

Penological Information Bulletin

No. 25 – December 2003



MARCELO F. AEBI

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PENOLOGICAL INFORMATION BULLETIN

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Council of Europe standards for prison administration and the updating of the European prison rules

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Introduction

The European Prison Rules (EPR) are to be updated. The terms of reference for this task hint at, but do not fully describe, a certain difficulty about the establishment of Council of Europe standards for the treatment of prisoners and the administration of prisons. It is this difficulty that I wish to explore in this article.

The terms of reference refer to the EPR as "[Having] long provided progressive standards to improve both the treatment of prisoners and the management of penal establishments. As the main normative instrument in the penitentiary field, the European Prison Rules fulfil a paramount reference function in the continuous development and reform of prison systems in Europe, particularly in the new member States"¹.

However, this claim is somewhat modified further on in the terms of reference by the admission that developments in society, crime policy, sentencing practice, research and information technology have given rise to a number of questions that are not addressed by the EPR.

More importantly, the terms of reference state that "... the existing Rules need to be harmonised with the provisions of the more recent Recommendations of relevance in this field and should take account of the work undertaken by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), of developments in the case-law of the European Convention on Human Rights..." The terms of reference then elaborate on the need to ensure congruence between the relevant Recommendations and require that consideration be given to the substantive reports of the CPT.

Views about international principles and standards in relation to its work have earlier been expressed by the CPT. Let us consider these views.

1. Ad hoc terms of reference relating to an update of the European Prison Rules, Doc. PC-CP (2002) 8, published in this Bulletin together with a discussion paper by Norman Bishop put before the European Committee on Crime Problems (CDPC) the organ that decided to propose the Committee of Ministers the updating of the Rules.

2. Rod Morgan and Malcolm Evans, "Combating torture in Europe", (Council of Europe Publishing, 2001).

The views of the CPT

The views of the CPT come to expression in its 1st General Report covering the period November 1989 until December 1990. There the CPT states that it draws on "an array of international standards on the treatment of person deprived of liberty ... such as the various sets of standards approved by the Council of Europe and the United Nations ... In spite of the wealth of material available, the CPT often finds that no clear guidance can be drawn from it for the purpose of dealing with the specific situations encountered by the Committee, or at least that more detailed standards are needed. In relation to such situations, the CPT is feeling its way towards developing its own 'measuring rods' in the light of the experience of its members and of a careful and well-balanced comparison of the various systems of detention" (excerpt from paragraph 95). This view, although it dates from the early days of the CPT, has never been subsequently modified. It certainly suggests that the CPT does not consider the EPR to be the main normative instrument in the penitentiary field.

However, the CPT refers on occasion in its reports to the EPR and certain Council of Europe Recommendations. This means that standards for good prison treatment are to be derived from the CPT "measuring rods", the EPR and Council of Europe Recommendations. To date, no attempt has been made to describe the status of these sources in relation to one another and to ascertain whether the standards they enunciate are compatible. It is, therefore, to be welcomed that the terms of reference for the updating of the EPR refer to the need to ensure congruence between the sources and the standards derived from them.

A bolder challenge

A bolder challenge to the statement that the EPR constitute the main normative instrument is made in a book² that describes the work of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). Its authors assert *inter alia* that the standards of the CPT "... are more detailed and nuanced than, for example, the United Nations Standard Minimum Rules for the Treatment of Prisoners (UNSMR) and the European Prison Rules (EPT) ... This is because, unlike the latter, they are dynamic rather than static statements. The UNSMR and the EPR are the

product of negotiations between delegates who, once the task was completed, played no role in their application and development¹. Further, "The UNSMR and the EPR are advisory codes. They do not have the force of law and because they tend to be generalised they are little regarded by many practitioners, notwithstanding the prestige that they enjoy in political, academic and activist circles"².

The authors contend that "... the CPT's standards are by far the most detailed custodial standards yet developed universally, regionally or nationally. Moreover, as has been observed, because the CPT's standards are dynamic rather than static, and because they are evolving from first-hand experience of the lived reality of custodial practice, they are gradually supplanting the importance of such codes as the UNSMR and the EPR and would do so more quickly if they were better known".

The foregoing criticisms raise questions. Do the CPT standards improve upon the EPR standards and those contained in the many Council of Europe Recommendations that bear upon prison administration? If so, what status is to be accorded to the EPR and the relevant Recommendations? And if not, why does the CPT not make more explicit use of the principles laid down in the Recommendations, including the Recommendation that contains the EPR? These Recommendations have, after all, been adopted unanimously by the Committee of Ministers and transmitted to member states' governments to guide their legislation, policies and practice.

The CPT standards examined

The CPT includes a "substantive section" in its annual reports, which, on occasion, contain comments and recommendations on standards concerning prison administration that summarise its experience from its visits of inspection.

In its 2nd General Report covering the year 1991, the CPT lists some of the main issues to which it pays attention when visiting prison establishments. These main issues include providing for the following: care as well as control; a satisfactory programme of activities; adequate hygienic facilities; contact with the outside world; safeguards when prisoners are forcibly restrained; clear disciplinary procedures with a right of appeal; grievance procedures; the use of segregation; limiting frequent transfer between prisons because of negative effects; health care and staff training. This formidable list of topics is described in paragraphs 44-60 of the General Report⁴. The list provides some indication of standards in the sense that deficiencies will be noted and commented on by the CPT.

1. *ibid.* p.160

2. *ibid.* p.161

3. *ibid.* p. 162

4. The numbered paragraphs of the substantive sections often comprise a somewhat greater number of textual paragraphs.

The substantive section of the 3rd General Report (for the year 1992) deals with health care in prisons. The CPT makes recommendations concerning access to a doctor, the equivalence of health care with that of the community, patient consent and confidentiality, preventive health care, the professional independence of prison doctors and their special professional competence (paragraphs 30-77). These recommendations overlap with, but are less detailed than, the 71 principles that emerged six years later in Recommendation No. R (98) 7 concerning the ethical and organisational aspects of health care in prison.

The substantive sections of the 4th, 5th, 6th, 7th, 8th and 12th General Reports contain no recommendations or standards concerning prison management.

The substantive section of the 9th General Report (for the year 1998) deals with juveniles under the age of 18 in prison. The CPT comments and makes suggestions concerning the material conditions of detention, activities, staff training, the prevention of ill-treatment, the undesirability of allowing custodial staff to carry batons, mixed gender staffing, contact with the outside world, disciplinary procedures and punishments, complaints and inspection procedures and a number of medical issues (paragraphs 22-41). Neither the EPR nor any other Council of Europe Recommendation deals in detail with juveniles in prison, although this question receives some attention in the draft Recommendation on the management of life sentence or other long-term prisoners that was finalised in April 2003 by an expert committee.

The substantive section of the 10th General Report (for the year 1999) deals with women deprived of their liberty. The CPT makes no claim to deal with all the questions that arise with the imprisonment of women but contents itself with "describing some of the specific issues which it pursues in this area" (paragraphs 21-33). Recommendations are made on mixed gender staffing, separate accommodation for women prisoners, equality of access to activities, pre- and postnatal care and certain hygiene and health issues. Neither the EPR nor any other Council of Europe Recommendations deal comprehensively with the treatment of women prisoners although the special position of women sentenced to life or other long-term imprisonment receives some attention in the draft Recommendation on the management of life sentence or other long-term prisoners that was approved by the European Committee on Crime Problems in June 2003.

The substantive section of the 11th General Report (for the year 2000) is entitled "Some recent developments concerning CPT standards in respect of imprisonment". These standards concern staff-prisoner relations, inter-prisoner violence, prison overcrowding, large capacity dormitories, access to natural light and fresh air, transmissible diseases, high security units, and life sentence and other long-term prisoners. With the exception of access to natural light and fresh air, these questions are of extreme complexity. It is not, therefore, surprising that the CPT comments and recommendations presented in these brief texts (paragraphs 25-33) are of

general character and far from being as detailed as Morgan and Evans claim. There is a certain overlap with the EPR both as to form and content so far as these broad statements about important topics are concerned.

Strangely enough, one of the most important provisions of the EPR has not been the subject of attention, comment or recommendation by the CPT. I refer to Rule 4 of the EPR which provides for the setting up of national inspectorates that should be independent of the prison administration, undertake regular inspections and publish their findings. That this question of national inspectorates has been entirely ignored is surprising since one might think that independent national inspections are one of the most powerful ways in which minimum standards of imprisonment are ensured. Certainly, the reports of the regular inspections conducted by the Chief Inspector of Prisons in England and Wales fearlessly reveal and criticise the shortcomings of the prison system. They are without doubt of value not only to the prison administration but also to prisoners, politicians, NGO's and activist groups¹. Yet independent national inspectorates that routinely perform prison inspections are rarely to be found in member countries. National inspectorates could be of great use in supplementing the work of the CPT. National inspection reports could assist the CPT to determine its priorities by providing regular information about national conditions and practice. The importance of national inspections would be reinforced by the inspections of the CPT and preventive post-inspection action on recommendations made would be enhanced. It is to be hoped that the importance of national inspections will firmly emphasised in an updated version of the EPR and secure the attention of the CPT in future inspections.

In addition to the standards and comments emerging from the substantive sections, the reports on the results of its inspections in different countries often contain criticisms and recommendations. The nature of these recommendations varies. On occasion they are concrete and precise but they also comprise general recommendations of the kind "The government should review its procedures concerning ...". A general disadvantage in any case is that the more concrete recommendations are not available in codified form and it is manifestly impracticable to require that they be discerned by reading each and every inspection report.

Some of the issues taken up in inspection reports are either not mentioned specifically in the EPR or only mentioned briefly. This is particularly the case concerning the treatment of prisoners who are remanded in custody whilst under investigation or awaiting trial. On this topic, the EPR contain only brief specific provisions and state that the relevant provisions for sentenced

1. The question of inspections, both national and international, is very fully treated in Section VIII of "Making standards work: an international handbook on good prison practice", a joint publication of the United Nations and Prison Reform International, The Hague 1995.

prisoners should also be applied to remand prisoners. But these provisions for sentenced prisoners fail to take account of the special situation of remanded prisoners. Thus, for example, the EPR lack specific provisions that would allow remanded prisoners to appeal to an independent body against decisions by judges or prosecutors on isolation, restrictions on visits, letters, association with other prisoners and access to radio, television and newspapers. Nor are there any specific provisions on the prevention of the deleterious effects, such as suicide and depression, that are significantly associated with remand in custody. Finally, there are no provisions that emphasise the importance of providing meaningful activities and reasonable time out of cell for remanded prisoners. The CPT has emphasised the importance of these aspects in its inspection reports.

The foregoing two paragraphs suggest that there should be consideration of concrete CPT recommendations arising from inspections with a view to their inclusion in, or harmonisation with, the updated EPR.

The detailed standards in CPT inspection reports often refer to physically inhuman or degrading conditions of imprisonment, for example, cell size, lack of integral sanitation, opportunities for exercise, unhygienic conditions, nutrition and overcrowding. More complex issues, for example the recruitment, selection, and training of prison staff, the treatment of life sentence and other long-term prisoners, or the provision of prison health care, are not – and probably cannot be – the subject of detailed standards by either the CPT or the EPR.

Complex problems – comprehensive principles

Simple and concrete standards can always be presented concerning issues requiring no special elucidation. Stating that prisoners should have access to at least one hour of exercise in the open air is to provide a simple and precise standard on a simple matter. When, however, it comes to more complex issues such as developing a prison staff of good professional quality, providing for prison health care or the treatment of life sentence and other long-term prisoners, simple statements are inadequate and often amount to little more than well-meaning platitudes. The provision of comprehensive standards for complex issues requires careful prior study of some particular question and then the formulation of a battery of principles that are interdependent and mutually supportive. Moreover, these principles need to be explained and placed within a description of the best current knowledge and practice available.

The Recommendations of the Council of Europe have for many years been the preferred way of solving the difficulties inherent in providing comprehensive principles for complex issues. The explanatory reports that accompany Recommendations provide reasons for the existence of these principles. These reasons frequently refer to good contemporary practice, research findings, the judgements of the European Court of Human Rights and sources of relevant new knowledge. The Recommendations provide principles for legislation,

policy and practice and, at the same time, disseminate information on improved possibilities for the realisation of the principles. A large number of Recommendations adopted by the Committee of Ministers and subsequently transmitted to member states' governments concern the administration of imprisonment.

An example

Let us look at an example. The CPT consistently criticises any discovered misconduct or professional weakness of prison staff and rightly insists that a professional and trained staff constitutes the essential instrument for achieving high standards of prison administration. In addition to these views emerging from inspections, the substantive section of the 11th General Report contains just five textual paragraphs on staff-prisoner relationships stating that staff are to be properly recruited and trained; must know how to adopt appropriate attitudes to prisoners; must be able to deal with prisoners in a decent and humane fashion whilst paying attention to security and good order; should be of an adequate number in places frequented by prisoners; and, finally, that the development of constructive and positive relations between prison staff and prisoners will reduce the risk of ill-treatment and enhance control and security. All good stuff – but in its generality scarcely to be described as detailed standards.

Rather more elaborate standards are provided by Rules 51-63 of the EPR and deal with the recruitment, training, professional capacities and ethical standards of prison staff. But the really forceful proposals for developing a professionally competent prison staff are to be found in Recommendation No. R (97) 12 on staff concerned with the implementation of sanctions. The Recommendation provides 51 principles on recruitment, selection, training, conditions of work, management responsibilities and staff mobility in the interest of effective work. And since prison work is unlikely to be effective unless attention is also given to post-release supervision, the Recommendation includes the staff responsible for post-release supervision and after-care – hence its title. The Recommendation also contains ethical guidelines for staff concerned with the implementation of sanctions. A detailed Explanatory Memorandum, as is customary, supports the Recommendation and provides important practical and research information. The Recommendation, in short, supplements the provisions of the EPR by stating essential principles for developing the professionalism of *inter alia* prison staff and proposing important ways of achieving high standards. The CPT has not the time, resources or capacity to deal in similar depth with ways of developing a professional prison staff – and still less a post-release supervisory staff.

The above is not an isolated example. Other detailed Recommendations and Explanatory Reports have been adopted by the Committee of Ministers dealing, to mention only a few examples, with prison education, prison leave, transmissible diseases in prison, prison health care and prison overcrowding. In addition, draft

Recommendations on conditional release and on life sentence and long-term prisoners are to be submitted to the Committee of Ministers for adoption in September 2003¹.

The implementation of Recommendations

Recommendations are formally transmitted suggestions for the development of legislation, policy and practice but no government is bound to apply these suggestions. Nevertheless, the fact that the Committee of Ministers must vote in unanimity for the adoption of Recommendations does imply a national responsibility for implementing them. In this respect they do not differ from the recommendations made by the CPT since the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment makes no provision for CPT recommendations to be binding on governments *ipso facto*. There is, however, a clear implied responsibility for governments to act upon CPT recommendations².

