



CONCEPT PAPER

The CPT has observed situations of overcrowding in the prisons it has visited ever since its very first visits to member states of the Council of Europe in the 1990s. These problems, although occasionally isolated, more often had deeper causes. In its latest annual report,¹ the CPT points out that the number of incarcerated persons in Europe has been steadily increasing since the Covid-19 pandemic, with the result that many prison systems are now overcrowded. In particular, the number of persons in pre-trial detention has risen sharply in certain countries.

The structural nature of the problem of prison overcrowding and the need to address it was recognised by the European Court of Human Rights in judgments concerning Poland in 2009,² followed by similar judgments concerning notably Russian,³ Italian,⁴ Belgian,⁵ Bulgarian,⁶ Hungarian,⁷ Romanian⁸ and, more recently, Portuguese⁹ and French¹⁰ prisons. To date, twelve States have judgments on this subject under enhanced supervision by the Committee of Ministers and four States under standard supervision.

For both the Court and the CPT, Article 3 of the European Convention on Human Rights requires that persons are deprived of their liberty in conditions compatible with respect for their human dignity and that they are not subjected to distress or hardship in excess of the inevitable level of suffering inherent in detention. Poor material conditions of detention cannot be justified by a lack of resources, while all detention must be managed in order to facilitate the reintegration of detained persons.¹¹

Overcrowding, which is particularly present in pre-trial detention, is aggravated by the fact that detained persons are often locked up for 23 hours a day in a state of forced idleness, aggravating tensions between them and with prison staff. The lack of space and privacy puts the most vulnerable persons particularly at risk, including those with mental health issues. Overcrowding also generates significant costs for society, notably in financial and security terms (compromised reintegration work and increased risk of recidivism), all while forcing staff to work in degraded conditions.

The causes of overcrowding are multifactorial. They may have their origins in structural deficiencies, an increase or transformation in criminality, as well as in budgetary choices or the adoption of stricter criminal justice policies (increase in criminalisation, in recourse to pre-trial detention and in its duration and in that of sentences). The Covid-19 pandemic has shown the ability of many states to quickly adopt effective measures to reduce prison pressure. However, the decreases observed at that time did not have a lasting effect, in the absence of long-term strategy to combat sustainably overcrowding, as long recommended by the CPT.

¹ 35th General Report, Activities 2025, CPT.

² *Orchowski and Norbert Sikorski v. Poland*, judgments of 22 October 2009 (Final resolution [CM/ResDH\(2016\)254](#)).

³ Pilot judgment *Ananyev and Others v. Russia* of 10 January 2012, § 239, [Execution pending](#).

⁴ Pilot judgment *Torreggianni and Others v. Italy* of 8 January 2013 (Final resolution [CM/ResDH\(2016\)28](#)).

⁵ *Vasilescu v. Belgium*, judgment of 25 November 2014, [Execution pending](#).

⁶ Pilot judgment *Neshkov and Others v. Bulgaria* of 27 January 2015 (Final resolution [CM/ResDH\(2024\)118](#); [Follow-up of the remaining issues in the case of Kehayov](#) (2005), under the standard supervision procedure).

⁷ Pilot judgment *Varga and Others v. Hungary* of 10 March 2015, [Execution pending](#).

⁸ Pilot judgment *Rezmives and Others v. Romania* of 25 April 2017, [Execution pending](#) (Final resolution adopted in the case of *Bragadireanu* (2008), given the progress made: [CM/ResDH\(2025\)393](#)).

⁹ *Petrescu v. Portugal*, judgment of 3 December 2019, [Execution pending](#).

¹⁰ *J.M.B. and Others v. France*, judgment of 30 January 2020, [Execution pending](#).

¹¹ See in particular the [Recommendation Rec\(2006\)2-rev](#) of the Committee of Ministers to member states on the European Prison Rules, revised and amended on 1 July 2020.

Alternative measures to detention exist in all European states but do not always have sufficient human, budgetary and normative resources to achieve their full objective, in particular with regard to pre-trial detention, while probation measures do not systematically lead to a permanent reduction in the prison population. In addition, the development of alternatives to detention sometimes leads to an increase in the number of persons covered by criminal justice measures, without however reducing the number of persons detained. This phenomenon of "net widening" has been observed in several states. Significant budgets are devoted to increasing prison capacity without providing a sustainable solution to overcrowding,¹² sometimes even generating a "vacuum effect" (increase in the number of prisoners). The capacity of alternatives to detention to satisfy the duty to protect society appears sometimes to be underestimated, as well as the enforcement of sentences in the community or rehabilitation programmes.

Finally, according to the CPT, an absolute upper limit for the number of persons detained ("*numerus clausus*") should be set for each prison, obliging the authorities, in the event of exceeding, to adopt appropriate measures to ensure that all incarcerated persons have acceptable conditions of detention.¹³

¹² In this sense already, Recommendation (99)22 of the Committee of Ministers.

¹³ CPT/Inf(2022)05 – part "Combating prison overcrowding", extract from the CPT's 31st General Report.

Selective bibliography (by chronological order)

[Thematic factsheet on conditions of detention in prisons and police premises](#),

September 2026 – Department for the Execution of Judgments of the European Court of Human Rights (ECHR)

[From challenges to solutions: Mapping European strategies on prison overcrowding \(2025\)](#) (2025) –

European Organisation of Prison and Correctional Services (Europris)

Online course [assessing conditions of detention complaints](#) (2025) –

HELP (Human Rights Education for Legal Professionals)

[Beyond capacity: Europe's prison overcrowding challenge \(2024\)](#) – Penal Reform International

[International Conference "Structural problems in prisons: Prospects for European intervention"](#) (2024) –

European Prison Litigation Network and European implementation Network

[Prisons and detention conditions in the EU](#) (2023) – European Parliament (LIBE committee)

[Roundtable on effective preventive remedies in respect of poor conditions of detention](#) (July 2023) –

Department for the Execution of ECHR's Judgments

[Combating prison overcrowding](#) (2022) – CPT

[A decency threshold for prisons – criteria for assessing conditions of detention](#) (2021) – CPT

[High-level Conference "Responses to prison overcrowding"](#) (2019) – European Committee on Crime Problems (CDPC)

Online course [Committee for the Prevention of Torture \(CPT\) Standards](#) (2019) – HELP

Online course [managing foreign prisoners \(EuroPris\)](#) (2019) – HELP

[Thematic debate on conditions of detention and remedies](#) (2018) – Committee of Ministers of the Council of Europe

[Remand detention](#) (2017) – CPT

Online course [alternative measures to detention and community sanctions](#) (2017) – HELP

[White paper on prison overcrowding](#) (2016) – CDPC

Online course [Pre-trial investigation and the European Convention on Human Rights](#) (2016) – HELP

[Living space per prisoner in prison establishments](#) (2015) – CPT

[Recommendation \(2006\)13 on the use of remand in custody, the conditions in which it takes place and the provisions of safeguards against abuse](#) – Committee of Ministers

[Recommendation \(2003\)22 on conditional release \(parole\)](#) – Committee of Ministers

[Recommendation \(2000\)22 on improving the implementation of the European rules on community sanctions and measures](#) – Committee of Ministers

[Recommendation \(99\)22 concerning prison overcrowding and prison population inflation](#) – Committee of Ministers