Ending prison overcrowding – European perspectives and solutions

European Conference, 13 October 2026 - Panel 2

Judge Gisle A. Johnson, Agder Court of appeal, Norway

Alternative Custodial and Sentencing Measures

Introduction

Prison overcrowding is a complex challenge that raises institutional, political, and structural issues. My perspective, as a judge, is focused on the criminal sentences imposed by the courts in Norway and on the extent to which sentencing practices can contribute to alleviating prison overcrowding.

The principal aim of sentencing is to impose a punishment proportionate to the seriousness of the offence, while promoting both general deterrence and offender-specific deterrence. And in Norway the principal aim of sentence enforcement is to protect society and reduce recidivism through rehabilitation and gradual reintegration into the community.

From a judicial standpoint, contemporary Norwegian criminal justice policy places greater emphasis on rehabilitation during imprisonment than on retribution alone, while sentencing decisions remain strongly grounded in proportionality and preventive considerations.

Some facts about Norway

Norway has a population of approximately 5.6 million people. The Norwegian Correctional Service has approximately 3,300 prison places, distributed among roughly 40 to 50 prisons and prison units.

As of February 2026, there were 3,075 inmates in custody, corresponding to 55 inmates per 100,000 inhabitants. This places Norway among the countries with the lowest incarceration rates in the world. From year 2000 to 2025 there has been a development in the prison population rate:

Year	Prison Population Rate (per 100,000 inhabitants)
2000	57
2002	62
2004	66
2006	70

2008	71
2010	74
2012	72
2014	72
2016	73
2018	65
2020	54
2022	56
2026	55

Source: World Prison Brief, prison population rate (prisoners per 100,000 inhabitants). The 2026 figure reflects the rate reported for 2026.

The key observation is that the Norwegian imprisonment rate increased from 57 per 100,000 inhabitants in 2000 to a peak of 74 per 100,000 in 2010, before declining to 54-56 per 100,000 during the 2020s. The 2026 rate of 55 per 100,000 inhabitants is therefore among the lowest levels recorded during the last quarter century.

In 2025 approximately 14,500 sanctions were imposed by the courts. The breakdown is as follows:

Type of court-imposed sanction	**Number**
Unconditional imprisonment	7,198
Suspended sentence (conditional imprisonment)	3,571
Community sentence	1,510
Youth sentence	223
Preventive detention	27
Compulsory mental health care	67
Compulsory care	12
Fine imposed by judgment	1,866
Other sanctions	24

Source: Statistics Norway (SSB)

This means that half of the criminal sanctions imposed in Norway result in unconditional imprisonment. However, the proportion of alternative sanctions is substantial. Most offenders receive other forms of sanctions, such as fines, suspended sentences, community sentences, or other alternative measures. More than 3000 unconditional sentences were served at home under electronic monitoring in 2025, whereas 4000 served in jail.

A question is if there has been a development regarding the use of penalsanctions in Norway?

This figure shows that from 2015 to 2025 there has been a reduction in criminal sentences, which of course lead to less people in prison.

Year	Unconditional imprisonment	Community sentence	Suspended prison sentence
2015	10,868	2,032	5,735
2019	8,624	1,882	4,599
2024	7,386	1,478	3,981
2025	7,198	1,510	3,571

Source: Statistics Norway (SSB), *Criminal Sanctions*.

Hopefully, this is attributable to a reduction in crime in Norway. However, I would assume that criminologists and socio-legal scholars are better placed to discuss the causes underlying this development.

Another hypothesis could be that the lengths of prison sentences have evolved over time and, above all, have become shorter.

The table below presents the number of unconditional prison sentences, the total volume of imprisonment imposed, and the average sentence length per conviction.

Year	Unconditional Prison Sentences	Total Imprisonment Imposed (Prison Years)	Average per Sentence
2015	10,868	5,766 years	0.53 years (approx. 194 days)
2019	8,624	4,743 years	0.55 years (approx. 201 days)
2024	7,386	4,432 years	0.60 years (approx. 219 days)
2025	7,198	4,439 years	0.62 years (approx. 225 days)

Calculated from Statistics Norway's (SSB) figures on the number of unconditional prison sentences and the total volume of imprisonment imposed.