Council of Europe Recommendations can be – and are – re-visited when there appears to be a need to update them. Thus, Recommendation No. R (92) 16 containing the European Rules on Community Sanctions and Measures has been re-examined and a further Recommendation, No. R (2000) 22 on improving the implementation of the European Rules on Community Sanctions and Measures has been adopted by the Committee of Ministers.

The need for mutual assistance in improving prison conditions

The criticisms arising from the inspection reports of the CPT consistently underline the fact that improving prison conditions is a never-ending task. The difficulties attendant upon securing the necessary changes to legislation, policies and practice surely require concerted efforts by a variety of means. Detailed standards and principles need to be authoritatively defined, stated and updated when necessary and the political and administrative will to effect change needs to be encouraged. The fact that the Council of Europe has established various instruments and bodies for the development and improvement of prison administration presupposes collaborative efforts to this end.

1. Editor's note: Recommendation No. Rec(2003)22 on conditional release (parole) was adopted by the Committee of Ministers on 24 September 2003 at their 853rd meeting of the Ministers' Deputies.

2. Article 3 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment requires that the Committee and the competent national authorities shall co-operate with each other. Article 10 (1) requires the Committee to report on the facts found during a visit and make any necessary recommendations. Article 10(2) provides that under certain conditions the Committee may decide to make a public statement where a government fails to co-operate or refuses to improve a situation in the light of the Committee's recommendations.

It would, therefore, be an unhappy development if different bodies of the Council of Europe appeared to be in competition or, worse, in conflict, about recommendations on prison conditions. I believe that there is room to improve collaborative efforts to ensure that imprisonment is carried out in accordance with the Council of Europe's own high standards of respect for human rights and human individuality. A wider and better understanding of the various instruments and bodies concerned with developing improved forms of prison administration is needed.

In particular, it seems desirable to clarify the difference between the establishment of basic principles and the investigation of the way national prison administrations apply – or do not apply – these principles. An analogy may make this distinction clearer. The European Convention on Human Rights sets out basic principles but the European Court of Human Rights decides on their application in specific cases. Similarly, it seems to me the Recommendations of the Council of Europe on prison matters provide basic principles and it is for the CPT to examine the extent to which they are adhered to in practice. To my mind, the CPT could usefully refer to Recommendations with far greater frequency than hitherto and thereby reinforce their implementation. The CPT is also uniquely placed to identify gaps and weaknesses in the statements of basic standards and principles so that the appropriate bodies may remedy the deficiencies.

1. *ibid.* p. 164

2. *ibid.* p. 165

As a final comment on this question of improving collaboration let me take up what Morgan and Evans write on the role of the CPT in relation to practical assistance to custodial authorities. "First, in some areas, such as the training of law enforcement officials, prison officers and health-care staff in prisons and psychiatric hospitals, there may be scope to enhance the interface between the CPT's activities and existing Council of Europe programmes of assistance for developing and consolidating democratic security". What needs to be noted here is that these programmes of assistance are based to a large extent on Council of Europe Recommendations, so the enhanced interface should presumably include them.

"What", ask Morgan and Evans, "must the unappealing phrase 'enhance the interface' between Council of Europe programmes be taken to mean? It certainly implies that that the various parts of the Council of Europe are not working together as co-operatively to achieve the agreed purposes as they might. If this is true then it is clearly a cause for concern".

I believe, and have tried to show, that there is inadequate co-operation in trying to achieve agreed purposes and I agree with Morgan and Evans that this is a matter for concern. I expect those working on updating the EPR to take account of this problem. Major objectives with the updating the EPR should, therefore, be the achievement of a harmonisation of standard-setting instruments in the interest of improving the co-ordinated possibilities for the humane and effective treatment of prisoners and the drawing up of specific standards of good practice for the guidance of governments and facilitation of CPT work.

Re-evaluating the Council of Europe work on "Education in Prison": a report from the 4th European Conference for Directors and Co-ordinators of Prison Education

Malta, 1-5 November 2000

by **Kevin Warner**

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I. Introduction

The Council of Europe established a Select Committee in 1984 to study the system of education in prison in member states. In 1989 its Committee of Ministers adopted a recommendation, No. R (89) 12, and an explanatory memorandum, arising from this committee's work, under the title *Education in Prison*.

The authors of this work identified a need for structures or organisations to promote exchange on prison education in Europe. Thus, the EPEA, the European Prison Education Association, was formed in the early 1990s, to promote prison education in accordance with the Council of Europe recommendation and to support the professional development of prison educators. The EPEA now organises major and highly regarded conferences every two years, the next being in Norway in June 2003¹. It has a growing membership across Europe and produces a lively magazine, the *EPEA Newsletter*. Its website is: <http://users.tibus.com/epea>.

While the EPEA's priority was to support prison educators "on the ground", 1994 saw the emergence of a network of prison educators with a more specific focus: the first conference of those engaged at national level as directors or co-ordinators of prison education. The initiative was taken by Danish colleagues Kaj Raundrup and the late Henning Jorgensen. These "Directors" conferences have been held in Poland (1994), Estonia (1996), Cyprus (1998) and Malta (2000), in each case with generous support from the host country's prison authorities. Arrangements for each conference have so far been somewhat ad hoc, but the occasions have been valuable opportunities for sharing ideas and experiences by those charged with leading the development of prison education in their respective countries. In Malta, there were participants from twenty-two countries. A special session for this group will be part of the 2003 EPEA conference, with the hope of reactivating the full "Directors" conference in 2004.

In all of the earlier conferences for Directors/Co-ordinators of prison education, aspects of *Education in Prison*

figured prominently. In Malta, however, the entire recommendation and explanatory memorandum was central to the agenda: the view was that ten years after its adoption was an appropriate time to re-examine *Education in Prison* in its entirety and assess the extent to which it is still (if at all) a relevant and valuable guide. The participants were especially conscious of changes in the world of education in the meantime, as well as changes in society, such as new information technology, greater migration, etc. In particular, they were aware that Europe had altered enormously, with numerous Central and Eastern European countries, which were not members of the Council of Europe in the 1980s, now fully involved. Clearly, then, there were several factors which made a re-evaluation of *Education in Prison* pertinent.

At the Malta conference, I was asked to write a report, based on feedback from discussion groups and plenary sessions. The first draft of this report was circulated to all participants for comment and then revised in the light of those observations. The report is addressed, in particular, to the Council of Europe, but it is hoped that it will be found to be of interest in a number of other spheres. This full version is available from Kaj Raundrup at the Danish Department of Prisons and Probation. This article is a summary of that report.

2. Scope for improvement

In Malta, there was some criticism of the text of Recommendation No. R (89) 12 on grounds of comprehensiveness, clarity, relevance and consistency. Naturally, it was not open to the conference to change wording that had been approved by the Council of Europe. Thus, several of those in Malta pointed to the explanatory memorandum as perhaps the most useful document today, at least to educators, even if that too has shortcomings.

It is evident that in a considerable number of countries, including some which have joined the Council of Europe in the past decade, *Education in Prison* is widely used as a general guide to the education of offenders. Elsewhere, this work does not appear to be very well known. Its ongoing relevance and its strengths are examined below, but this section identifies the themes that could have been better addressed. Taking these

1. Editor's note: The 2003 EPEA Conference on Prison Education in a Holistic Perspective took place in Langesund, Norway on 14-18 June.

points on board will improve the way in which the original memorandum can be read and can be of help. Most of these issues are, in fact, mentioned in the memorandum, but they require sharper and more detailed treatment, especially in current circumstances:

(i) *Adult Education*

The first chapter of the memorandum states that, "the education of prisoners must, in its philosophy, methods and content, be brought as close as possible to the best adult education in the society outside ..." (1.5). This begs a few questions. What if there is only a poor or limited model of adult education in the community beyond the prison walls? And what of juveniles, young men or women in their late teens who are beyond the age of compulsory schooling but in some ways not quite yet seen as adults: to what extent is the adult education model relevant to them? An answer often given is that the approach which suits such young adults is closer to adult education than conventional schooling. But, that issue should have been teased out in more detail, although it is explored a little, for example, in relation to Danish "project work" (memorandum 5.12 to 5.16).

However, the most substantial shortcoming in this regard was the lack of a definition of precisely what was meant by adult education. There are indications which remain important, such as paragraphs 2 and 3 of the recommendation:

2. "Education for prisoners should be like the education provided for similar age groups in the outside world, and the range of learning opportunities for prisoners should be as wide as possible;
1. Education in prison shall aim to develop the whole person bearing in mind his or her social, economic and cultural context".

Chapter 5 of the memorandum (and especially 5.2) sketches some of the main features of an adult education approach. Some of the perspective from another Council of Europe report, (Council for Cultural Co-operation, *Adult Education and Community Development*, 1987) is incorporated. Yet, given that "adult education" is identified as the major cornerstone of the memorandum, there should have been more discussion of what it implies. In particular, the major issues debated among academics and practitioners in the adult education field could have been teased out and connected with the reality of prisoners and prisons.

(ii) *Adult Basic Education*

Likewise, more could have been said, and said more precisely, about the major educational issue in prisons – inadequate literacy skills and other basic abilities among huge sections of prison populations. The issue should have had a chapter of its own, rather than a subsection of the chapter on "Learning Opportunities" (memorandum 6.4 to 6.10). The points made in that subsection remain important, but, as was said about adult education in general above, adult literacy and basic education issues in the prison should have been related more fully to the wider debate on these issues

in the community. In fairness, much of that debate has progressed since *Education in Prison* was completed.

One aspect of that larger debate is how educational disadvantage is inter-linked with issues of poverty, social exclusion and stigmatisation. That was the core theme of a paper brought to the Malta conference by Julijana Gruden of Slovenia. This emphasises the point that the literacy issue is far more than a matter of skills learning; it connects with the person's whole sense of self and relationship with society. Crime and imprisonment then further accentuate these difficulties. Simply identifying and reaching those in prison with the greatest educational needs and engaging them in education is enormously difficult; as another delegate in Malta said, "they hide in workshops". More needed to be said about how such prisoners can be drawn into education.

(iii) *Addressing Offender Behaviour*

The themes of adult education and adult basic education are dealt with in *Education in Prison*, but not as fully as their importance might justify. A theme hardly mentioned at all, however, is the area categorised as "addressing offender behaviour". The phrase refers to topics such as cognitive skills, thinking skills, anger-management, substance-abuse, etc. – some of the problematic areas for offenders that are deemed to contribute to involvement in crime. Pre-release courses are sometimes included under this heading (and pre-release courses often contain the above mentioned elements) and the memorandum does at least refer to this area ("a pre-release ethos", 11.7).

Such courses have expanded enormously in Europe in the decade since *Education in Prison* was adopted. In some respects, this reflects a tendency towards the integration of the educational effort with that of the larger prison system, focused on crime prevention. The courses in question are often multi-disciplinary. Two distinct patterns are evident. In some countries, more general education, akin to what might be offered in the community at large, has been *displaced*, in part at least, by an emphasis on tackling offender behaviour. This has been a major trend in North America and it is clear that some American influence is at work on this side of the Atlantic. This conflicts with the advice offered by one of the founders of modern "correctional education" in the United States of America, who charged us to "consider the prisoner as primarily an adult in need of education and only secondarily as a criminal in need of reform" (Austin H. McCormick, *The Education of Adult Prisoners*, 1931). One of the dangers of an over-emphasis on "criminogenic" factors is that we see the person in prison too narrowly and awareness that the prisoner is still a citizen, still a member of the larger community (as expressed in the recommendation of the Committee of Ministers of the Council of Europe No. R (87) 3 on the European Prison Rules), is reduced. Likewise, the adult education imperative to address "the whole person" can be neglected if this kind of displacement takes place.

Another pattern, however, is where education that seeks to address offending behaviour directly is offered

in addition to the wide curriculum set out in *Education in Prison*, and in accordance with an adult education (or appropriate young adult) methodology. This has happened in some countries and as such, represents an enrichment of education provision. Indeed, an adult education philosophy can lead in itself to an inclusion of a dimension that addresses offending behaviour. Adult education generally seeks, more than most approaches, to make learning relevant to an individual's needs and desires and to relate the development of the individual to the larger development of the community or society. Where such an approach is working well, issues such as criminality and resettlement will inevitably be raised, explored and addressed.

There remain, however, difficult issues, as Joe Giordmaina of Malta suggested in his Overview of Conference Goals at the opening session. Where does education end and treatment or therapy begin? Perhaps courses like Sex Offender Treatment Programmes, which challenge prisoners at a very deep level, are not generally within the remit of teachers – but there can be a role for teachers to motivate prisoners to take part and to support them in their participation. Less specialist courses, such as in cognitive skills, addiction awareness and preparation for release, more commonly involve teachers, although just as commonly involve other disciplines.

(iv) Evaluation

Another aspect of education that could have been developed further in the memorandum is evaluation. Evaluation merits one paragraph in the memorandum (5.17), but it is a rather detailed paragraph and touches on some key principles – such as an emphasis on teachers themselves and the education sector in an institution having creative involvement in the process. The key touchstone suggested is "what would be appropriate in education on the outside?"

The role of the regime and the prison system in evaluation is weakly dealt with, however. Clearly, this should have been addressed more fully and there are complexities that should at least have been acknowledged. In North America, for example, the role of "correctional education" has narrowed severely to concentration on addressing offender behaviour and education programmes in general seem to have to justify themselves almost solely in terms of reducing recidivism. *Education in Prison* acknowledges this rehabilitative role, but it is (in 1.8 of the memorandum) only listed as the third among three "justifications" of prison education. The other two justifications – limiting "the damage done to men and women through imprisonment" and "addressing educational disadvantage as an objective in its own right" – reflect, respectively, core principles inherent in the European Prison Rules and an adult education philosophy. This wider approach to prison education objectives requires greater discussion of how such objectives are to be evaluated.

(v) Sentence Planning

Another crucial element that is somewhat neglected in the memorandum is the process of sentence planning.

The idea that educators work cohesively and systematically with other staff groups and with prisoners themselves in enabling prisoners to manage their time in custody, prepare for release and find appropriate support in their efforts to resettle after release, is suggested in chapter 11. But sentence planning is of such central importance that it too could have been more fully dealt with.

Chapter 11, on Social Education, envisages close co-operation between different staff groups within the prison, geared to helping prisoners live in the community. The conference noted an increased emphasis on such work in recent years. But there needs to be integration between the prison and the "outside" world also – and certainly more could have been said about that. It was noted that the Norwegian "import model" attempts to counteract the isolation of those working within the prison and places specific responsibility on public agencies outside to serve prisoners and to facilitate their transition. Also of interest in this regard is the Portuguese practice, whereby an outside judge visits the prison on a weekly basis to speak with prisoners who apply for leave and to make, as an independent outsider, decisions in this regard.

