

Strasbourg, 25 April 2024

PC-CP (2024) 1 Rev

COUNCIL FOR PENOLOGICAL CO-OPERATION

PC-CP

**REVIEW OF
THE COMMITTEE OF MINISTERS RECOMMENDATION (89)12
ON EDUCATION IN PRISON**

Draft for the committee's consideration March 2024 (Strasbourg)

Draft document prepared for consultation with PC-CP Committee by:

Anne COSTELLOE
Head Teacher, Education Centre, Mountjoy Prison
(Ireland)

and

James KING
Former Head of Education, Arts and Libraries, Scottish Prison Service
(United Kingdom)

Considering that the aim of the Council of Europe is to achieve greater unity among its members;

Agreeing that it is necessary to further develop international co-operation in the field of execution of penal sanctions and measures;

Considering that such co-operation should contribute to improving justice, to executing sanctions and measures effectively and in full respect of human rights and dignity of persons in penal custody or subject to non-custodial sanctions or measures and to reducing the incidence of reoffending;

Agreeing that deprivation of liberty should be used as a measure of last resort and that the majority of accused or convicted persons can be efficiently and cost-effectively dealt with in the community;

Considering that the continuing growth of prison populations can lead to detention conditions which do not conform with Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5), as highlighted by the relevant case law of the European Court of Human Rights;

Considering further the findings and recommendations contained in the reports produced by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT);

Reiterating that prison overcrowding and prison population growth present a major challenge to prison administrations and the criminal justice system as a whole. Such challenges are particularly concerning in respect of ensuring the human rights of those in custody and ensuring the efficient management of penal institutions including preparation for release and the social reintegration of offenders;

Considering that the probation services, within the limit of their competences and resources can also play a role in assisting offenders under their supervision through providing access to suitable educational programmes, including vocational training, digital education and training in social skills;

Taking into account:

- The Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5); which in Article 2 of its First Protocol states that “no person shall be denied the right to education”
- Recommendation [Rec\(2006\)2](#) on the European Prison Rules; Rules’ which state that “Every prison shall seek to provide all prisoners with access to educational programmes which are as comprehensive as possible and which meet their individual needs while taking into account their aspirations.”(CM Recommendation Rec(2006)2-rev, Rule 28.1).
- Recommendation [CM/Rec\(2010\)1](#) on the Council of Europe Probation Rules.
- Recommendation [CM/Rec\(2012\)5](#) on the European Code of Ethics for Prison Staff.
- Foreign Prisoners
- Dangerous Offenders
- Mental Health
- Community Sanctions and Measures
- White Paper on Prison overcrowding

Bearing in mind:

- The United Nations ‘Basic Principles for the Treatment of Prisoners’ which proclaims that “All prisoners shall have the right to take part in cultural activities and education aimed at the full development of the human personality” (United Nations, 1990, Resolution 45/111: No 6);
- The United Nations (2016) Resolution pertaining to the acceptance of the Mandela Rules;
- The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) (Resolution 2010/16);
- The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) (Resolution 40/33);
- The Charter of Fundamental Rights recognising in its Article 14 that: “everyone has the right to education and to have access to vocational and continuing training”.
- This Recommendation replaces the Council of Ministers Recommendation (89)12 on education in prison.

Recommends that the governments of member States:

- take all appropriate measures, when reviewing their relevant legislation and practice, to apply the principles set out in the appendix to this recommendation;
- ensure the dissemination of this recommendation and its commentary to the relevant authorities and agencies, above all to the relevant ministries, the prison administration, probation agencies and providers of education in prison.

