced to a term of imprisonment of two years or more fall under federal authority, those sentenced to less than two years are under provincial jurisdiction) statutory release and earned remission systems, and clarifying the process for application of accelerated parole review and judicial determination of parole eligibility.

# List of Directors of Prison Administrations of the member States of the Council of Europe

**Albania/Albanie:** Mr Bedri COKU, Director of Prison Administration, Ministry of Justice Bld Deshmoret e Kombit, TIRANA

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**Cyprus/Chypre:** Mr. George ANASTASSIADES, Director, Department of Prisons CY-NICOSIA

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**Latvia/Lettonie:** Mr Stanislavs POKHANS, Director of Prison Administration, Ieslodziju Vjetu Departaments Stabu Ielā 89, LV-226009 RIGA

**Lithuania/Lituanie:** Mr. Jonas BLAZEVICIUS, Director General, Prison Administration, Ministry of Justice, 53-54 Latviu Street, VILNIUS

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