(vi) Multicultural Societies

One other dimension of prison populations that is mentioned in the memorandum, but which certainly now deserves more emphasis, is their multicultural aspect, reflecting increasingly multicultural societies across Europe. Just as education in the wider community has to adapt to this feature, prison education should be recognising and responding to it also.

(vii) Information Technology.

Inevitably, given the lapse of over ten years since *Education in Prison* was completed, the references in the memorandum to "distance learning" (5.6 to 5.9) and to "personal computers" (5.10) seem dated and excessively guarded. Several in Malta emphasised the much more extensive opportunities that now exist for learning through the use of information technology, although restrictions on access to the internet in most prison systems currently put limits on these possibilities. Some concern remains, however, that computers might be used actually to limit the scope for personal interaction that education otherwise provides – but that would reflect an approach by prison authorities rather than any inherent feature of the new technology.

3. Relevance ten years on?

The intention in the previous section was frankly to acknowledge shortcomings. The next section will assert that a couple of key aspects of the memorandum (the adult education approach and complementarity with the European Prison Rules) are still very relevant – if not altogether fashionable! This section will briefly recognise some trends that have emerged more clearly since 1990, which were highlighted by some delegates in Malta and which can be set in the context of the memorandum.

(i) Some noted that the memorandum focused a great deal on "inputs", whereas there is often more stress nowadays on "outcomes" in education. To an extent, that point corresponds to the weak treatment of evaluation highlighted above. But it also reflects an approach with which the European Union, in particular, has become associated – funding of EU projects is typically tied to meeting very specific targets.

Some educators, however, remain wary of an over-emphasis on easily measurable results, while acknowledging the need for evaluation methods that incorporate qualitative outcomes. This view is suspicious of over-reliance on approaches derived from industry or business and is summed up in the saying that evaluation should aim "to make what is important measurable rather than what is measurable important". If educators in prisons are too crudely assessed by examination results, for example, situations can arise where those prisoners with the greatest needs are neglected while the able are involved more because their "achievements" will show up more clearly.

(ii) Several expressed concern at how vocational training in prisons is too focused on work-related skills, to the neglect of "the whole person". Likewise, a facile equation is often made between job-placement and rehabilitation. Prisoners tend to have far wider (and often far more urgent) learning needs than the skills involved in a particular job. The danger of such a narrow focus was highlighted in the chapter on Vocational Education and the view in Malta was that this thinking still needs to be taken on board in many prisons and prison systems.

(iii) Related to that trend is the old tension between work and education. There were numerous reports in Malta that a key paragraph of Recommendation No. R (89) 12 – that "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" – was widely breached. Work, in many systems, merits greater financial rewards than education or participation in other treatment programmes and is also favoured in other ways. This is in spite of the above recommendation and the stipulation in the European Prison Rules that education and work should have "the same status and basic remuneration" (rule 78).

Departures from these two recommendations seem to depend on a simplistic comparison between life within and outside prison. However, what underpins the Council of Europe philosophy, what Hans Tulkens called the "treatment goal", is the view that priority should be given to addressing prisoners' (and thereby the community's) needs and that regimes should be devised with this in mind. Worryingly, it may also be the case that work sits more easily with some of the punitive approaches to incarceration that have come to the fore in the 90s than does the wiser penal policy vision of the Council of Europe.

(iv) Another area resistant to change is that of physical education and physical recreation. The European

Prison Rules, but much more so *Education in Prison*, highlighted the need to move beyond the widespread practice in prisons whereby a minority of prisoners dominate the gym and concentrate on body-building. The idea was to widen and deepen the activity, achieving participation in structured physical activities by many more prisoners, and increase the educational dimension of physical education. Progress in this effort seems, in general, to be painfully slow.

(v) Widening and deepening the education offered to inmates was a general intention of *Education in Prison*. In particular, it proposed "a wide curriculum", geared to "the whole person". The importance of frequently neglected areas, such as creative arts, was emphasised. Some progress in this direction seems evident, but it is difficult to judge the extent of the improvement.

(vi) Libraries remain a "cinderella" service in many prison systems, out of tune with good practice in the community, but there are some shining examples: Dutch prison libraries, and especially their response to the multicultural nature of their clients, stand out in particular.

4. Strengths of *Education in Prison*

Human rights have always been the bedrock of the Council of Europe. They underpin the thinking in the European Prison Rules, reflected, in particular, in the concept of the prisoner remaining a citizen, a full member of society. From this a whole penal policy flows. That philosophy is implicit, as much as explicit, in *Education in Prison*, but the education memorandum's complementarity with the European Prison Rules is comprehensive and crucial. Human rights also underpin the more explicit adult education approach of *Education in Prison* – the idea being that all citizens (and, therefore, all prisoners) are entitled, as of right, to access to education that enables them to develop fully as people.

The introductory chapter of the memorandum on *Education in Prison* refers to "two overall complementary themes". The first theme is adult education. The second is that "education should be constantly seeking ways to link prisoners with the outside community and to enable both groups to interact with each other as fully and as constructively as possible" (1.5). That second theme reflects the outlook of the European Prison Rules, conceiving the prisoner as a part of the larger society and suggesting that education must play a role in minimising the damage prison does and in facilitating reintegration. Consequently, "interaction with the community" is a subheading in several chapters throughout the memorandum and the idea of education as a contributor to the Nordic idea of "normalisation" is also frequently returned to.

These twin themes, adult education and the-prisoner-as-citizen, are perhaps the strengths of *Education in Prison* and the two ideas mesh with each other. From the assumption that the prisoner is a member of the larger community, and so entitled to full development,

comes the idea of adult education, geared to "the whole person" and promoting real participation by the student in shaping his/her learning.

The importance of these perspectives may be seen where slippage from either of them occurs. The past decade has seen a rise of punitive penal policies, out of line with Council of Europe principles, in many parts of Europe. From seeing prison as a "last resort" there is now much advocacy that "prison works". Prison populations have risen dramatically in many (but not all) countries and this has often been accompanied by a disregard for what is called in the European Prison Rules "the detrimental effects of imprisonment" (rule 65). Thus, there is a pull away from the role of education in minimising those effects, in facilitating prisoners to cope with their sentences.

As part of this trend, there is often also a negative stereotyping of those sent to prison. The idea that they are members of the larger community, even the recognition of their humanity, is lost. This diminution of how the person in prison is seen facilitates a diminution of the education s/he is offered. Provision is reduced or narrowed and the scope for autonomous choice within that provision is limited. So, rather than a human right, education is seen more as a tool of prison management. Rather than seeing in prison a citizen entitled to full development, we are asked to see the prisoner solely as an offender whose behaviour must be addressed, or may be as an individual to be trained for the labour market.

Participants at Malta were keen to assert the adult education approach. It was seen to place the full person at the centre of policy and to promote the empowerment of that individual. The integrity of the wide curriculum was also defended against "cherry-picking" by some prison administrators.

5. Practical action

There was a general view in Malta that *Education in Prison* remains a useful tool, although some aspects of it are now more helpful than others. The re-evaluation needs to continue, as was envisaged by the original authors – it is hoped in a way that holds on to core principles but discards or amends what is less relevant today.

A number of points emerged as needing practical attention. There was a view that some of the larger possibilities of prison education were not always recognised by prison administrators; rectifying that is, to some extent, down to educators themselves, but *Education in Prison* may help here in enlarging concepts. This work might also be used more in the training of prison education staff in the special features of their work; it is hoped that it would offer an overview of the field, some key principles and encouragement. More awareness of our work needs to be promoted also among the public and the media needs to be consciously engaged to promote this.

To keep the debate arising from this report going and development in the field continuing the conference wished to make some specific requests of the Council of Europe:

- (i) that *Education in Prison* be again made available in print and on the internet;
- (ii) that the full report from Malta be made available to the European Committee on Crime Problems (CDPC) and on the internet;
- (iii) that the Council of Europe regularly survey the state of prison education in its member countries and their compliance with Recommendation No. R (89) 12;
- (iv) that the National Directors / Co-ordinators forum continue on its two-yearly pattern, but with closer links with the Council of Europe Secretariat.

Case law of the European Court of Human Rights

Since the case of *Peers v. Greece* (judgment of 19 April 2001), which was reported in the December 2002 issue of the Penological Information Bulletin, the European Court of Human Rights has pronounced on further cases of inhuman or degrading treatment relating to the structural conditions of detention or detention regime, as opposed to individual incidents of ill-treatment. The two cases below demonstrate the Court's assessment of these issues in relation to Article 3 of the European Convention on Human Rights, which provides that *no one shall be subjected to torture or to inhuman or degrading treatment or punishment*.

In the third case, the Court finds a violation of Article 3 in relation to the inadequate conditions of detention of a severely disabled person.¹

Kalashnikov v. Russia, judgment of 15 July 2002

The Court recalls that Article 3 of the Convention enshrines one of the most fundamental values of democratic society. It prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the circumstances and the victim's behaviour (see, for example, *Labita v. Italy* [GC], no. 26772/95, § 119, ECHR 2000-IV).

The Court further recalls that, according to its case-law, ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. The assessment of this minimum is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim (see, among other authorities, the *Ireland v. the United Kingdom* judgment of 18 January 1978, Series A no. 25, p. 65, § 162).

The Court has considered treatment to be "inhuman" because, *inter alia*, it was premeditated, was applied for hours at a stretch and caused either actual bodily injury or intense physical and mental suffering. It has deemed treatment to be "degrading" because it was such as to arouse in the victim's feeling of fear, anguish and inferiority capable of humiliating and debasing them (see, for example, *Kudla v. Poland* [GC], no. 30210/96, § 92, ECHR 2000-XI). In considering whether a particular form of treatment is "degrading" within the meaning of Article 3, the Court will have regard to whether its object is to humiliate and debase the person concerned and whether, as far as the consequences are concerned, it adversely affected his or her personality in a manner incompatible with Article 3 (see, for example, the *Raninen v. Finland* judgment of 16 December 1997, *Reports of Judgments and Decisions*, 1997-VIII,

pp. 2821-22, § 55). However, the absence of any such purpose cannot conclusively rule out a finding of a violation of Article 3 (see, for example, *Peers v. Greece*, no. 28524/95, § 74, ECHR 2001-III). The suffering and humiliation involved must in any event go beyond that inevitable element of suffering or humiliation connected with a given form of legitimate treatment or punishment.

Measures depriving a person of his liberty may often involve such an element. Yet it cannot be said that detention on remand in itself raises an issue under Article 3 of the Convention. Nor can that Article be interpreted as laying down a general obligation to release a detainee on health grounds or to place him in a civil hospital to enable him to obtain specific medical treatment.

Nevertheless, under this provision the State must ensure that a person is detained in conditions which are compatible with respect for his human dignity, that the manner and method of the execution of the measure do not subject him to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, his health and well-being are adequately secured (see *Kudla v. Poland* cited above, §§ 92-94).

When assessing conditions of detention, account has to be taken of the cumulative effects of those conditions, as well as the specific allegations made by the applicant (see *Dougoz v. Greece*, no. 40907/98, § 46, ECHR 2001-II).

In the present case, the Court notes that the applicant was held in the Magadan detention facility IZ-47/1 from 29 June 1995 to 20 October 1999, and from 9 December 1999 to 26 June 2000. It recalls that, according to the generally recognised principles of international law, the Convention is binding on the Contracting States only in respect of facts occurring after its entry into force. The Convention entered into force in respect of Russia on 5 May 1998. However, in assessing the effect on the applicant of his conditions of detention, which were generally the same throughout his period of detention, both on remand and following his conviction, the Court may also have regard to the overall period during which he was detained, including the period prior to 5 May 1998.

The Court notes from the outset that the cell in which the applicant was detained measured between 17 m² (according to the applicant) and 20.8 m² (according to the Government). It was equipped with bunk-beds and was designed for 8 inmates. It may be questioned whether such accommodation could be regarded as attaining acceptable standards. In this connection the Court recalls that the European Committee for the Prevention of Torture and Inhuman or Degrading

1. Only the assessment of the Court is reproduced here, not the submissions of the applicants or of the Governments.

Treatment of Punishment ("the CPT") has set 7 m² per prisoner as an approximate, desirable guideline for a detention cell (see the 2nd General Report – CPT/Inf (92) 3, § 43), i.e. 56 m² for 8 inmates.

Despite the fact that the cell was designed for 8 inmates, according to the applicant's submissions to the Court the usual number of inmates in his cell throughout his detention was between 18 and 24 persons. In his application for release from custody of 27 December 1996, the applicant stated that there were 21 inmates in his 8-bed cell. In a similar application of 8 June 1999, he referred to 18 inmates (see paragraphs 43 and 73 above).

The Court notes that the Government, for their part, acknowledged that, due to the general overcrowding of the detention facility, each bed in the cells was used by 2 or 3 inmates. Meanwhile, they appear to disagree with the applicant as to the number of inmates. In their submission there were 11 or more inmates in the applicant's cell at any given time and that normally the number of inmates was 14. However, the Government did not submit any evidence to substantiate their contention. According to the applicant, it was only in March-April 2000 that the number of inmates was reduced to 11.

The Court does not find it necessary to resolve the disagreement between the Government and the applicant on this point. The figures submitted suggest that that any given time there was 0.9-1,9 m² of space per inmate in the applicant's cell. Thus, in the Court's view, the cell was continuously, severely overcrowded. This state of affairs in itself raises an issue under Article 3 of the Convention.

Moreover, on account of the acute overcrowding, the inmates in the applicant's cell had to sleep taking turns, on the basis of eight-hour shifts of sleep per prisoner. It appears from his request for release from custody on 16 June 1999, that at that time he was sharing his bed with two other inmates (see paragraph 74 above). Sleeping conditions were further aggravated by the constant lighting in the cell, as well as the general commotion and noise from the large number of inmates. The resulting deprivation of sleep must have constituted a heavy physical and psychological burden on the applicant.

The Court further observes the absence of adequate ventilation in the applicant's cell which held an excessive number of inmates and who apparently were permitted to smoke in the cell. Although the applicant was allowed outdoor activity for one or two hours a day, the rest of the time he was confined to his cell, with a very limited space for himself and a stuffy atmosphere.

The Court next notes that the applicant's cell was infested with pests and that during his detention no anti-infestation treatment was effected in his cell. The Government conceded that infestation of detention facilities with insects was a problem, and referred to the 1989 ministerial guideline obliging detention facilities to take disinfection measures. However, it does not appear that this was done in the applicant's cell.

Throughout his detention the applicant contracted various skin diseases and fungal infections, in particular during the years 1996, 1997 and 1999, necessitating recesses in the trial. While it is true that the applicant received treatment for these diseases, their recurrence suggests that the very poor conditions in the cell facilitating their propagation remained unchanged.

The Court also notes with grave concern that the applicant was detained on occasions with persons suffering from syphilis and tuberculosis, although the Government stressed that contagion was prevented.