1. Scope

Since the adoption by the Committee of Ministers of Recommendation (89)12 on education in prison significant societal developments, including advances in digital education and educational research, coupled with changing prison populations have necessitated a review of the original (1989) Recommendations. The review focused in particular on the increasing role of education for resocialisation and social reintegration of those held in custody by improving their employment and social skills (We would like to discuss this statement as it appears quite narrow and not taking account of the individual's basic right to education - not necessarily for any specific purpose!) including the implications for education of ever-advancing developments in technology, digital learning and artificial intelligence. In addition, the implications for education in prison of trauma and/or adverse childhood experiences (ACE's); neurodiversity and mental health issues among large numbers of the prison population formed a significant basis of the review. The increasing number of foreign prisoners that may need language support was also taken into consideration. However, it should be acknowledged that the underlying standards and values inherent to the original Recommendation remain relevant and valid, particularly in terms of their principles of inclusion, diversity, and equality and were therefore further revised and developed.

The Recommendations apply specifically to those held in custody who are convicted as well as those held in custody pre-trial. However, it should be noted that they may apply equally to those on probation where appropriate and feasible, and with referral to Recommendation CM/Rec(2010)1 on the Council of Europe Probation Rules and the Recommendation on CSM.

In respect of the provision of education for juvenile offenders, this lies beyond the scope of this Recommendation as they require adapted approaches and working methods which take into consideration their state of physical and mental development as well as the statutory obligations of their host country/jurisdiction. These are addressed in Recommendation CM/Rec (2008)11 on the European Rules for juvenile offenders subject to sanctions or measures.

2. Definitions

(Fuller explanations of each of the following can be found in the Memorandum of Explanation at the end of this document)

Education is considered to be “the process of facilitating learning or the acquisition of knowledge, skills, values, beliefs and habits”.

Education provider is the organisation that provides the education to offenders. This can be a public educational institution, a private enterprise, non-governmental organisation, or non-educational public body.

Prisoner Pejorative and ‘othering’ labels and terms such as offender, convict, prisoner, ex-prisoner are not used in the Recommendations. Instead, the term ‘person in penal custody’ is used throughout.

Probationer Similarly, the term ‘persons subject to non-custodial sanction or measures’ is used.

(The above statement is a draft for consideration by the PC-CP Committee)

Adult education includes ‘all forms of education and learning that aim to ensure that all adults participate in the life of their societies and the world of work. It denotes the entire body of learning processes, formal, non-formal and informal, whereby those above the age of 18 develop and enrich

their capabilities for living and working, both in their own interests and those of their communities, organisations and societies'¹. It also encompasses what may be referred to as 'continuing education', 'recurrent education' or 'second chance education'.

Adverse Childhood Experiences (ACEs) are traumatic experiences that children experience before the age of 18 that can have lasting impacts on their mental health, physical health, and general well-being. They can include physical and emotional abuse, neglect, household dysfunction and other traumas.

Basic skills involve listening and speaking, reading, writing, numeracy and using everyday technology to communicate, access services, and make informed choices.

Broad and balanced curriculum is one that provides a wide range of subjects and programmes that promote a comprehensive range of knowledge and skills and reflect the diverse needs and interests of offenders.

Creative arts in education encompass a broad spectrum of artistic disciplines, including visual arts, music, drama, and creative writing that foster creativity, self-expression and holistic development and develop a range of skills.

Digital education refers to the use of digital technologies to facilitate and enhance teaching and learning. In this context, it aims to **provide offenders with the tools and resources they need to succeed in the modern world**, where digital literacy and technical skills are becoming increasingly important.

Digital literacy / skill is the capacity to participate, learn, work, explore, innovate, contribute to and benefit from digital transformation.

Neurodiversity refers to "Neurodevelopmental Disorders (NDDs) which comprise a spectrum of prevalent disorders affecting social, communication, activity, attention, motor coordination and literacy and numeracy skills".

Physical education aims to develop individuals' physical competence and knowledge of movement and safety, and their ability to use these to perform in a wide range of activities associated with the development of an active and healthy lifestyle.

Treatment interventions involve structured approaches and treatment strategies designed to support prisoners with specified mental health problems and aimed at rehabilitation and reintegration into society.

Vocational Skills are the practical skills specific to a career, trade, or job role and are typically acquired through technical training programmes or apprenticeships.

