



28 October 2011  
pc-cp/docs 2011/pc-cp (2011) 20 E

PC-CP (2011) 20

**EUROPEAN COMMITTEE ON CRIME PROBLEMS**  
**(CDPC)**

**Council for Penological Co-operation**  
**(PC-CP)**

**16th Conference**  
of  
**Directors of Prison Administration**  
with the participation of  
**Directors of Probation Services**

**“Working together to promote the social reintegration of prisoners”**

**Council of Europe**  
**Agora Building**  
**Room G03**

**13-14 October 2011**

**[www.coe.int/prison](http://www.coe.int/prison)**

**ANALYSIS OF THE QUESTIONNAIRE**

**Document prepared by the Directorate General I - Human Rights and Rule of Law**

The Council of Europe Secretariat circulated to all participants in the 16<sup>th</sup> Conference of Directors of Prison Administration and Probation Services, held on 13 and 14 October 2011, a questionnaire to be completed. It was intended to take the opinion of professionals working on the ground so as to help the Secretariat follow up Resolution No. 2 adopted at the 30<sup>th</sup> Council of Europe Conference of Ministers of Justice, to plan forthcoming activities in the prisons field, and to cater more fully for the needs of the member states' prison administrations and probation services.

29 persons answered the questionnaire, issued in French and English. The replies were processed with strict anonymity and confidentiality by the Council of Europe Secretariat. Some respondents elected not to answer all questions, which is why the total for certain questions is not 29.

Of the 29 replies, 15 were given by a participant from a prison administration, 5 by a participant from a probation service, and 11 came from respondents working in a combined prison and probation structure.

## **I. THE CHIEF DIFFICULTIES IN APPLYING THE COUNCIL OF EUROPE STANDARDS**

The first question concerned the areas where participants met with their chief difficulties in applying the Council of Europe standards. Respondents could make a multiple choice from the items proposed, add others, and rank-order their selection.

It is found that **prison overcrowding** invariably constitutes the chief difficulty for many of the prison administrations of member states. In fact it was identified by 14 of the 29 replies, and 10 even designated it as the chief problem.

What also appears a highly problematic area is the **number of staff**. Respondents from composite administrations (prison and probation) are the main ones to consider that staff shortage constitutes a major problem in applying the Council of Europe standards. As a related concern, we also find 8 persons who consider **staff training** inadequate.

Moreover, the **handling and reduction of violence between prisoners** are found to represent a significant problem in the perception of the respondents, 10 of whom state that this area forms part of their chief difficulties.

Also, many of the participants consider that **co-operation with civil society** is inadequate and that **preparation for release** raises difficulties.

Lastly, **treatment of dangerous offenders** is regarded by the respondents as a whole, taking all services together, as problematic.

Among the suggestions emanating from the respondents is found, for example, **the issue of the lack of effective support on the part of political society and governments**.

## **II. NUMERUS CLAUSUS**

Participants were then asked whether they considered it appropriate to fix a maximum capacity (numerus clausus) for each prison.

**21 of the 29 respondents consider this an apposite measure.** Many of them explain that, in particular, it allows more individualised provision to be made and prison overcrowding to be limited. Some respondents also consider that a numerus clausus would help induce the judicial authority to make responsible use of custodial penalties.

Those who answered the question in the negative explain their choice mainly by the fact that such a measure places too much constraint on the independence of judicial decisions and that its application would raise needs by way of unduly extensive new building for prison administrations.

### **III. APPLICATION OF RULE 50 OF THE EUROPEAN PRISON RULES**

The third question concerned regular consultation of the prisoners' opinion on subjects linked with the organisation of day-to-day life in prison. We wished to know whether the national experts considered such consultation capable of assisting with good prison governance. A very substantial majority of participants, **28 out of 29, support the idea upheld by Rule 50 of the European Prison Rules.** In their view, this has positive repercussions at both the collective and the individual level. They find that such consultation makes it possible to improve day-to-day life and the general atmosphere in prison, to aid the exercise of more dynamic, active security, and to enhance the prisoner's place within the prison system by giving him a means of expression. From a more individual standpoint, the professionals think that the application of Rule 50 enables prisoners to prepare more easily for their reintegration in civil society and allows a practical trial of more participative citizenship and democracy.