An additional aspect of the crammed and insanitary conditions described above was the toilet facilities. A partition measuring 1,1 meters in height separated the lavatory pan in the corner of the cell from a wash stand next to it, but not from the living area. There was no screen at the entrance to the toilet. The applicant had thus to use the toilet in the presence of other inmates and be present while the toilet was being used by his cellmates. The photographs provided by the Government show a filthy, dilapidated cell and toilet area, with no real privacy.

Whilst the Court notes with satisfaction the major improvements that have apparently been made to the area of the Magadan detention facility where the applicant's cell was located (as shown in the video recording which they submitted to the Court), this does not detract from the wholly unacceptable conditions which the applicant clearly had to endure at the material time.

The applicant's conditions of detention were also a matter of concern for the trial court examining his case. In April and June 1999 it requested medical expert opinions on the effect of the conditions of detention on his mental and physical health after nearly 4 years of detention in order to determine whether he was unfit to take part in the proceedings and whether he should be hospitalised (see paragraphs 71 and 76 above). Even though the experts answered both questions in the negative, the Court notes their conclusions of July 1999, listing the various medical conditions from which the applicant suffered, i.e. neurocirculatory dystonia, astheno-neurotic syndrome, chronic gastroduodenitis, a fungal infection on his feet, hands and groin and mycosis (see paragraph 30 above).

The Court accepts that in the present case there is no indication that there was a positive intention of humiliating or debasing the applicant. However, although the question whether the purpose of the treatment was to humiliate or debase the victim is a factor to be taken into account, the absence of any such purpose cannot exclude a finding of violation of Article 3 (see *Peers v. Greece* cited above). It considers that the conditions of detention, which the applicant had to endure for approximately 4 years and 10 months, must have caused him considerable mental suffering, diminishing his human dignity and arousing in him such feelings as to cause humiliation and debasement.

In the light of the above, the Court finds the applicant's conditions of detention, in particular the severely

overcrowded and insanitary environment and its detrimental effect on the applicant's health and well-being, combined with the length of the period during which the applicant was detained in such conditions, amounted to degrading treatment.

Accordingly, there has been a violation of Article 3 of the Convention.

Vin der Ven v. Netherlands, judgment of 4 February 2003

The Court reiterates at the outset that Article 3 of the Convention enshrines one of the most fundamental values of democratic society. It prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the circumstances and the victim's behaviour (see, for example, *Labita v. Italy* [GC], no 26772/95, § 119, ECHR 2000-IV).

The Court further reiterates that, according to its case-law, ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. The assessment of this minimum is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim (see, among other authorities, *Ireland v. the United Kingdom*, judgment of 18 January 1978, Series A no. 25, p. 65, § 162).

Treatment has been held by the Court to be "inhuman" because, *inter alia*, it was premeditated, was applied for hours at a stretch and caused either actual bodily injury or intense physical and mental suffering, and also "degrading" because it was such as to arouse in the victim's feeling of fear, anguish and inferiority capable of humiliating and debasing them (see, for example, *Kudla v. Poland* [GC], no. 30210/96, § 92, ECHR 2000-XI). In order for a punishment or treatment associated with it to be "inhuman" or "degrading", the suffering or humiliation involved must in any event go beyond that inevitable element of suffering or humiliation connected with a given form of legitimate treatment or punishment (see *V. v. the United Kingdom* [GC], no. 24888/94, § 71, ECHR 1999-IX). The question whether the purpose of the treatment was to humiliate or debase the victim is a factor further to be taken into account, but the absence of any such purpose cannot conclusively rule out a violation of Article 3 (see, for example, *Peers v. Greece*, no. 28524/95, § 74, ECHR 2001-III; *Kalashnikov v. Russia*, no. 47095/99, § 101, ECHR 2002-VI).

Conditions of detention may sometimes amount to inhuman or degrading treatment (see *Peers*, cited above, § 75). When assessing conditions of detention, account has to be taken of the cumulative effects of those conditions, as well as the specific allegations made by the applicant (see *Dougoz v. Greece*, no. 40907/98, § 46, ECHR 2001-II).

1. The case of *Lorsé and others v. Netherlands*, judgment of 4 February 2003, raises similar issues.

While measures depriving a person of his liberty often involve an element of suffering or humiliation, it cannot be said that detention in a high security prison facility, be it on remand or following a criminal conviction, in itself raises an issue under Article 3 of the Convention. The Court's task is limited to examining the personal situation of the applicant who has been affected by the regime concerned (see *Aerts v. Belgium*, judgment of 30 July 1998, *Reports of Judgments and Decisions* 1998-V, pp. 1958-59, §§ 34-37). In this connection the Court emphasises that, although public order considerations may lead states to introduce high security prisons for particular categories of detainees, Article 3 nevertheless requires those states to ensure that a person is detained in conditions which are compatible with respect for his human dignity, that the manner and method of the execution of the measure do not subject him to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, his health and well-being are adequately secured (see *Kudla*, cited above, §§ 92-94).

In this context, the Court has previously held that complete sensory isolation, coupled with total social isolation, can destroy the personality and constitutes a form of inhuman treatment which cannot be justified by the requirements of security or any other reason. On the other hand, the removal from association with other prisoners for security, disciplinary or protective reasons does not in itself amount to inhuman treatment or degrading punishment (see *Messina v. Italy* (dec.), no. 25498/94, ECHR 1999-V). In assessing whether such a measure may fall within the ambit of Article 3 in a given case, regard must be had to the particular conditions, the stringency of the measure, its duration, the objective pursued and its effects on the person concerned (see *Dhoest v. Belgium*, application no. 10448/83, Commission's report of 14 May 1987, *Decisions and Reports* (DR) 55, pp. 20-21, §§ 117-18; *McFeeley et al. v. the United Kingdom*, application no. 8317/78, Commission decision of 15 May 1980, DR 20, p. 44).

Application to the present case

Turning to the circumstances of the present case, the Court observes first of all that the applicant's complaints of the conditions of his detention do not concern the material conditions within the EBI but rather the regime to which he was subjected. To this extent the case may be compared to a series of applications lodged against Italy where the applicants alleged that the special prison regime to which they were subjected pursuant to section 41 bis of the Prison Administration Act resulted in conditions which violated Article 3 of the Convention (see, for instance, *Messina v. Italy* (dec.), cited above; *Indelicato v. Italy* (dec.), no. 31143/96, 6 July 2000, unreported; *Ganci v. Italy* (dec.), no. 41576/98, 20 September 2001, unreported; *Bonura v. Italy* (dec.), no. 57360/00, 30 May 2002, unreported).

The Court notes that paragraphs 62-66 of the CPT report quoted above (paragraph 32) contain a detailed

description of conditions obtaining in the EBI drawn up following a visit to the facility. Since neither party have argued that this description is factually incorrect, the Court accepts that it adequately reflects the situation in the EBI. However, the question whether or not the applicant was subjected to inhuman or degrading treatment within the meaning of Article 3 of the Convention depends on an assessment of the extent to which he was personally affected (see paragraph 50 above).

It is not in dispute that, throughout his detention in the EBI, the applicant was subjected to very stringent security measures. The Court further considers that the applicant's social contacts were strictly limited, taking into account that he was prevented from having contact with more than three fellow inmates at a time, that direct contact with prison staff was limited, and that, apart from once a month in the case of visits from members of his immediate family, he could only meet with visitors behind a glass partition. However, as it did in the cases against Italy referred to in paragraph 52 above, the Court cannot find that the applicant was subjected either to sensory isolation or to total social isolation. As a matter of fact, the Italian special regime was significantly more restrictive both as regards association with other prisoners and as regards frequency of visits: association with other prisoners was entirely prohibited and only family members were allowed to visit, once a month and for one hour (see *Messina*, cited above, § 13).

The applicant was placed in the EBI because he was considered extremely likely to attempt to escape from detention facilities with a less strict regime, and if he were to escape, he was deemed to pose an unacceptable risk to society in terms of again committing serious violent crimes (see paragraph 27 above). At a later stage, the risk of the applicant escaping was held to be less high; however, in the event of an escape he was still considered to pose an unacceptable risk to society in view of the nature of the offences of which he stood accused and of the effects on society and public opinion (see paragraph 19 above). Although the applicant denied that he harboured any such intentions, it is not for the Court to examine the validity of the assessment carried out by the domestic authorities. Having regard to the very serious offences of which the applicant stood accused and was subsequently convicted (see paragraph 10 above), the Court accepts the assessment made by the domestic authorities.

In support of his claim that the EBI regime had such serious damaging effects on his mental health as to bring it within the scope of Article 3 of the Convention, the applicant submitted a number of reports drawn up by Mr V. of the Psychological Department of the Penitentiary Selection Centre (see paragraphs 22-24 above). Several of these reports indeed confirm that for much of his stay in the EBI the applicant was having a hard time and that he had difficulties coping with the limitations of the EBI. Depressive symptoms were found. At the same time, the Court observes that the applicant missed his family and the strain caused by

the criminal proceedings against him were also named as contributing factors.

The Court does not diverge from the view expressed by the CPT that the situation in the EBI is problematic and gives cause for concern. This must be even more so if detainees are subjected to the EBI regime for protracted periods of time.

The applicant also submitted that, if not inhuman, the treatment to which he had been subjected was at the very least degrading. In this respect the Court observes that pursuant to the EBI house rules, the applicant was strip-searched prior to and following an "open" visit as well as after visits to the clinic, the dentist's surgery or the hairdresser's. In addition to this, for a period of three and a half years he was also obliged to submit to a strip-search, including an anal inspection, at the time of the weekly cell-inspection (see paragraph 31 above), even if in the week preceding that inspection he had had no contact with the outside world (see paragraph 65 of the CPT report) and despite the fact that he would already have been strip-searched had he received an "open" visit or visited the clinic, dentist or hairdresser's. Thus, this weekly strip-search was carried out as a matter of routine and was not based on any concrete security need or the applicant's behaviour.

The strip-search as practised in the EBI obliged the applicant to undress in the presence of prison staff and to have his rectum inspected, which required him to adopt embarrassing positions.

For the applicant, this was one of the features of the regime which was hardest to endure, but the Government maintained that the strip-searches were necessary and justified.

The Court has previously found that strip-searches may be necessary on occasions to ensure prison security or to prevent disorder or crime (see *Valašinas v. Lithuania*, no. 44558/98, § 117, ECHR 2001-VIII; *Iwaríczuk v. Poland*, no. 25196/94, § 59, 15 November 2001, unreported; *McFeeley et al. v. the United Kingdom*, cited above, §§ 60-61). In the cases of *Valašinas* and *Iwaríczuk* one occasion of strip-search was at issue, whereas the case of *McFeeley et al.* concerned so-called "close body" searches, including anal inspections, which were carried out at intervals of seven to ten days, before and after visits and before prisoners were transferred to a new wing of the Maze Prison in Northern Ireland, where dangerous objects had in the past been found concealed in the recta of protesting prisoners.

In the present case, the Court is struck by the fact that the applicant was submitted to the weekly strip-search in addition to all the other strict security measures within the EBI. In view of the fact that the domestic authorities, through the reports drawn up by the Psychological Department of their Penitentiary Selection Centre, were well aware that the applicant was experiencing serious difficulties coping with the regime, and bearing in mind that at no time during the applicant's stay in the EBI did it appear that anything untoward was found in the course of a strip-search, the Court is of the view that the systematic strip-searching

of the applicant required more justification than has been put forward by the Government in the present case.

The Court considers that in the situation where the applicant was already subjected to a great number of control measures, and in the absence of convincing security needs, the practice of weekly strip-searches that was applied to the applicant for a period of approximately three and a half years diminished his human dignity and must have given rise to feelings of anguish and inferiority capable of humiliating and debasing him. The applicant himself confirmed that this was indeed the case in a meeting with a psychiatrist, during which he also stated that he would forsake, for instance, going to the hairdresser's so as not to have to undergo a strip-search (see paragraph 25 above).

Accordingly, the Court concludes that the combination of routine strip-searching with the other stringent security measures in the EBI amounted to inhuman or degrading treatment in violation of Article 3 of the Convention. There has thus been a breach of this provision.

Price v. the United Kingdom, judgment of 10 July 2001

The Court recalls that ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. The assessment of this minimum level of severity is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim.

In considering whether treatment is "degrading" within the meaning of Article 3, one of the factors which the Court will take into account is the question whether its object was to humiliate and debase the person concerned, although the absence of any such purpose cannot conclusively rule out a finding of violation of Article 3 (see the *Peers v. Greece* judgment of 19 April 2001, §§ 67-68 and 74).

In this case the applicant, a four-limb-deficient thalidomide victim with numerous health problems including defective kidneys, committed contempt of court in the course of civil proceedings and was ordered by a judge to be detained for seven days (although, as a result of the rules on remission of sentences, she was in fact detained for three nights/four days). It appears that, in accordance with English law and practice, the sentencing judge took no steps, before committing the applicant to immediate imprisonment, a particularly harsh sentence in this case, to ascertain where she would be detained or to ensure that it would be possible to provide facilities adequate to cope with her severe level of disability.

The applicant and the Government submit different accounts of the treatment she received while in detention and, so long after the event and in the absence of any findings by the domestic courts, it is difficult to establish in detail precisely what occurred. However, the Court considers it significant that the documentary evidence submitted by the Government, including the

contemporaneous custody and medical records, indicate that the police and prison authorities were unable adequately to cope with the applicant's special needs.

During her first night of detention the applicant was kept in a cell in a local police station because it was too late in the day to take her to prison. The custody record shows that she was complaining of the cold every half hour – a serious problem for the applicant who suffered from recurring kidney problems and who, because of her disability, could not move around to keep warm. Finally a doctor was called, who noted that the applicant could not use the bed and had to sleep in her wheelchair, that the facilities were not adapted to the needs of a disabled person and that the cell was too cold. The Court notes, however, that despite the doctor's findings no action was taken by the police officers responsible for the applicant's custody to ensure that she was removed to a more suitable place of detention or released. Instead, the applicant had to remain in the cell all night, although the doctor did wrap her in a space blanket and give her some pain killers.

The following day the applicant was taken to Wakefield prison, where she was detained for three days/two nights. During her first night's detention the nursing record states that the duty nurse was unable to lift the applicant alone and thus had difficulty in helping her use the toilet. The applicant submits that, as a result, she was subjected to extremely humiliating treatment at the hands of male prison officers. The Government deny her account, but nonetheless it seems clear that male officers were required to assist in lifting the applicant on and off the toilet.

The Court observes that there are notes in the applicant's admission records by a doctor and staff nurse expressing concern over the problems that were likely to be encountered during her detention, including reaching the bed and toilet, hygiene and fluid intake, and mobility if the battery of her wheelchair ran down. Such was the concern that the prison governor authorised staff to try and find the applicant a place in an outside hospital. In the event, however, they were unable to transfer her because she was not suffering from any particular medical complaint. By the time of her release the applicant had to be catheterised because the lack of fluid intake and problems in getting to the toilet had caused her to retain urine. She claims to have suffered health problems for ten weeks thereafter, but has supplied no medical evidence in support.