3. Basic principles:

RECOMMENDATION 1:

All persons in penal custody or subject to non-custodial sanction or measures should be offered access to education, which includes academic subjects, digital education, vocational education, creative and cultural activities, physical education and sports, social education and library facilities.

RECOMMENDATION 2:

Education in prison should be comparable in level, breadth, quality, and qualifications to the education provided for adult learners in the outside world.

¹ UNESCO [Recommendation on Adult Learning and Education](#) [2015]: Para. 1)

RECOMMENDATION 3:

Education of persons in penal custody or subject to non-custodial sanction or measures should address the needs and strengths of the individual while taking into account their interests and aspirations in order to enable them reach their full potential.

RECOMMENDATION 4:

Prison services should develop educational policies and practices that facilitate and support the promotion, development and delivery of education in prison, including support from external agencies and partners to facilitate post-release learning.

RECOMMENDATION 5:

Education should have no less a status than work within the prison regime and prisoners should not lose out financially or otherwise by taking part in education.

RECOMMENDATION 6:

Every effort should be made to encourage persons in penal custody or subject to non-custodial sanction or measures to participate actively in the different forms of education as listed in Recommendation 1.

RECOMMENDATION 7:

Education in prison should be delivered by suitably qualified professionals adopting adult education methodologies and practices.

RECOMMENDATION 8:

Priority should be given to those prisoners seeking support to improve their reading, writing, and general educational abilities. numeracy and language skills.

Priority should also be given to those identified as having neurodiverse or psychosocial issues.

(We advise the drafting of a new recommendation dealing specifically with neuro-diversity and psychosocial issues)

RECOMMENDATION 9:

Vocational education should aim at the wider development of the individual, as well as being sensitive to trends in the labour-market.

RECOMMENDATION 10:

Prisoners should have direct access to a well-stocked library at least once a week.

RECOMMENDATION 11:

Physical education and sports for prisoners should be emphasised and encouraged.

RECOMMENDATION 12:

Creative arts and cultural activities should form a core aspect of the curriculum as such activities are particularly effective in enhancing communication skills, promoting confidence and nurturing esteem.

RECOMMENDATION 13:

Education should include practical life-skills to enable the prisoner to better manage daily life both within the prison and in preparation for life after release.

RECOMMENDATION 14:

Wherever possible, prisoners should be allowed to participate in education outside prison.

RECOMMENDATION 15:

Where education has to take place within the prison, the outside community should be involved as fully as possible.

RECOMMENDATION 16:

Measures should be taken to enable prisoners to continue their education after release.

RECOMMENDATION 17:

The funds, equipment and teaching staff needed to enable prisoners to receive appropriate education should be made available as a priority intervention.

Recommendation 18 (NEW):

Prison authorities and Education services should seek to proactively work with international agencies and organisations seeking to improve and expand access to education and training opportunities for prisoners.

EXPLANATORY MEMORANDUM:

The benchmark for the provision and delivery of custodial education was established through the publication of the COE Recommendations for Prison Education (1989) ([Hyperlink?](#)). Implicit to the ethos and overall approach of the original group was the necessity to establish educational interventions and opportunities that addressed the educational needs of the “whole person”. Embracing a person centred and holistic approach to custodial learning forms the cornerstone of an inclusive adult education approach that promotes self-efficacy, democracy, responsible citizenship and sets minimum standards for an effective and wide-ranging curriculum (COE, 1989). Such standards have already informed and been supported by numerous multi-lateral projects that have helped promote international cooperation and established good practice in areas of educational innovation and engagement.

