

XVII CDAP
Meeting with Judges and Prosecutors on Overcrowding in Prison
Rome

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Reducing overcrowding in prison
should be perceived as goal
by **all** those who work in the justice system

Overcrowded conditions of detention may evolve to conditions which fall within the scope of that **inhuman and degrading treatment**, which is forbidden – **without any possible derogation** – by article 3 of the ECHR

Council of Europe Recommendations

To be read as a whole, aimed at:

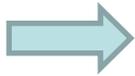
- combating prison population inflation
- increasing imposition and implementation of community sanctions and measures
- reducing the length of prison sentences
- accompanying a prisoner in his/her reintegration process
- limiting the remand detention as a measure of last resort (never for punitive reasons)
- offering detention conditions respectful of the dignity of the prisoners

Recommendations addressed to

- **Policy makers**
 - legislation
- **Prosecutors**
 - remand detention
- **Judges**
 - detention/other sanction
- **Judges of execution of sentences**
 - alternative measure
 - parole
- **Prison administration**
 - handling the situation

Where we are?

Density (how many for 100 official places)

2000		166 (Greece) 161 (Hungary) 148 (Romania)
2008 (/09)		150,5 (Cyprus) 146,3 (Serbia) 141,9 (Spain St.Adm.)
2010 (/09)		172,3 (Serbia) 153,2 (Italy) 150,8 (Cyprus)



Critical elements (legislation - implementation)

- ***Imprisonment is not a measure of last resort in many countries*** (sometimes it is the only sanction in the Criminal Code)
Recommendation 2000(22)
- ***Remand detention is mandatory in some countries for persons suspected of some offences*** (no discretionary decision by the judge)
Recommendation 2006(13)
- ***Extensive imposition of the remand detention*** (should be used only when there is no possibility of using different measures)
- ***Legal exclusion of some categories of prisoners from alternative measures - Measures actually not adopted*** (pressure of the external society)
Recommendation 2000(22)

Recommendation 2000 (22)

- alternatives to pre-trial detention such as requiring a suspected offender to reside at a specified address, to be supervised and assisted by an agency specified by a judicial authority;
- probation as an independent sanction imposed without pronouncement of a sentence to imprisonment;
- suspension of the enforcement of a sentence to imprisonment with imposed conditions;
- community service (i.e. unpaid work on behalf of the community);
- victim compensation/reparation/victim-offender mediation;
- treatment orders for drug or alcohol misusing offenders and those suffering from a mental disturbance that is related to their criminal behaviour;
- intensive supervision for appropriate categories of offenders;
- restriction on the freedom of movement by means of, for example, curfew orders or electronic monitoring imposed with observance of Rules 23 and 55 of the European Rules;
- conditional release from prison followed by post-release supervision.

Recommendation 2012(12)

the information to the judicial authorities about the foreigner's desirability of being transferred after sentencing (point 14.2),

the information to be given to the foreigner of international transfer possibilities (point 15.3)

and the subsequent support in seeking legal advice about the consequences of such a transfer (point 35.6)

(10) Decisions to transfer foreign prisoners to a State with which they have links shall be taken with respect for human rights, in the interests of justice and with regard to the need to socially reintegrate such prisoners.

How to address the problem of overcrowding

Increasing the number of places – as only measure – is far from offering a lasting solution

Reforms of the criminal law policy

Functioning of the criminal justice system

Remand detention as a measure of last resort

Preference to alternative sanction, whenever possible

Full implementation of a treatment aimed at reducing the time in prison

Cooperation with the Probation service (alternative measures)

How to address the problem of overcrowding

Fix a workable threshold of gradual reduction of the prison population

(working plan on gradual reduction of the prison population, in the context of a coherent strategy covering both admission to and release from prison)

Improve the quality of training of prison staff at any level

(specific topic concerning the process of reintegration of a prisoner into the community)

Keep the system under monitoring (support of national and international monitoring bodies)

Increase awareness of all the actors of the justice system

Thank you