There is no evidence in this case of any positive intention to humiliate or debase the applicant. However, the Court considers that to detain a severely disabled person in conditions where she is dangerously cold, risks developing sores because her bed is too hard or unreachable, and is unable to go to the toilet or keep clean without the greatest of difficulty, constitutes degrading treatment contrary to Article 3. It therefore finds a violation of this provision in the present case.

Council of Europe Annual Penal Statistics

SPACE I: 2002 survey on prison populations

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The SPACE I data published below was obtained by means of a new questionnaire devised for the 1997 survey. They relate to the situation of the prison population at 1 September 2002, prison entry flows, lengths of imprisonment, and incidents in 2001 (escapes, prisoners absconding, deaths and suicides) and prison staff numbers at 1 September 2002.

I. Prison populations

1.1 State of prison populations at 1 September 2002

The situation of prison populations at a given date ("stock statistics") is set out in eleven tables.

Table 1. Situation of penal institutions

- (a) Total number of prisoners (including pre-trial detainees);
- (b) Prison population rate (per 100000 inhabitants): number of prisoners (including pre-trial detainees) present at 1 September 2002 in proportion to the number of inhabitants at the same date (in view of the data available we have used the number of inhabitants on 1 January 2002);
- (c) Total prison capacity;
- (d) Rate of occupancy (per 100 places): number of prisoners (including pre-trial detainees) in relation to the number of places available.

Table 2. Age structure

- (a) Median age of prison population (including pre-trial detainees) at the date of the statistics;
- (b) Prisoners under 18 years of age (including pre-trial detainees): number and percentage;
- (c) Prisoners between 18 and 21 years of age (including pre-trial detainees): number and percentage.

Table 3. Women and foreigners

- (a) Female prisoners (including pre-trial detainees): number and percentage;
- (b) Foreign prisoners (including pre-trial detainees): number and percentage.

Table 4. Legal structure (numbers)

- (a) Untried prisoners (not yet convicted);
- (b) Prisoners convicted but not yet sentenced;

- (c) Sentenced prisoners who have appealed or who are within the statutory time limit for doing so;
- (d) Sentenced prisoners (final sentence);
- (e) Other cases.

Table 5. Legal structure (rates)

We have selected four indicators as a basis for comparing the situations of the various populations:

- (a) Percentage of prisoners not serving a final sentence at 1 September 2002 (often inaccurately referred to as the percentage of unconvicted prisoners): the number of prisoners whose sentence is not final, present at that date, expressed as a percentage of the total number of prisoners at the same date;
- (b) Prisoners not serving a final sentence per 100 000 inhabitants at 1 September 2002: the number of prisoners whose sentence is not final, present at that date, in relation to the number of inhabitants at the same date – expressed per 100 000 inhabitants;

For indicators (a) and (b) the number of prisoners not serving a final sentence is obtained by adding headings (a), (b), (c) and (e) of Table 4. However, when heading (c) "Sentenced prisoners who have appealed or who are within the statutory time limit for doing so" of Table 4 is not recorded in the questionnaire because there is no available data – with no further clarification – prisoners in this situation are assumed to be counted with "sentenced prisoners, final sentence". In this case the indicators concerned cannot be calculated.

- (c) Proportion of untried prisoners (not yet convicted) at 1 September 2002: the number of untried prisoners (not yet convicted), present at that date, expressed as a percentage of the total number of prisoners at the same date;
- (d) Untried prisoners (not yet convicted) per 100 000 inhabitants: the number of untried prisoners (not yet convicted), present at that date, in relation to the number of inhabitants at the same date – expressed per 100 000 inhabitants

For indicators (c) and (d), only prisoners under (a) *untried prisoners (not yet convicted)* in Table 4 are taken into account. However, when heading (b) *Prisoners convicted but not yet sentenced* in Table 4 is not recorded in the questionnaire because there is no available data – with no further clarification – prisoners in this situation are assumed to be counted with

"*untried prisoners (not yet convicted)*". In this case the indicators concerned cannot be calculated.

Table 6. Convicted prisoners: breakdown by offence (numbers)

Table 7. Convicted prisoners: breakdown by offence (%)

In Tables 6 and 7, offences have been classified under seven headings:

- Homicide;
- Wounding with intent to harm;
- Rape;
- Robbery with violence;
- Other categories of theft;
- Drug related offences, other cases.

Table 8. Convicted prisoners: breakdown by length of sentence (numbers)

Table 9. Convicted prisoners: breakdown by length of sentence (%)

- (a) Less than one month;
- (b) One month to less than three months;
- (c) Three months to less than six months;
- (d) Six months to less than one year;
- (e) One year to less than three years;
- (f) Three years to less than five years;
- (g) Five years to less than ten years;
- (h) Ten years to less than twenty years;
- (i) More than twenty years;
- (j) Life sentence;
- (k) Death penalty.

Table 10. Convicted prisoners: breakdown by length of sentence (cumulative %)

- (a) Less than one year;
- (b) One year and more;
- (c) Three years and more;
- (d) Five years and more;
- (e) Ten years and more (fixed-term sentence);
- (f) % of life sentences;
- (g) % of death penalties

Table 11. Prisoners sentenced to less than one year: breakdown by length of sentence (%)

- (a) Less than one month;
- (b) One month to less than three months;
- (c) Three months to less than six months;
- (d) Six months to less than one year.

1.2 Flow of entries, length of imprisonment, escapes and deaths in 2001

The next four tables show the number of entries into prison (flow statistics), length of imprisonment, escapes and deaths in penal institutions in the year 2001.

Table 12. Flow of entries

- (a) Total number of entries in 2001;
- (b) Rate of entries (per 100 000 inhabitants): the number of entries for 2001, in relation to the average number of inhabitants during the period under review. In view of the information available, the figure actually used was the number of inhabitants at 1 January 2002.
- (c) Entries before final sentence: number and percentage.

The term "entry" refers to all entries into penal institutions, except in the following situations:

- entry following a transfer between penal institutions;
- entry following a prisoner's removal with a view to an appearance before a judicial authority (investigating judge, trial court, etc);
- entry following prison leave or a period of permitted absence;
- entry of an escaped prisoner recaptured by the police.

The figures do not relate to the number of individuals but to the number of events (entries). The same individual may be committed to prison several times in the same year for the same case. This applies, for instance, to an individual who is placed in pre-trial detention during year n (first entry), released by the investigating judge at the pre-trial investigation stage, tried without being re-detained, convicted and sentenced to a term of imprisonment exceeding the period of pre-trial detention, and re-imprisoned during year n to serve the remainder of the sentence (second entry). A fortiori, the same individual may be committed to prison several times in the same year for different cases.

Only entries of untried prisoners (not yet convicted), prisoners convicted but not yet sentenced, or sentenced prisoners who have appealed or who are within the statutory time limit for doing so are recorded under (c). This figure therefore corresponds to part of the entries recorded under (a). These of course include entries for pre-trial detention.

Table 13. Indicator of average length of imprisonment in 2001

- (a) Total number of days spent in penal institutions in 2001
- (b) Average number of prisoners in 2001: (b) = (a)/365
- (c) Indicator of average length of imprisonment (D) expressed in months: quotient of the average number of prisoners in 2001 (P) divided by the flow of entries during period (E): $D = 12 \times P/E - \text{length expressed in months}$

Figure (a) corresponds to the total number of days spent in penal institutions by all persons placed in detention for at least one day during the reference year (2001). This may be time spent in pre-trial detention or time spent serving a prison sentence, or may even correspond to other circumstances (detention for failure to pay a fine, for instance). No distinction is made here.

Data of this type are usually prepared by the departments responsible for prison budgets. They are used by the authorities to calculate an average daily cost of imprisonment.

By dividing the number of days of imprisonment by 365 (366 in leap years) we obtain the "average number of prisoners in the year" or the number of "prisoner years" (b), which we believe constitutes the best possible indicator of the average number of prisoners present in the year. We use this indicator to work out various other figures presented in other Tables (for instance the suicide rate and the ratio of inmates to custodial staff, etc.).

Table 14. Escapes

This concerns two types of escape:

a) *Escapes by convicted prisoners or pre-trial detainees* (in the custody of the prison authorities) from closed penal institutions or during administrative transfers (for example, to or from a court, another penal institution, or a hospital).

In the event of a group breakout, the number of escapes is equal to the number of inmates involved.

Relating the number of escapes to the average number of prisoners in 2001 (see Table 13) gives the *rate of escapes per 10 000 prisoners*: $10\ 000 \times (a) / \text{average number of prisoners}$.

(b) *Other forms of escape*: Examples are escapes from open institutions (such as work farms) or from semi-detention, and escapes during authorised short-term absence (or leave) from all kinds of institutions (including closed institutions).

We have not worked out the rate here, as that would amount to calculating the ratio of escapes (other forms) to the average number of prisoners, without taking account of the proportion of inmates in "open institutions".

Table 15. Deaths in penal institutions (including suicides)

(a) Number of deaths in penal institutions in 2001;
(b) Number of suicides in 2001;
(c) Percentage of suicides per number of deaths: $100 \times (b) / (a)$

Relating the total number of deaths in prison (a) and the number of suicides in prison (b) to the average number of prisoners in 2001 (see Table 13) gives respectively:

(d) Mortality rate per 10 000 prisoners: $10\ 000 \times (a) / \text{average number of prisoners}$
(e) Suicide rate per 10 000 prisoners: $10\ 000 \times (b) / \text{average number of prisoners}$

Deaths of convicted prisoners and pre-trial detainees while in hospital are included in this table.

II. Prison staff

The situation of prison staff is set out in six tables:

Table 16. Staff working full time in penal institutions

Table 17. Staff working part time in penal institutions: on the basis of full-time equivalents

Table 18. Staff working full or part time in penal institutions: on the basis of full-time equivalents (numbers)

Table 19. Staff working full or part time in penal institutions: on the basis of full-time equivalents (percentage)

In Tables 16-19 we are concerned with the situation of staff working in penal institutions on 1 September 2002. The staff are classified in the following categories:

- (a) Management: Management staff;
- (b) Custodial: Custodial staff excluding staff already included in (a);
- (c) Treatment: Treatment staff (including medical staff, psychologists, social workers, teachers/educators, etc.), excluding staff already included in (a) or (b);
- (d) Workshops: Staff responsible for workshops or vocational training, excluding staff already included in (a), (b) or (c);
- (e) Administrative: Administration staff, excluding staff already included in (a), (b), (c) or (d).

The objective here is to count all staff working in penal institutions who are employed by the prison authorities. Respondents were asked to exclude persons working in penal institutions but not employed by the prison authorities (in some countries this applies to doctors, teachers or perimeter guards). Such staff are included in table 20. They were also asked to exclude staff who do not work in penal institutions but in the central prison administration offices or regional offices, or in storage depots (facilities for storage of food and miscellaneous equipment). Such staff are also included in table 20.

Respondents were asked to calculate the number of staff working part time on the basis of "full-time equivalents". This means that where two people each work half the standard number of hours, they count for one "full-time equivalent". One half-time worker should count for 0.5 of a full-time equivalent.

Table 20. Other categories of staff

Situation at 1 September 2002:

- (a) Staff working in central prison administration offices;
- (b) Staff working in regional offices;
- (c) Staff working in storage depots (facilities for storage of food and miscellaneous equipment);
- (d) Staff working in penal institutions but not employed by the prison authorities.

In some countries category (d) does not exist. In others, doctors, teachers and perimeter guards may sometimes be employed by bodies not under the control of the prison authorities (for instance health authorities, the ministry of education, departments of the ministry of the interior or the ministry of justice).

Table 21. Supervision of prisoners

- (a) Total number of prisoners at 1 September 2002; see table 1.
- (b) Total number of custodial staff at 1 September 2002; see table 17.
- (c) Rate of supervision of prisoners (number of prisoners per custodian): $c = (a) / (b)$.

Presentation of statistical data

Conventions used

- *** The question is irrelevant; the item refers to a concept not found in the penal system country concerned.
- 0 The number is 0 but the concept exists in the penal system of the country concerned.
- ... No figures available but the concept exists in the penal system of the country concerned.
- (i) When the data are shown in brackets this means that they are not strictly comparable with the data requested by SPACE. Any divergences should be explained in the notes to the relevant table. As a rule, this applies to items whose definition is not the same as that used by SPACE.

When the questionnaire box is left blank or a symbol is used whose meaning is not explicit (for example "/" or "-") we leave the box blank.

Measures of central tendency

In tables containing rates or percentages we have used the following measures to describe the distribution of the data:

- (a) Mean: the arithmetic mean is the sum of the data supplied divided by the number of countries supplying them. The mean is sensitive to very high or very low values, which is why the median is also used as a measure of central tendency.
- (b) Median: the median is the value that divides the data supplied by the countries concerned into two equal groups so that 50% of the countries are above the median and 50% are below it. The median is not influenced by very high or very low values.
- (c) Minimum: the lowest recorded value in the table
- (d) Maximum: the highest recorded value in the table

For reasons of accuracy we have calculated the mean and median values from the original data base, which contains *all the decimals* not presented in the tables. Readers who rework the calculations from the data in the tables – which only contain one or two decimals – will therefore obtain slightly different results from ours.

Demographic data

The rates of imprisonment have been calculated using demographic data at 1 January 2002, taken from "Recent demographic developments in 2002" (Strasbourg: Council of Europe Publications, 2003)

Taking into consideration the data available, data from 1 January 2001 has been used for the following countries: Albania, Belgium, Croatia, Georgia, Greece, Romania and Ukraine.

Data for France refer to the European territory of France (known as the *Métropole*) and the French overseas territories (Guadeloupe, Martinique, Guyane and Réunion, known as DOM or *Départements d'Outre-mer*). Therefore we have added to the population of the *Métropole* (59.3 millions) the estimated population of the DOM territories in 2000, which was the last year available (1.7 millions), according to the *Institut National de la Statistique* (INSEE).

Demographic data for England and Wales, Northern Ireland and Scotland has been taken from National Statistics Online (<http://www.statistics.gov.uk/>) and relates to the situation at the 2001 Census Day.

Demographic data for Bosnia and Herzegovina (the Federation of Bosnia and Herzegovina as well as Republika Srpska) is estimated.

Demographic data for Canada has been taken from Statistics Canada/Statistiques Canada (<http://www.statcan.ca/english/Pgdb/demo02.htm>) and relates to the situation at 1 July 2002.