In recognition of the unprecedented and ongoing advances in technology and educational research since 1989, Europris initiated a review of the original Recommendations in 2019. This review was conducted over a 2 period (2017-2019) by representatives from 10 countries resulting in a new draft of Recommendations being proposed to the PC-CP Committee. However, as this concluded immediately prior to the onset of the COVID pandemic, the draft did not progress through the necessary channels for COE endorsement. The PC-CP committee consisting of new constituent members decided to revisit the draft recommendations at the beginning of 2024. In doing so, the committee invited 2 custodial education experts (James King and Dr Anne Costelloe) to assist in this project as they were key contributors to the 2019 report. Working with the PC-CP Committee and building on their extensive experience of custodial education and knowledge of academic research in this area, the revised recommendations were extensively discussed, agreed and are presented here.

An explanatory memorandum detailing the sometimes-considerable contrasts in culture and administrative systems that operate across the European continent was included within the narrative of the original 1989 recommendations. This highlighted key differences in how prison education is constituted, structured, accessed and delivered across different jurisdictions. While acknowledging that education is not a homogenous activity, the 1989 Report nevertheless established the principle of access to learning opportunities as a fundamental right for all prisoners. It also established that the education provided must encapsulate as wide a range of activities and interventions as possible. Therefore, in addition to academic subjects, the report stresses the importance of participation in vocational training, cultural activities, arts, libraries and physical education (COE, 1989).

RECOMMENDATION 1:

All persons in penal custody or subject to non-custodial sanction or measures should be offered access to education, which includes academic subjects, digital education, vocational education, creative and cultural activities, physical education and sports, social education and library facilities.

Recommendation No. 1 recognises that the fundamental human right to education, including lifelong learning, applies equally to persons in penal custody and those subject to non-custodial sanction or measures (United Nations and Council of Europe) declarations, conventions & standards. The recommendation highlights the principal subject areas to be included in a prison-based curriculum. The remaining recommendations consider each of these subject areas in more detail. Although prison education is often structured around national and cultural priorities, the recommendation urges jurisdictions to move beyond the limitations of a basic skills curriculum and / or the pursuit of formal (often school) diplomas. Such limitations are in stark contrast to the provision of a person-centred adult education approach which seeks to structure educational provision around the needs and aspirations of the individual as advocated in the original recommendations. This approach mitigates against the imposition of a narrow curriculum that seeks to only make paramount the economic needs of the jurisdiction rather than also focusing on the aspirations and needs of the learner. The recommendation includes creative activities such as therapeutic arts that provide an interesting and stimulating range of subjects to improve well-being and mental health among prison-based learners. Such subjects have been shown to enhance concentration and cognition and should enable the learner to self-regulate more effectively, manage impulsivity and reduce conflict and oppositional behaviour.

RECOMMENDATION 2:

Education in prison should be comparable in level, breadth, quality, and qualifications to the education provided for adult learners in the outside world.

This recommendation relates to some aspects of Recommendation 1 above in seeking to ensure that custodial education is consistent with opportunities available in the wider community. For young people in custody, provision may well include access to national qualifications or to accepted standards of competence in training that will ensure eligibility for further study or employment. However, the principal point of this recommendation is to ensure that custodial education is not simply designed to meet the standards of a school-based curriculum and that it embraces choices that would be available to adults in the community. Therefore, the range of learning opportunities for prison-based learners should be as wide as possible to reflect the fact that adults have wide-ranging life experiences and skills that can be harnessed to promote engagement and support educational diversity. Accordingly, the recommendation builds on Recommendation no. 1's call for a broad curriculum as distinct from one that is focused purely on basic skills, or employability or addressing offending behaviour programmes. Not only does a broad and balanced curriculum allow for more accreditation opportunities and is more likely to encourage reengagement in second chance education but it allows those in custody develop the skills, knowledge and understanding needed for holistic personal development and successful reintegration on release.

RECOMMENDATION 3:

Education of persons in penal custody or subject to non-custodial sanction or measures should address the needs and strengths of the individual while taking into account their interests and aspirations in order to enable them reach their full potential. (This would include those held in custody outwith their country of origin and where language acquisition is a priority for their ongoing health and well-being!).