The numbers that I have been able to explore gives no support to the hypothesis that the sentences have become shorter. On the contrary, the statistics suggest that the average severity of sentences increased slightly during the period from 2015 to 2025.

This means that over time the probably main reason for the low prison rate, in addition to the reduction of number of unconditional sentences, is the increased use of alternative measures.

I will in the following give some brief information about the alternative measures used in Norway.

Serving a Sentence in an Institution

Under section 12 of the Norwegian Execution of Sentences Act, a custodial sentence may, in exceptional circumstances, be served wholly or partly through residence in an institution where this is necessary to improve the offender's ability to function in society and lead a law-abiding life, or where other compelling reasons justify such an arrangement.

The purpose of the provision is to facilitate rehabilitation, particularly for offenders suffering from substance dependency or mental health difficulties. The Norwegian Correctional Service determines whether the statutory requirements are satisfied and may refuse placement where security concerns arise or there is a risk of absconding.

The sentence is served in an approved institution. The offender may, where authorised by law, be retained against his or her will and returned if he or she absconds, including by the use of reasonable force where necessary.

Community Sentence

A community sentence may be imposed instead of imprisonment where the requirements set out in section 48 of the Penal Code are satisfied. It is particularly suitable for young offenders and may be imposed even in cases involving serious offending where other considerations favour a community-based disposal.

The general requirement is that the sentence which would otherwise have been imposed would not exceed one year's imprisonment. This requirement may nevertheless be waived:

1. Where the sentence that would otherwise have been imposed would have been wholly or partly suspended.
2. Where the offender is under 18 years of age.
3. Where there are particularly strong grounds for imposing a community sentence, typically because of compelling rehabilitative considerations or other exceptional and weighty circumstances.

In addition, the purposes of sentencing must not militate against a non-custodial disposal. This requires consideration of both deterrent and rehabilitative factors and is particularly relevant in cases involving serious offences such as violence or drug-related offending. The offender must also consent to the sentence and be resident in Norway, Denmark, Finland, Iceland or Sweden.

In a Community Sentence order, the court must determine: the number of community sentence hours, ranging from 30 to 420 hours; a default custodial sentence, equivalent to the term of imprisonment that would otherwise have been imposed; and a period for implementation, normally corresponding to the default custodial sentence, although a period of up to 120 days may be fixed even where the default custodial sentence is shorter than 120 days.

The specific requirements of the community sentence are determined in consultation between the Norwegian Correctional Service and the offender. These may include education, vocational training, work experience placements, or other rehabilitative and socially reintegrative activities.

Suspended Custodial Sentence

A suspended custodial sentence means that the offender is not required to serve the custodial term unless a further offence is committed or the conditions attached to the sentence are breached. It is commonly used for young offenders, particularly where rehabilitative considerations are given substantial weight.

Suspended Sentence Subject to Conditions

Drug and Alcohol Abstinence and Testing

The court may require the offender to abstain from alcohol or other intoxicating substances and to submit to drug or alcohol testing as necessary, pursuant to section 37(d) of the Penal Code.

Non-Contact and Residence Requirements

Conditions may be imposed requiring the offender to refrain from contacting specified individuals or regulating his or her place of residence, whereabouts, employment or education, pursuant to section 37(a) and (b) of the Penal Code.

Mediation and Restorative Justice Measures

The court may require the offender to participate in mediation through the Norwegian Mediation Service (*Konfliktrådet*) and comply with any resulting agreement, or to participate in follow-up measures administered by that body, pursuant to section 37(i) of the Penal Code. Youth follow-up measures, discussed below, fall within this category.

Impaired Driving Programme

In cases involving driving under the influence of alcohol or drugs, the court may order participation in a programme designed for impaired drivers, pursuant to section 37(f) of the Penal Code.

Other Tailored Conditions

The court may impose any other condition it considers appropriate in the circumstances, pursuant to section 37(k) of the Penal Code.