Validation procedure

According to the authors of the European Sourcebook of Crime and Criminal Justice Statistics (Strasbourg, Council of Europe, 1997), "validation is often the most important – and in many cases the most forgotten – stage of the data collection process". In this edition of SPACE, therefore, we have introduced a validation procedure for the data received. As part of this process we produced a preliminary version of SPACE and a series of control tables, which revealed a fairly significant number of inconsistencies, of which the most important were:

- In Table 4, we ask for the breakdown of prisoners according to legal status. The sum of the various categories in the table should therefore give the same figure as the total number of prisoners indicated in Table 1. This is not the case for certain countries.
- In Table 6, we ask for the breakdown of convicted prisoners by main offence. The sum of the various categories in the table should therefore give the same figure as the total number of sentenced prisoners (final sentence) indicated in Column (d) of Table 4. Again this is not the case for certain countries.
- In Table 8, we ask for the breakdown of convicted prisoners by length of sentence. The sum of the

various categories in the table should therefore give the same figure as the total number of sentenced prisoners (final sentence) indicated in Column (d) of Table 4. Again this is not the case for certain countries.

- In Table 16, we ask for the number of persons working full-time in penal institutions. The sum of the various categories in the tables should therefore give a figure equal to or lower than the total number of staff in the same table. Adding up the different categories of staff may give a figure lower than the total number of staff in countries where the latter includes staff not covered by the headings used in the questionnaire. However the sum of the different categories should not be higher than the total number of staff. In fact this was the case with certain countries.
- In Table 17, we ask for the number of persons working part-time (on the basis of full-time equivalence) in penal institutions. The sum of the various categories in the tables should therefore give a figure equal to or lower than the total number of staff in the same table. Adding up the different categories of staff may give a figure lower than the total number of staff in countries where the latter includes staff not covered by the headings used in the questionnaire. However the sum of the different categories should not be higher than the total number of staff. Again this was the case with certain countries.
- Certain countries' replies included comments or abbreviations in their own language.
- Finally certain figures given by countries seemed to be too high or much too low (extreme or aberrant values).

Of the 47 questionnaires received, 29 included at least one and sometimes several of the above problems. All

these countries were contacted again by personal letter – sent by e-mail or fax – setting out the specific problems encountered in the data received.

A majority of these countries – 17 to be precise – answered our request. In general they corrected their figures, sent new ones for certain parts of the questionnaire or indicated the reasons for the divergences identified. The last named usually reflected differences in national systems for recording prison statistics and the variety of criminal justice systems in Europe. Wherever possible divergences or inconsistencies are explained in the notes to the relevant tables.

This version incorporates all the modifications reported by the countries that replied to our additional questions. In the case of the other countries we have retained the data received – other than those that were patently incorrect – and have explained the problems in the notes to the relevant tables.

On the other hand, we would also like to thank Roy Walmsley for his helpful comments on the preliminary version of this issue of SPACE.

This validation procedure substantially increases the workload of all the individuals and countries involved in preparing SPACE. It also delays the publication of the data. However we believe that the results obtained – in other words the improvements to the quality of the data – justify the use of the procedure.

Finally despite our efforts to identify errors and inconsistencies, some may remain. Nor has it always been possible to correct those discovered totally satisfactorily and it is not impossible that we ourselves may have made mistakes in our data processing. Any readers' comments, notes or criticisms in this regard would therefore be welcome.

Statistical tables

1.1 Prison populations

State of prison populations on 1 September 2002

General Notes (including legislative or other measures which directly influence trends in the number of prisoners)

Albania: Amnesty for 182 prisoners on 1 June 2002.

Armenia:

- Presidential edict on pardon of 19 October 2001: 4 prisoners released.
- Presidential edict on pardon of 29 March 2002: 2 prisoners released.
- Presidential edict on pardon of 20 June 2002: 2 prisoners released
- Presidential edict on pardon of 12 September 2002: 1 prisoner released.
- The last collective pardon was on 12 June 2001: 938 prisoners were released.

Austria: Collective pardon every year at Christmas.

Azerbaijan: Collective pardon: 344 prisoners released.

Croatia: In part I, data relate to 31 December 2001.

Cyprus: Some suspensions of sentence.

Denmark:

- Amending act of the Danish Criminal Code: Changing of the maximum length of sentences regarding certain criminal offences such as rape, violence against the person and car theft (law No. 380 of 6 June 2002).
- New act regarding escapes and the limitation of prisoners' right of access to documents.

Georgia:

- Amnesty: 5 prisoners released.
- Collective pardon: 22 prisoners released.
- Before term: 765 prisoners released.
- Individual pardon: 270 prisoners released.

Germany: In part I, data relate to 31 March 2002 (instead of 1 September 2002)

Hungary: Measures have been taken to accelerate court procedures and increase the effectiveness of police work. Nevertheless, these would have no direct impact on decreasing the number of prisoners. There are plans for reduction of sentences, but these rules have not yet been put into practice.

Italy: Data on juvenile prisons is presented in a separate appendix.

Nevertheless, it is necessary to note that the enforcement of conditions imposed on minors, both awaiting trial and after conviction, is entrusted not only to juvenile prisons (*istituti penali per i minorenni*), to which we refer in the appendix to the questionnaire, but also to other penal institutions (*centri di prima accoglienza, comunità, uffici di servizio sociale per i minorenni*).

In particular, the Juvenile Court can entrust to open institutions (so-called *comunità*) both minors awaiting trial, for precautionary measures, and convicted minors, for alternative measures.

In 2001, there were 1339 entries to *comunità*, of which 972 were for precautionary measures and 17 were for alternative measures. On 30 June 2002, there were 366 minors in *comunità*.

As for the staff, there were 965 working in the "other penal institutions" on 1 September 2002.

Latvia: On 1 November 2002, an amendment to the Latvian Criminal Procedure Code will come into force: the term of remand detention (from the moment a matter is brought into court) will be restricted to 1.6 years. As an exception, the Senate of the Supreme Court will be able to extend this term.

Liechtenstein: According to a treaty between Liechtenstein and Austria, long-term prisoners usually serve their sentences in Austrian penal institutions. Therefore, they are not included in the statistics of Liechtenstein.

Lithuania: Several amendments of the Penal Code of the Republic of Lithuania adopted in July 2002 liberalised to a considerable extent the conditional release regime.

Moldova: An amnesty took place between August 2001 and February 2002.

Netherlands: 3049 so-called IVO's: persons released before finishing their sentence (mostly at circa 90%) due to lack of capacity.

Portugal: Provisional data.

San Marino: Under an agreement between San Marino and Italy, sentences of more than six months' imprisonment are normally served in Italian penal institutions (Source: Report to the Government of San Marino on the visit carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 25 to 27 April 1992).

These prisoners are not therefore included in the San Marino statistics.

Slovenia: Amnesty for 148 prisoners.

Sweden: The reference date for all figures is 1 October 2002 instead of 1 September 2002.

Switzerland:

- Reference date: 4 September 2002.
- The basic definition of deprivation of liberty includes all institutions designated for that purpose, including police stations in cantons where custody may last for more than 24 hours if detention institutions are responsible to cantonal police and justice departments. Institutions admitting persons on account of mental disorder or alcohol or drug dependence are not necessarily included. Young persons under age in the care of cantonal education departments, for whom there are no national statistics, are not included, but those admitted to the aforementioned detention institutions are counted.
- Electronic monitoring was introduced on 1 September 1999.

"The former Yugoslav Republic of Macedonia":

- Amnesty: 79 prisoners released.
- Collective pardon: 60 prisoners released.
- Individual pardon: 11 prisoners released.
- Conditional release (pardon): 427 prisoners released.
- Release by a court decision: 269 prisoners released.

Turkey:

- Pursuant to law No. 4758 amending law No. 4616 on the suspension of sentences, open cases and conditional release, 3090 prisoners have been released from penal institutions as of 18 October 2002.
- Pursuant to law No. 4771, the death penalty was abolished for all crimes except war crimes on 3 August 2002.

United Kingdom:

England & Wales: Introduction on 1 May 2002 of the Presumptive H.D.C (Home Detention Curfew), which allows prisoners who are serving a sentence of over 3 months and under 12 months (who do not fall into the ineligible category) to be released on Home Detention Curfew.

Table 1. Situation of penal institutions on 1 September 2002

Reference: Council of Europe, SPACE 2002.1

	Country population (in thousands)	Total number of prisoners (including pre- trial detainees)	Prison population rate per 100 000 inhabitants	Capacity of penal institutions	Prison density (per 100 places)
Albania	3401.2	1785	52.5	1863	95.8
Andorra	66.3	55	82.9	85	64.7
Armenia	3800.1	5624	148.0	7020	80.1
Austria	8139.3	7511	92.3	8030	93.5
Azerbaijan	8141.4	18321	225.0	24670	74.3
Belgium	10263.4	9253	90.2	8169	113.3
BH: Federation	2600.0	1293	49.7	1481	87.3
BH: Republika Srpska	1400.0	816	58.3	1378	59.2
Bulgaria	7891.1	9607	121.7	10556	91.0
Croatia	4437.5	2584	58.2	3219	80.3
Cyprus	765.5	345	(45.1)	290	119.0
Czech Republic	10269.7	16861	164.2	17634	95.6
Denmark	5368.4	3439	64.1	3647	94.3
Estonia	1361.2	4640	340.9	5220	88.9
Finland	5194.9	3466	66.7	3245	106.8
France	61042.7	53463	87.6	47933	111.5
Georgia	3947.6	7343	186.0		...
Germany	82431.0	78506	95.2	77887	100.8
Greece	10564.7	8284	78.4	5284	156.8
Hungary	10174.9	18054	177.4	11314	159.6
Iceland	286.6	107	37.3	138	77.5
Ireland	3880.5	3028	78.0	3489	86.8
Italy	56305.6	56200	99.8	41798	134.5
Latvia	2345.8	8517	363.1	9922	85.8
Liechtenstein	33.5	(17)	...	22	77.3
Lithuania	3475.6	11345	326.4	9941	114.1
Luxembourg	444.1	380	85.6	(782)	(48.6)
Malta	394.6	283	71.7	300	94.3
Moldova	3627.2	10532	290.4	12710	82.9
Netherlands	16105.3	16239	100.8	16686	97.3
Norway	4524.1	2662	58.8	2928	90.9
Poland	38632.5	80610	208.7	69079	116.7
Portugal	10335.6	13730	132.8	11371	120.7
Romania	22430.5	51476	229.5	37004	139.1
Russia	143954.4	919330	638.6	953979	96.4
San Marino	28.2	(1)	...	15	6.7
Slovakia	5379.0	7849	145.9	9435	83.2
Slovenia	1994.0	1120	56.2	1058	105.9
Spain	40409.3	50994	126.2	45320	112.5
Sweden	8909.1	6506	73.0	6051	107.5
Switzerland	7258.5	4987	68.7	6547	76.2
"the former Yugoslav Republic of Macedonia"	2038.7	1248	61.2	2225	56.1
Turkey	69297.4	60091	86.7	71979	83.5
Ukraine	49036.5	198946	405.7	223140	89.2
UK: England and Wales	52041.9	71324	137.1	64187	111.1
UK: Northern Ireland	1685.3	1076	63.8	1649	65.3
UK: Scotland	5062.0	6513	128.7	6318	103.1
Mean			141.3		94.3
Median			92.3		93.9
Minimum			37.3		6.7
Maximum			638.6		159.6

Table 2. Population of penal institutions on 1 September 2002: median age, minors and persons between 18 and 21 years of age

Reference: Council of Europe, SPACE 2002.2

	Median age	Prisoners under 18 years of age		Prisoners 18 to less than 21 years	
		Number	%	Number	%
Albania	...	21	1.2	191	10.7
Andorra	32	0	0.0	3	5.5
Armenia	...	60	1.1	...	...
Austria	28	114	1.5	703	9.4
Azerbaijan	40	90	0.5	700	3.8
Belgium	33.7	105	1.1	615	6.6
BH: Federation	34	9	0.7	95	7.3
BH: Republika Srpska	36	0	0.0	23	2.8
Bulgaria	...	121	1.3	...	...
Croatia	38	7	0.3	93	3.6
Cyprus	35	...	...	24	7.0
Czech Republic	...	...	...	...	...
Denmark	...	12	0.3	...	...
Estonia	...	226	4.9	551	11.9
Finland	33.3	17	0.5	114	3.3
France	31.6	688	1.3	4732	8.9
Georgia	45	74	1.0	1015	13.8
Germany	...	...	...	...	...
Greece	45	...	...	...	...
Hungary	33.2	161	0.9	1652	9.2
Iceland	29	0	0.0	8	7.5
Ireland	28	45	1.5	403	13.3
Italy	34	***	***	1471	2.6
Latvia	35	261	3.1	577	6.8
Liechtenstein	40.2	0	0.0	0	0.0
Lithuania	...	274	2.4	508	4.5
Luxembourg	33	9	2.4	19	5.0
Malta	36	3	1.1	7	2.5
Moldova	32	27	0.3	744	7.1
Netherlands	32.4	101	0.6	1020	6.3
Norway	...	13	0.5	202	7.6
Poland	(31.8)	(540)	0.7	...	...
Portugal	34.3	289	2.1	549	4.0
Romania	31	1563	3.0	4638	9.0
Russia	...	23243	2.5	...	...
San Marino	56	0	0.0	0	0.0
Slovakia	31	55	0.7	511	6.5
Slovenia	33	11	1.0	55	4.9
Spain	34.2	***	***	1339	2.6
Sweden	35	0	0.0	180	2.8
Switzerland	...	80	1.6	...	...
"the former Yugoslav Republic of Macedonia"	30.8	31	2.5	201	16.1
Turkey	(50.9)	2237	3.7	6966	11.6
Ukraine	...	4031	2.0	626	0.3
UK: England and Wales	29	2754	3.9	8592	12.0
UK: Northern Ireland	28	61	5.7	156	14.5
UK: Scotland	29	183	2.8	713	10.9
Mean	34.8		1.5		6.9
Median	33.3		1.1		6.7
Minimum	28.0		0.0		0.0
Maximum	56.0		5.7		16.1

Table 3. Population of penal institutions on 1 September 2002: female prisoners, foreign prisoners