### **IV. A MODERN PRISON INSTITUTION**

We also wished to know the principal criteria to be met by a modern prison institution in the opinion of the participants. They were able to make a multiple choice of items from a list, to add others, and to rank-order their selection.

It can be ascertained from the analysis of replies that the professionals consider it particularly important for a modern prison institution to **have only individual cells.** Indeed, 20 persons made this item their first choice.

The persons surveyed are also very alert to the existence of **treatment programmes for addictions** and more generally **individualised programmes of care.**

Next, the replies show that a modern prison should also provide arrangements for prisoners to engage in an activity during imprisonment. In fact the participants stress the importance of **paid work for detainees**, and of an extensive programme of **vocational training** and **basic school instruction.**

Also noted here is the attention paid to prisoners' participation in the organisation of day-to-day life in prison, particularly with the idea that a modern institution should have **collective recreation rooms** inside the prison wing.

It is observed, however, that the type of prison regime is not of overriding concern to the respondents. Some of them even point out that a **modern prison should be of the mixed type with different regimes and without a set architectural model.**

Among the characteristics added by the participants, we find mention of an adequate number of trained staff and provision of suitable facilities for contact with the families.

### **V. TREATMENT OF JUVENILE OFFENDERS**

We also asked a number of questions relating to minors and their treatment by the prison system.

Under the question on the stipulated minimum age of criminal responsibility, 10 persons chose 14 years, 8 persons 16 years and 7 persons 18 years. That yields **an average age of 15.3 years and a modal age of 14 years.** Conversely, as regards the minimum age for deprivation of liberty, we find a higher average in the region of **16 years with a modal age of 18 years.**

We also wished to know the chief difficulties that the participants encountered in the treatment of juvenile offenders. Respondents could make a multiple choice from the proposed items, add others, and rank-order their selection.

The most-mentioned area is **preparation for release**. 17 persons consider this an important issue. In the same connection, the participants also say that the **organisation of individualised programmes** represents a great difficulty in the treatment of juveniles and the **organisation of educational activities** more particularly so.

The replies also reveal that **acts of violence among detained juveniles** constitute a major problem in certain prisons. In fact 8 persons consider this to be one of the two chief difficulties. Besides, it is observed that the participants consider their structures not always capable of catering suitably for juveniles. Accordingly, 11 persons say that **separation of juveniles from adults** raises a problem in the application of the rule, and 13 persons stress that **staff training** is inadequate and unsuited to the needs of this group.

The discretionary replies show that **continuity of provision** between detention and normal society often constitutes a problem in the case of juveniles.

## **VI. TREATMENT OF IMPRISONED FOREIGN NATIONALS**

The participants were also to express their views on the most suitable measures for improving the treatment of foreign offenders in prison. They could make a multiple choice of items from the proposed list, add others, and rank-order their selection.

Analysis of the replies shows that the respondents consider it possible to improve the detention of foreign nationals particularly by **facilitating contacts with the outside world** through visits, telephone and mail. In fact 20 persons express themselves in these terms and place this item among the first three measures required.

Aware of the major communication problems that may arise where a foreigner is imprisoned, a substantial majority consider it crucial to **reinforce the learning of the national language of the country of detention**, but also to **facilitate access to interpreters**. One participant suggests, in this regard, employing interpreters by telephone. The replies also show that **translation of internal rules and regulations into several major foreign languages** can make for improvement regarding the problems linked with lack of proficiency in the national language.

To make intercultural communication and contacts easier, **appointing a cultural mediator** is considered an important measure.

Finally, 13 participants stress that **access to information abroad**, via the newspapers and television, to some extent allows the normalisation of foreigners' detention.

Among the discretionary replies may be mentioned **co-operation with non-governmental organisations** able to give the prisoners concerned more effective and specialised support.