Drug Treatment Programme under Judicial Supervision

This is a specialised form of suspended custodial sentence. The court may suspend all or part of a prison sentence on condition that the offender successfully completes a Drug Treatment Programme under judicial supervision, pursuant to sections 34 and 37(1)(f) of the Penal Code.

The scheme is primarily directed at offenders who are dependent on controlled substances and have been convicted of drug-related offences, but it may also be used for acquisitive offending committed to finance substance misuse. Participation requires the offender's consent and a pre-sentence assessment of suitability.

The programme involves intensive supervision both by the Correctional service and by a judge, regular drug testing, treatment, employment or educational activities, and social support. The operational period may extend for up to five years. Breach of the programme requirements may result in enforcement of the custodial sentence. The measure is intended to provide a genuine alternative to immediate imprisonment, with the principal aims of reducing reoffending and promoting rehabilitation.

Waiver of Prosecution and Transfer to Child Welfare Services

For young offenders, a waiver of prosecution and referral to the child welfare authorities may constitute a suitable alternative, particularly where formal punishment is not considered the most appropriate response.

Youth Sentence and Youth Follow-Up

Youth Sentence

A Youth Sentence is a distinct criminal sanction available for offenders under the age of 18 and may be imposed in cases involving repeated or serious offending, pursuant to section 52a of the Penal Code.

The measure provides intensive supervision and an individually tailored youth plan. It is intended as an alternative to immediate custody and more severe community-based sanctions. It is more intrusive and comprehensive than Youth Follow-Up, involving greater levels of supervision and intervention and being generally reserved for the most serious or persistent young offenders.

Neither the offender's consent nor that of his or her parents or guardians is required. The implementation period ranges from 120 days to two years, extendable to three years in particularly serious cases.

Youth Follow-Up

Youth Follow-Up is a community-based criminal justice measure available to young offenders. It may be imposed as a condition attached to a suspended custodial sentence.

Although broadly similar to a Youth Sentence, it is less intensive and less restrictive. The consent of both the offender and his or her parents or guardians is required.

The measure is administered through the Norwegian Mediation Service and includes a youth conference, an individual youth plan, and a multi-agency follow-up team tailored to the offender's needs. The implementation period may not exceed one year.

Electronic Monitoring

Electronic monitoring, commonly referred to as an *electronic tag*, may be used for the execution of shorter custodial sentences. The offender serves the sentence at home, subject to monitoring and supervision.

Electronic monitoring is not a separate criminal sanction but rather a method of serving either an immediate custodial sentence or a suspended custodial sentence. Its use is determined by the Norwegian Correctional Service aften application from the offender.

As mentioned; in 2025 more than 3000 unconditional sentences were served at home under electronic monitoring whereas 4000 served in jail. This reflects that in Norway there are an extensive use of electronic monitoring.

Alternatives to Remand in Custody

Alternatives to Remand under Section 188 of the Criminal Procedure Act

Instead of ordering remand in custody, the court may impose alternative measures, including reporting requirements, surrender of a passport, residence requirements, provision of financial security, or placement in an institution or municipal accommodation, provided that such measures adequately address the objectives of remand detention.

The institution must consent to the placement. The court may also authorise the institution to retain the suspect against his or her will and to secure his or her return in the event of absconding, including through the use of reasonable force where necessary.

Residence Requirement with Electronic Monitoring (Section 184b)

The court may order that remand detention be carried out by requiring the suspect to remain at specified premises subject to electronic monitoring.

Before making such an order, the court must be satisfied that the objectives of remand detention can be achieved by the measure, that the suspect is suitable for the arrangement, that appropriate accommodation is available, and that the circumstances otherwise favour its use.

Summary

In summary, Norway makes extensive use of alternatives to unconditional imprisonment, both at the sentencing stage and during the enforcement of criminal sanctions. This also helps to mitigate potential challenges associated with prison overcrowding.

As noted at the outset, Norway has a relatively low prison population. At the same time, prison capacity has been expanded, and the current availability of prison places appears sufficient to meet existing demand.