Reference: Council of Europe, SPACE 2002.3

	Female prisoners		Foreign prisoners	
	Number	%	Number	%
Albania	79	4.4	10	0.6
Andorra	4	7.3	46	83.6
Armenia	123	2.2	10	0.2
Austria	432	5.8	2475	33.0
Azerbaijan	274	1.5	398	2.2
Belgium	376	4.1	3785	40.9
BH: Federation	52	4.0	64	4.9
BH: Republika Srpska	14	1.7	42	5.1
Bulgaria	316	3.3	190	2.0
Croatia	105	4.1	209	8.1
Cyprus	20	5.8	148	42.9
Czech Republic	692	4.1	1743	10.3
Denmark	160	4.7	561	16.3
Estonia	216	4.7	1660	35.8
Finland	213	6.1	293	8.5
France	1953	3.7	11518	21.5
Georgia	126	1.7	103	1.4
Germany	3643	4.6	23509	29.9
Greece	403	4.9	3800	45.9
Hungary	1093	6.1	836	4.6
Iceland	5	4.7	10	9.3
Ireland	92	3.0	242	8.0
Italy	2465	4.4	16937	30.1
Latvia	481	5.6	42	0.5
Liechtenstein	0	0.0	6	35.3
Lithuania	459	4.0	133	1.2
Luxembourg	23	6.1	243	63.9
Malta	11	3.9	99	35.0
Moldova	291	2.8	106	1.0
Netherlands	888	5.5	4733	29.1
Norway	140	5.3	398	15.0
Poland	2167	2.7	1306	1.6
Portugal	1101	8.0	1647	12.0
Romania	2405	4.7	374	0.7
Russia	53683	5.8	15500	1.7
San Marino	0	0.0	0	0.0
Slovakia	193	2.5	179	2.3
Slovenia	50	4.5	171	15.3
Spain	4149	8.1	12961	25.4
Sweden	343	5.3	1390	21.4
Switzerland	310	6.2	3531	70.8
"the former Yugoslav Republic of Macedonia"	29	2.3	74	5.9
Turkey	2217	3.7	1043	1.7
Ukraine	11727	5.9	3167	1.6
UK: England and Wales	4362	6.1	...	...
UK: Northern Ireland	32	3.0	16	1.5
UK: Scotland	306	4.7	79	1.2
<i>Mean</i>		4.3		17.2
<i>Median</i>		4.5		8.3
<i>Minimum</i>		0.0		0.0
<i>Maximum</i>		8.1		83.6

Table 4. Population of penal institutions on 1 September 2002: legal status (numbers)

- (a) untried prisoners (no court decision yet reached)
- (b) convicted prisoners, but not yet sentenced
- (c) sentenced prisoners who have appealed or who are within the statutory limit to do so
- (d) sentenced prisoners (final sentence)
- (e) other cases

Reference: Council of Europe, SPACE 2002.4

	(a)	(b)	(c)	(d)	(e)
Albania	343	...	...	1442	0
Andorra	30	3	6	16	0
Armenia	714	159	...	4910	***
Austria	1947	***	...	5013	551
Azerbaijan	1361	703	207	16050	0
Belgium	2684	***	635	4856	1096
BH: Federation	270	12	83	928	0
BH: Republika Srpska	144	5	29	637	1
Bulgaria	453	1453	...	7701	0
Croatia	820	...	...	1535	229
Cyprus	32	...	...	313	...
Czech Republic	1619	1736	...	13368	138
Denmark	778	230		2411	20
Estonia	249	...	...	3210	***
Finland	501	...	...	2774	191
France	16895	***	1582	34955	31
Georgia	...	...	...	...	...
Germany		18063		60443	***
Greece	2008			6276	
Hungary	3383	1884	***	13370	242
Iceland	20	***	...	87	0
Ireland	480	...	...	2548	0
Italy	12085	***	9932	33056	1127
Latvia	491	1739	672	4762	853
Liechtenstein	(7)	***	...	10	0
Lithuania	1252	130	150	10406	0
Luxembourg	133	***	35	190	22
Malta	84	***	...	199	***
Moldova	200	1544	1243	7319	
Netherlands	5743	***	...	5445	1812
Norway	676	***	***	1920	66
Poland	21632	...	...	58978	...
Portugal	3779	***	336	9615	-4
Romania	4841	0	5556	39967	1112
Russia	72608	22786	39511	770463	36748
San Marino	0	0	0	1	0
Slovakia	2184	...	...	5665	0
Slovenia	44	158	147	706	65
Spain	11543	***	...	39451	***
Sweden		1393		5081	32
Switzerland	2420	***	...	2567	...
"the former Yugoslav Republic of Macedonia"	73	105	29	1041	***
Turkey	27655	***	2761	29675	***
Ukraine	17789	10064	8724	159678	
UK: England and Wales	7727	5164	...	57359	1074
UK: Northern Ireland	399	...	...	653	24
UK: Scotland	1117	162	...	5220	14

Table 5. Population of penal institutions on 1 September 2002: legal status (rates)

- (a) Percentage of prisoners without final sentence
- (b) Rate of prisoners without final sentence per 100 000 inhabitants
- (c) Percentage of untried prisoners (no court decision yet reached)
- (d) Rate of untried prisoners (no court decision yet reached) per 100 000 inhabitants

Reference: Council of Europe, SPACE 2002,5

	(a)	(b)	(c)	(d)
Albania	...	...	...	...
Andorra	70.9	58.8	54.5	45.2
Armenia	...	...	12.3	18.8
Austria	...	...	25.9	23.9
Azerbaijan	12.4	27.9	7.4	16.7
Belgium	47.6	43.0	29.0	26.2
BH: Federation	28.2	14.0	20.9	10.4
BH: Republika Srpska	21.9	12.8	17.6	10.3
Bulgaria	...	...	4.7	5.7
Croatia	...	...	...	...
Cyprus	...	...	...	...
Czech Republic	...	...	9.6	15.8
Denmark	...	...	22.6	14.5
Estonia	...	...	...	...
Finland	...	...	...	...
France	34.6	30.3	31.6	27.7
Georgia	...	...	...	...
Germany	...	...	...	...
Greece	...	...	...	...
Hungary	29.2	54.1	17.9	33.2
Iceland	...	...	18.7	7.0
Ireland	...	...	...	...
Italy	41.2	41.1	21.5	21.5
Latvia	44.1	160.1	5.8	20.9
Liechtenstein	...	...	...	...
Lithuania	12.8	44.1	10.5	36.0
Luxembourg	50.0	42.8	35.0	30.0
Malta	...	...	29.7	21.3
Moldova	...	...	1.9	5.5
Netherlands	...	...	44.2	35.7
Norway	27.9	16.4	25.4	14.9
Poland	...	...	...	...
Portugal	30.0	39.8	27.5	36.6
Romania	22.4	51.3	9.4	21.6
Russia	18.2	119.2	7.7	50.4
San Marino	0.0	0.0	0.0	0.0
Slovakia	...	...	...	...
Slovenia	37.0	20.8	3.9	2.2
Spain	...	...	22.6	28.6
Sweden	...	...	...	...
Switzerland	...	...	48.5	33.3
"the former Yugoslav Republic of Macedonia"	16.6	10.2	5.8	3.6
Turkey	50.6	43.9	46.0	39.9
Ukraine	18.6	74.6	9.1	36.3
UK: England and Wales	...	...	10.8	14.8
UK: Northern Ireland	...	...	...	...
UK: Scotland	...	...	17.2	22.1
<i>Mean</i>	30.7	45.3	19.9	22.2
<i>Median</i>	28.7	41.9	17.9	21.5
<i>Minimum</i>	0.0	0.0	0.0	0.0
<i>Maximum</i>	70.9	160.1	54.5	50.4

Table 6. Breakdown of sentenced prisoners (final sentence) by the main offence on 1 September 2002 (numbers)

Reference: Council of Europe, SPACE 2002.6

	Homicide	Assaults	Rape	Robbery	Other types of theft	Drug offences	Other cases
Albania	752	6	35	343	85	103	118
Andorra	4	2	2	4	0	4	0
Armenia	...	...	...	...	...	...	...
Austria	...	...	...	...	...	...	...
Azerbaijan	1915	1812	267	1983	2061	1200	6812
Belgium	...	...	...	...	...	...	...
BH: Federation	309	113	82	51	177	25	171
BH: Republika Srpska	(296)	(24)	(20)	(71)	(91)	(19)	(161)
Bulgaria	994	83	261	821	3202	74	2266
Croatia	504	34	95	110	228	186	378
Cyprus	12	44	13	7	81	53	103
Czech Republic	...	...	...	...	...	...	...
Denmark	205	499	53	391	412	514	337
Estonia	(1023)	(265)	(135)	(546)	(1130)	(90)	(144)
Finland	516	375	60	193	480	498	642
France	3345	5243	8025	3751	4090	4020	6481
Georgia	...	...	...	...	...	...	...
Germany	4586	5594	2641	4951	13526	8574	20870
Greece	...	...	...	...	...	1080	...
Hungary	1457	1303	490	2524	5642	307	1647
Iceland	12	6	2	1	12	33	21
Ireland	133	311	154	264	322	353	1011
Italy	5366	129	637	4741	1546	11874	8763
Latvia	666	471	179	958	1655	189	644
Liechtenstein	0	0	0	2	1	3	4
Lithuania	1596	289	521	2450	3802	374	1374
Luxembourg	30	11	20	25	33	48	23
Malta	26	2	7	33	0	93	38
Moldova	1411	451	454	1399	2592	222	790
Netherlands	938	347	256	712	1095	1426	671
Norway	90	208	58	139	230	568	627
Poland	...	...	...	...	...	...	...
Portugal	1067	231	298	1346	1849	4000	779
Romania	6612	800	2048	6220	18938	238	5111
Russia	100888	***	25454	85262	...	...	117952
San Marino	0	0	0	0	0	1	0
Slovakia	(767)	(701)	(399)	(1683)	(5368)	(264)	(0)
Slovenia	107	28	77	85	131	69	209
Spain	1893	986	1771	17620	3035	11918	2228
Sweden	285	600	143	461	651	1158	1783
Switzerland	...	...	...	...	...	...	...
"the former Yugoslav Republic of Macedonia"	156	14	26	95	391	166	193
Turkey	3919	1230	1891	516	2990	2605	16524
Ukraine	19507	15920	3913	2385	61754	7009	41224
UK: England and Wales	4323	755	2702	6353	14026	8473	16548
UK: Northern Ireland	138	75	49	60	78	55	198
UK: Scotland	669	757	173	610	816	796	1399

Table 7. Breakdown of sentenced prisoners (final sentence) by the main offence on 1 September 2002 (%)

Reference: Council of Europe, SPACE 2002.7

	Homicide	Assaults	Rape	Robbery	Other types of theft	Drug offences	Other cases
Albania	52.1	0.4	2.4	23.8	5.9	7.1	8.2
Andorra	25.0	12.5	12.5	25.0	0.0	25.0	0.0
Armenia	...	...	...	...	...	...	...
Austria	...	...	...	...	...	...	...
Azerbaijan	11.9	11.3	1.7	12.4	12.8	7.5	42.4
Belgium	...	...	...	...	...	...	...
BH: Federation	33.3	12.2	8.8	5.5	19.1	2.7	18.4
BH: Republika Srpska	(43.4)	(3.5)	(2.9)	(10.4)	(13.3)	(2.8)	(23.6)
Bulgaria	12.9	1.1	3.4	10.7	41.6	1.0	29.4
Croatia	32.8	2.2	6.2	7.2	14.9	12.1	24.6
Cyprus	3.8	14.1	4.2	2.2	25.9	16.9	32.9
Czech Republic	...	...	...	...	...	...	...
Denmark	8.5	20.7	2.2	16.2	17.1	21.3	14.0
Estonia	(30.7)	(8.0)	(4.1)	(16.4)	(33.9)	(2.7)	(4.3)
Finland	18.7	13.6	2.2	7.0	17.4	18.0	23.2
France	9.6	15.0	23.0	10.7	11.7	11.5	18.5
Georgia	...	...	...	...	...	...	...
Germany	7.5	9.2	4.3	8.2	22.3	14.1	34.4
Greece	0.0	0.0	0.0	0.0	0.0	17.2	0.0
Hungary	10.9	9.7	3.7	18.9	42.2	2.3	12.3
Iceland	13.8	6.9	2.3	1.1	13.8	37.9	24.1
Ireland	5.2	12.2	6.0	10.4	12.6	13.9	39.7
Italy	16.2	0.4	1.9	14.3	4.7	35.9	26.5
Latvia	14.0	9.9	3.8	20.1	34.8	4.0	13.5
Liechtenstein	0.0	0.0	0.0	20.0	10.0	30.0	40.0
Lithuania	15.3	2.8	5.0	23.5	36.5	3.6	13.2
Luxembourg	15.8	5.8	10.5	13.2	17.4	25.3	12.1
Malta	13.1	1.0	3.5	16.6	0.0	46.7	19.1
Moldova	19.3	6.2	6.2	19.1	35.4	3.0	10.8
Netherlands	17.2	6.4	4.7	13.1	20.1	26.2	12.3
Norway	4.7	10.8	3.0	7.2	12.0	29.6	32.7
Poland	...	...	...	...	...	...	...
Portugal	11.1	2.4	3.1	14.1	19.3	41.8	8.1
Romania	16.5	2.0	5.1	15.6	47.4	0.6	12.8
Russia	13.1	0.0	3.3	11.1	0.0	0.0	15.3
San Marino	0.0	0.0	0.0	0.0	0.0	100.0	0.0
Slovakia	(8.4)	(7.6)	(4.3)	(18.3)	(58.5)	(2.9)	(0.0)
Slovenia	15.2	4.0	10.9	12.0	18.6	9.8	29.6
Spain	4.8	2.5	4.5	44.7	7.7	30.2	5.6
Sweden	5.6	11.8	2.8	9.1	12.8	22.8	35.1
Switzerland	...	...	...	...	...	...	...
"the former Yugoslav Republic of Macedonia"	15.0	1.3	2.5	9.1	37.6	15.9	18.5
Turkey	13.2	4.1	6.4	1.7	10.1	8.8	55.7
Ukraine	12.9	10.5	2.6	1.6	40.7	4.6	27.2
UK: England and Wales	8.1	1.4	5.1	11.9	26.4	15.9	31.1
UK: Northern Ireland	21.1	11.5	7.5	9.2	11.9	8.4	30.3
UK: Scotland	12.8	14.5	3.3	11.7	15.6	15.2	26.8
Mean	14.8	6.7	4.7	12.6	19.5	17.4	20.7
Median	13.1	6.3	3.7	11.8	16.4	14.0	18.8
Minimum	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Maximum	52.1	20.7	23.0	44.7	58.5	100.0	55.7

Table 8. Breakdown of sentenced prisoners (final sentence) by length of the sentence on 1 September 2002 (numbers)

(a) less than 1 month	(e) 1 year to less than 3 years	(i) 20 years and over
(b) 1 month to less than 3 months	(f) 3 years to less than 5 years	(j) Life imprisonment
(c) 3 months to less than 6 months	(g) 5 years to less than 10 years	(k) Death sentenced prisoners
(d) 6 months to less than 1 year	(h) 10 years to less than 20 years	