## **VII. ELECTRONIC MONITORING**

The questionnaire also addressed the issue of electronic monitoring. We wanted firstly to know the relevant national practice and legislation, so that we could then ascertain whether the participants thought their system could and should be improved.

5 persons state that there is no electronic monitoring in their country. In the countries where it exists, we observe **that it very often replaces detention** at a late stage in the serving of sentences so as to allow a transition to freedom. This is so to a lesser extent at the start of sentence. The respondents also explain that electronic monitoring is often accompanied by guidance and may in some cases replace pre-trial detention. 4 persons reply that it is a sanction in its own right in their country.

Next, **14 persons** express the wish **to see their electronic monitoring system improved**. They consider it important for **its use to be limited and not combined with other sanctions**. They

also submit that it is necessary to **develop specialised and suitable guidance and social provision**. Some participants explicitly call upon the Council of Europe to develop an ethical framework for electronic monitoring in order to respect the freedom of the persons receiving this treatment.

### **VIII. CO-OPERATION BETWEEN PRISON SERVICES AND PROBATION SERVICES**

In the framework of the conference bringing together the directors of both prison administrations and probation services, we also wished to determine their satisfaction with the co-operation between the two services, the reasons for their opinion, and their ideas for improving matters.

**17 persons expressed satisfaction in that regard.** It is interesting to note that all participants **from a probation service** are satisfied. One person explained his opinion by mentioning the very regular organisation of working meetings between the two entities.

However, only 6 of the 11 persons from a combined prison and probation institution, and 6 of the 15 participants from a prison administration, expressed satisfaction. Among the former, some explained that this twofold functioning in fact allowed satisfactory handling of prisoners.

Ten of the respondents expressed dissatisfaction over the co-operation between the prison administration and the probation services, 2 of them from countries where co-operation is in its infancy. As for the others, the reasons for this negative assessment are found to be manifold. They explain, for example, that contacts with a profusion of probation services at local level can be awkward, and that the lack of probation officers makes co-operation frequently difficult. Another person explains that differences in professional representations between the two services complicate their co-operation. Lastly, weakness of the political support for continuous provision is also mentioned.

Next, proposals were invited for **improving** co-operation between prison administrations and probation services. Many of the respondents came out in favour of **mutualising, even amalgamating, the two services**. Others propose the joint use of computer applications and means of communication between the services in closed and open environments.

### **IX. CONDITIONAL RELEASE**

The participants' satisfaction with their system of conditional release was also to be ascertained.

It is observed that **18 persons say they are satisfied** with the system of conditional release in their country. Their explanation for this choice of reply is mainly the high rate of approval of conditional release. They also mention that the legal apparatus regulating this measure is satisfactory or that judges take adequate account of prisoners' social prognosis in their decision to approve it.

**7 persons**, however, express **dissatisfaction**. The prime reason for this view is a **low rate of approval** of conditional release. Thus, two persons specify that **shortage of probation staff** prevents more frequent use of the measure. Others regret that conditional release is not systematic in their country. Finally, the deficient social and medical-psychological backup for conditionally released persons is also criticised.

**To improve** their system of conditional release, the persons surveyed propose in particular **systematisation of the measure and enhancement of social provision** for the persons concerned.

### **X. COUNCIL OF EUROPE ACTIVITIES IN THE PENITENTIARY AND PROBATIONARY FIELD**

To allow planning of forthcoming activities in the prison affairs sector of the Council of Europe, we asked a number of questions relating to its activities. Firstly, we asked whether people were

satisfied with the Council of Europe activities in the penitentiary field, and went on to enquire about their ideas for future activities.

It is observed that expectations vis-à-vis the Council of Europe remain high, since **only 13 persons are satisfied with the Council of Europe activities while 14 are not.**

They were then asked for their opinion on the expediency of drawing up new recommendations. 6 persons reacted positively to this idea. They consider that **a recommendation would be important chiefly in respect of electronic monitoring.** Other themes concern **health care, treatment of dangerous offenders, and disciplinary and solitary confinement measures.**

Next, participants were asked whether they considered it worthwhile to **extend technical assistance to all member states. 9 persons replied in the affirmative,** mentioning the following fields: electronic monitoring and detention of foreign nationals.