In parallel with aspects of the aforementioned recommendations, the underpinning intentions of this recommendation is seeking to address the educational needs of the 'whole person'. Subject to each jurisdiction's national priorities and cultural concerns, the key consideration is to maintain the principle that education should be comprehensive, inclusive and address the often-diverse needs of a complex and disaffected population. Educational provision in many prisons is often limited in both its content and accessibility and consequently not consistent with the underpinning principles and intention of the original recommendations. These principles are based on an authentic understanding of adult education and lifelong learning that benefits the social, personal and skills development of prisoners, their families and ultimately the communities to which they will return. Given the increase in the number of foreign national prisoners, this has proved to be problematic and a significant resource commitment for many

jurisdictions. While there are no easy solutions to this ongoing issue, increased cooperation and the utilisation of modern technology can help provide appropriate programmes for all prisoners regardless of language, ethnicity and background. Therefore, education should be provided to meet the prisoner's social, economic and cultural context taking account of nationality, ethnicity and native language requirements as well as specific educational need.

RECOMMENDATION 4:

Prison services should develop educational policies and practices that facilitate and support the promotion, development and delivery of education in prison, including support from external agencies and partners to facilitate post-release learning.

Where education is provided, there is often a lack of clarity as to its preferred outcomes or potentially liberating purpose. At present there is lack of a shared understanding across Europe as to: what constitutes education; what is included as education; who is eligible to access education; what the purpose is of education and whether education is provided at all for certain groups. Accordingly, if there is no clearly articulated national or regional policy or statement of educational intent, it is not surprising to find a lack of coherence, and low priority in planning for educational provision. When this occurs, the potential for improving engagement and promoting rehabilitation may be compromised as well as potentially diluting prisoners' rights from both a United Nations and Council of Europe perspective.

In several jurisdictions the responsibility for educational policy remains with the education provider which can sometimes be confined to school-based services, Non-Governmental Agencies or commercially contracted providers. Consequently, responsibility for the drafting and implementation of education policy is often contested or unclear. Moreover, across jurisdictions there appears to be a lack of collaboration and shared vision as to what constitutes the educational curriculum and what specific aims and objectives are being sought. Through the drafting and implementation of a clear strategy for the promotion and delivery of education, prison policy makers and education authorities can positively influence the expansion and enrichment of educational opportunity as a key contribution to rehabilitation interventions.

RECOMMENDATION 5:

Education should have no less a status than work within the prison regime and prisoners should not lose out financially or otherwise by taking part in education.

This recommendation presents a long-standing challenge for most jurisdictions and links directly to Recommendation No 4 above in terms of the importance and priority that is ascribed to educational activity. In many jurisdictions, prisoners are required to work to ensure efficient functioning of the prison through performing essential tasks in catering, cleaning, laundry etc. As such tasks are invariably allocated a priority status, they can often attract higher payment or other benefits than alternative types of activity such as vocational training or education. Ensuring a balance between work and educational attendance can also be affected by contractual pressures when jurisdictions undertake commercial or manufacturing production work for external companies. While such opportunities can often provide training and possibilities for post-release employment, they can also become the primary focus of activity where additional payments or bonuses provide a greater financial reward to prisoners than participating in educational study. Prison authorities should therefore ensure that prisoners are not in any way disadvantaged either financially or in respect of any other benefits by taking part in education.

Essential work functions should be shared across each population as much as possible enabling individuals to manage their time between work, training and educational activity without the loss of payment or reward. Where there is an obvious shortage of work, or where appropriate for individual prisoners, prison authorities should include educational attendance and training as a legitimate aspect of work. Good practice in educational policy includes ensuring that key literacy and numeracy skills are embedded within the fabric of vocational training, mandatory programmes and/or work-based activities. Embedding basic skills training in real-life work experience reduces the need for standalone or dedicated literacies provision although these are usually necessary for lower-level learners. However, embedding skills not only provides prisoners with the competence and confidence to undertake tasks, it provides motivation to succeed in employment post-release.