The question on the expediency of **organising regular multilateral exchanges and meetings** between the national experts received **positive replies from 13 persons.** Requests in this connection relate to quite varied fields. A number of people ask for exchanges and meetings on co-operation between prison administrations, probation services but also the players in civil society. Others express this wish regarding modes of recruitment, training and definition of staff duties. The area of individualised programmes of treatment is also of interest. Finally, the question of the treatment of prisoners at risk and of juveniles is specified too.

Analysis of the questionnaire shows that the most significant expectation regarding Council of Europe activities is **promotion of national good practices.** Indeed, **17 persons expressed the wish to see this area developed.** Here too, expectations are diverse and considerable. An important dimension concerns the whole of the activities of probation services. Other participants express an expectation as regards projects on co-operation with civil society, or models for individualised programmes of treatment and in particular those aimed at offenders suffering from psychological and psychiatric disorders.

Taking account of the discretionary comments made by respondents in the context of the questionnaire, it is in fact seen that they want the Council of Europe to embark on the organisation of meetings and conferences enabling professionals on the ground to compare notes regarding their problems but also their good practices.

Concerning the question of the expediency of drawing up **a binding instrument** in the penitentiary field at European level, it is observed that **11 persons support this idea as against 15 who refute it.** Those in favour of such an instrument desire it in the following areas: code of ethics for staff, numerus clausus, prison and probation rules, or systematisation of conditional release.

We also wished to know the participants' opinion about **the possible organisation of a conference bringing together representatives of the prison and probation services, judges and prosecutors from the member states with the objective of discussing penal policies and systems of sanctions and measures.** **A very large majority considers this proposal useful, indeed very useful.** Only one person in fact considers this to be of no use.

One question also concerned the proposal to establish, at the level of the Council of Europe, **a collaborative site** with a data base of good practices developed in the member states. The whole of the respondents support this idea. Indeed, **22 persons consider it very useful and 6 useful,** none reply in the negative. One person expresses the wish for this site to be extended to probation.

To determine the feasibility of such a site, we asked the participants whether they thought that their services were ready to send information on their good practices (in English or French) regularly to the Council of Europe for publication on this site. **25 persons consider that their services would**

**enter into an initiative of this kind, as against 4 who do not think so.** One person, for instance, points out that his service does not have sufficient staff for such co-operation.

The analysis of the replies to the question on the areas in which the services could propose good practices shows that this initiative has great appeal for the participants in the 16<sup>th</sup> Conference of Directors of Prison Administration and Probation Services. Indeed, we were able to record 27 different suggested areas concerning both the penitentiary field and that of probation.

Accordingly, the **good practices** relate to the following areas:

- **Probation:** methodology and ethics of social work on commission, probation plans and their scientific evaluation, and co-operation with external associations;

- **Prison:** application of the EPR and development of a penal law, prison overcrowding, staff training, development of individualised programmes of treatment, application of Rule 50 of the EPR, use of the Internet during detention, management of psychiatric and psychological disorders, treatment of juveniles, women, persons given long sentences, foreign nationals, sexual offenders and preparation for release.

Finally, the participants were asked to propose **topics of discussion for the next Conference** of Directors of Prison Administration. We received a diversified set of proposals. It is firstly observed that **a large proportion of the participants want the probation services to continue being invited to the CDPA.** On that score, a number of participants would like the next conference to address **the issues relating to continuity of treatment, preparation for release** from the closed to the open environment, and **co-operation with civil society** in that regard. **Reduction of overcrowding** also remains a challenging topic for the professionals. Other persons would like to discuss **provision for vulnerable categories of prisoners** (mothers with children, elderly persons, juveniles, drug addicts). It would also be of interest to the participants to address the issues linked with health provision and more specifically **mental health and prevention of risks of suicide.**