Reference: Council of Europe, SPACE 2002.8

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)
Albania	0	1	0	1	32	186	420	570	163	69	***
Andorra	0	0	0	1	7	3	2	3	0	0	***
Armenia	...	...	...	...	...	...	...	...	...	...	...
Austria	43	234	291	680	1794	783	645	380	45	166	***
Azerbaijan	***	***	47	98	2455	4883	5830	2566	0	171	***
Belgium	7	16	94	189	742	1279	1467	486	247	(1)	
BH: Federation	33	29	75	114	238	115	195	121	8	0	0
BH: Republika Srpska	1	16	32	46	135	100	125	182	0	0	***
Bulgaria	1205	2536	1240	1171	1428	33	88	***			
Croatia	8	20	84	152	414	244	328	241	44	***	***
Cyprus	...	...	...	...	...	...	...	...	...	12	***
Czech Republic	...	...	...	...	...	...	...	...	...	...	...
Denmark	...	...	...	...	...	...	...	...	***	...	***
Estonia	...	...	...	...	837	586	1255	442	41	32	***
Finland	***	253	332	485	1622	***	73	***			
France	4034	5921	8085	3566	4838	6851	1104	556	***		
Georgia	...	...	...	...	...	...	...	...	...	...	***
Germany	765	4555	7575	12307	(12105)	(15272)	5103	1039	***	1722	***
Greece	...	...	...	...	...	...	...	...	...	...	(2)
Hungary	14	101	338	1771	4907	2449	2671	920	0	199	0
Iceland	0	10	11	17	19	11	9	9	1	0	***
Ireland	8	60	148	272	745	496	566	116	11	126	***
Italy	212	167	691	2107	7104	7150	8050	4606	2017	952	***
Latvia	***	***	21	138	1416	1170	1542	449	13	13	***
Liechtenstein	0	0	0	0	5	1	4	0	0	0	***
Lithuania	0	0	229	588	3373	2353	2765	1010	9	79	0
Luxembourg	0	0	7	13	63	21	39	29	3	15	***
Malta	0	1	6	20	41	25	56	35	9	6	***
Moldova	***	***	...	53	514	1623	3342	1387	350	50	***
Netherlands	169	353	483	668	1564	841	850	208	10,8	7	***
Norway	...	...	...	...	...	...	...	...	...	...	***
Poland	...	...	...	...	...	...	...	...	...	...	***
Portugal	28	37	70	183	1453	3609	2176	1819	240	***	***
Romania	2087	23438	8710	4987	646	99	0				
Russia	***	***	***	10495	114532	266706	299151	61577	1226	1427	0
San Marino	...	...	...	...	...	...	...	...	...	...	***
Slovakia	242	1029	1967	804	1067	542	14	***			
Slovenia	1	13	54	67	219	147	143	59	3	***	***
Spain	...	...	...	...	...	...	...	...	...	...	***
Sweden	7	283	438	808	1694	762	699	271	10	109	***
Switzerland	...	...	...	...	...	...	...	...	...	...	***
"the former Yugoslav Republic of Macedonia"	3	3	46	137	315	179	252	102	***	4	***
Turkey	1581	848	962	1885	5996	3702	4503	6085	2280	1746	87
Ukraine				2075	36502	50836	48015	13513	58	713	(***)
UK: England and Wales	4022	3605	13677	26805	4050	5199	***				
UK: Northern Ireland	2	7	37	48	146	108	131	70	6	98	***
UK: Scotland	71	71	394	605	1069	780	1157	218	6	606	***

Table 9. Breakdown of sentenced prisoners (final sentence) by length of the sentence on 1 September 2002 (%)

(a) less than 1 month	(e) 1 year to less than 3 years	(i) 20 years and over
(b) 1 month to less than 3 months	(f) 3 years to less than 5 years	(j) Life imprisonment
(c) 3 months to less than 6 months	(g) 5 years to less than 10 years	(k) Death sentenced prisoners
(d) 6 months to less than 1 year	(h) 10 years to less than 20 years	

Reference: Council of Europe, SPACE 2002.9

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)
**	Albania	0.0	0.1	0.0	0.1	2.2	12.9	29.1	39.5	11.3	4.8
**	Andorra	0.0	0.0	0.0	6.3	43.8	18.8	12.5	18.8	0.0	0.0
...	Armenia	...	...	...	...	...	...	...	...	...	...
**	Austria	0.8	4.6	5.7	13.4	35.4	15.5	12.7	7.5	0.9	3.3
**	Azerbaijan	***	***	0.3	0.6	15.3	30.4	36.3	16.0	0.0	1.1
0	Belgium	0.1	0.3	1.9	3.9	15.3	26.3	30.2	10.0	5.1	(0.02)
**	BH: Federation	3.6	3.1	8.1	12.3	25.6	12.4	21.0	13.0	0.9	0.0
**	BH: Republika Srpska	0.2	2.5	5.0	7.2	21.2	15.7	19.6	28.6	0.0	0.0
0	Bulgaria	15.6	32.9	16.1	15.2	18.5	0.4	1.1	***		
**	Croatia	0.5	1.3	5.5	9.9	27.0	15.9	21.4	15.7	2.9	0.0
**	Cyprus	...	...	...	...	...	...	...	...	3.8	***
**	Czech Republic	...	...	...	...	...	...	...	...	...	***
...	Denmark	...	...	...	...	...	...	...	***	...	***
**	Estonia	...	...	...	...	26.1	18.3	39.1	13.8	1.3	1.0
**	Finland	***	9.2	12.0	17.5	58.7	***	2.6	***		
0	France	11.5	16.9	23.1	10.2	13.8	19.6	3.2	1.6	***	
**	Georgia	...	...	...	...	...	...	...	***	...	***
**	Germany	1.3	7.5	12.5	20.4	(20.0)	(25.3)	8.4	1.7	***	2.8
**	Greece	...	...	...	...	...	...	...	...	...	(0.03)
0	Hungary	0.1	0.8	2.5	13.2	36.7	18.3	20.0	6.9	0.0	1.5
0	Iceland	0.0	11.5	12.6	19.5	21.8	12.6	10.3	10.3	1.1	0.0
**	Ireland	0.3	2.4	5.8	10.7	29.2	19.5	22.2	4.6	0.4	4.9
**	Italy	0.6	0.5	2.1	6.4	21.5	21.6	24.4	13.9	6.1	2.9
**	Latvia	***	***	0.4	2.9	29.7	24.6	32.4	9.4	0.3	0.3
**	Liechtenstein	0.0	0.0	0.0	0.0	50.0	10.0	40.0	0.0	0.0	0.0
**	Lithuania	0.0	0.0	2.2	5.7	32.4	22.6	26.6	9.7	0.1	0.8
0	Luxembourg	0.0	0.0	3.7	6.8	33.2	11.1	20.5	15.3	1.6	7.9
0	Malta	0.0	0.5	3.0	10.1	20.6	12.6	28.1	17.6	4.5	3.0
**	Moldova	***	***	...	0.7	7.0	22.2	45.7	19.0	4.8	0.7
**	Netherlands	3.1	6.5	8.9	12.3	28.7	15.4	15.6	3.8	0.2	0.1
**	Norway	...	...	...	...	...	...	...	...	***	***
**	Poland	...	...	...	...	...	...	...	...	...	***
**	Portugal	0.3	0.4	0.7	1.9	15.1	37.5	22.6	18.9	2.5	***
**	Romania	5.2	58.6	21.8	12.5	1.6	0.2	0			
**	Russia	***	***	***	1.4	15.2	35.3	39.6	8.2	0.2	0.2
0	San Marino	...	...	...	...	...	...	...	...	...	***
0	Slovakia	4.3	18.2	34.7	14.2	18.8	9.6	0.2	***		
**	Slovenia	0.1	1.8	7.6	9.5	31.0	20.8	20.3	8.4	0.4	***
**	Spain	...	...	...	...	...	...	...	...	...	***
**	Sweden	0.1	5.6	8.6	15.9	33.3	15.0	13.8	5.3	0.2	2.1
**	Switzerland	...	...	...	...	...	...	...	...	...	***
**	"the former Yugoslav Republic of Macedonia"	0.3	0.3	4.4	13.2	30.3	17.2	24.2	9.8	***	0.4
**	Turkey	5.3	2.9	3.2	6.4	20.2	12.5	15.2	20.5	7.7	5.9
**	Ukraine				1.4	24.1	33.5	31.6	8.9	0.0	0.5
*	UK: England and Wales	7.0	6.3	23.8	46.7	7.1	9.1	***			
7	UK: Northern Ireland	0.3	1.1	5.7	7.4	22.4	16.5	20.1	10.7	0.9	15.0
*)	UK: Scotland	1.4	1.4	7.9	12.2	21.5	15.7	23.2	4.4	0.1	12.2
	Mean	0.8	2.6	4.8	8.8	25.6	19.0	23.4	12.8	1.8	2.7
	Median	0.2	1.3	4.4	7.4	24.9	16.5	21.6	11.6	0.6	1.1
	Minimum	0.0	0.0	0.0	0.0	2.2	10.0	8.4	0.0	0.0	0.0
	Maximum	5.3	11.5	12.6	20.4	50.0	37.5	45.7	39.5	11.3	15.0

Table 10. Breakdown of sentenced prisoners (final sentence) by length of the sentence on 1 September 2002
(cumulative %)

Reference: Council of Europe, SPACE 2002.10

	Time sentence	Less than 1 year	1 year and over	3 years and over	5 years and over	10 years and over (time)	Life imprisonment	Death sentenced prisoners
Albania	95.2	0.1	95.1	92.9	80.0	50.8	4.8	***
Andorra	100.0	6.3	93.8	50.0	31.3	18.8	0.0	***
Armenia	...	...	...	...	...	...	...	...
Austria	96.7	24.7	72.1	36.6	21.1	8.4	3.3	***
Azerbaijan	98.9	0.9	98.0	82.7	52.3	16.0	1.1	***
Belgium	88.1	6.3	81.8	66.6	40.2	10.0	5.1	(0.02)
BH: Federation	100.0	27.0	73.0	47.3	34.9	13.9	0.0	0
BH: Republika Srpska	100.0	14.9	85.1	63.9	48.2	28.6	0.0	***
Bulgaria	98.9	15.6	83.2	50.3	34.2	19.0	1.1	***
Croatia	100.0	17.2	82.8	55.8	39.9	18.6	0.0	***
Cyprus	96.2	...	...	...	...	...	3.8	***
Czech Republic	...	...	...	...	...	...	...	***
Denmark	...	...	...	...	...	...	...	***
Estonia	98.5	...	98.5	72.4	54.1	15.0	1.0	***
Finland	97.4	38.7	58.7	...	...	...	2.6	***
France	98.4	28.5	69.9	46.8	36.6	22.8	1.6	***
Georgia	...	...	...	...	...	...	...	***
Germany	97.2	41.7	55.5	35.4	10.2	1.7	2.8	***
Greece	...	...	...	...	...	...	...	(0.03)
Hungary	98.5	16.6	81.9	45.2	26.9	6.9	1.5	0
Iceland	100.0	43.7	56.3	34.5	21.8	11.5	0.0	***
Ireland	95.1	19.2	75.9	46.7	27.2	5.0	4.9	***
Italy	97.1	9.6	87.5	66.0	44.4	20.0	2.9	***
Latvia	99.7	3.3	96.4	66.7	42.1	9.7	0.3	***
Liechtenstein	100.0	0.0	100.0	50.0	40.0	0.0	0.0	***
Lithuania	99.2	7.9	91.4	59.0	36.4	9.8	0.8	0
Luxembourg	92.1	10.5	81.6	48.4	37.4	16.8	7.9	***
Malta	97.0	13.6	83.4	62.8	50.3	22.1	3.0	***
Moldova	99.3	0.7	98.6	91.6	69.4	23.7	0.7	***
Netherlands	94.5	30.7	63.8	35.1	19.6	4.0	0.1	***
Norway	...	...	...	...	...	...	***	***
Poland	...	...	...	...	...	...	...	***
Portugal	100.0	3.3	96.7	81.6	44.0	21.4	***	***
Romania	99.8	5.2	94.5	...	35.9	14.1	0.2	0
Russia	99.8	1.4	98.4	83.3	47.9	8.3	0.2	0
San Marino	...	...	...	...	...	...	...	***
Slovakia	99.8	22.4	77.3	42.6	28.4	9.6	0.2	***
Slovenia	100.0	19.1	80.9	49.9	29.0	8.8	***	***
Spain	...	...	...	...	...	...	...	***
Sweden	97.9	30.2	67.6	34.3	19.3	5.5	2.1	***
Switzerland	...	...	...	...	...	...	...	***
"the former Yugoslav Republic of Macedonia"	99.6	18.2	81.5	51.2	34.0	9.8	0.4	***
Turkey	93.8	17.8	76.0	55.8	43.4	28.2	5.9	0.3
Ukraine	99.5	1.4	98.2	74.1	40.6	8.9	0.5	(***)
UK: England and Wales	90.9	13.3	77.6	53.8	...	7.1	9.1	***
UK: Northern Ireland	85.0	14.4	70.6	48.2	31.7	11.6	15.0	***
UK: Scotland	87.8	22.9	64.9	43.4	27.7	4.5	12.2	***
Mean	97.1	15.6	81.9	56.6	37.7	14.0	2.7	
Median	98.5	14.9	81.9	50.7	36.5	11.5	1.1	
Minimum	85.0	0.0	55.5	34.3	10.2	0.0	0.0	
Maximum	100.0	43.7	100.0	92.9	80.0	50.8	15.0	

Table 11. Breakdown of sentenced prisoners (final sentence) by length of the sentence on 1 September 2002: less than one year (%)

Reference: Council of Europe, SPACE 2002.11

	Less than 1 month	1 month to less than 3 months	3 months to less than 6 months	6 months to less than 1 year	Total less than 1 year
Albania	0.0	50.0	0.0	50.0	100
Andorra	0.0	0.0	0.0	100.0	100
Armenia	...	...	...	...	...
Austria	3.4	18.8	23.3	54.5	100
Azerbaijan	***	***	32.4	67.6	100
Belgium	2.3	5.2	30.7	61.8	100
BH: Federation	13.1	11.6	29.9	45.4	100
BH: Republika Srpska	1.1	16.8	33.7	48.4	100
Bulgaria		100.0			100
Croatia	3.0	7.6	31.8	57.6	100
Cyprus	...	...	...	...	...
Czech Republic	...	...	...	...	...
Denmark	...	...	...	...	...
Estonia	...	...	...	...	...
Finland	...	23.6	31.0	45.3	100
France		40.5		59.5	100
Georgia	...	...	...	...	...
Germany	3.0	18.1	30.1	48.8	100
Greece	...	...	...	...	...
Hungary	0.6	4.5	15.2	79.6	100
Iceland	0.0	26.3	28.9	44.7	100
Ireland	1.6	12.3	30.3	55.7	100
Italy	6.7	5.3	21.8	66.3	100
Latvia	***	***	13.2	86.8	100
Liechtenstein	...	...	...	...	...
Lithuania	0.0	0.0	28.0	72.0	100
Luxembourg	0.0	0.0	35.0	65.0	100
Malta	0.0	3.7	22.2	74.1	100
Moldova	***	***	***	100.0	100
Netherlands	10.1	21.1	28.9	39.9	100
Norway	...	...	...	...	...
Poland	...	...	...	...	...
Portugal	8.8	11.6	22.0	57.5	100
Romania		100.0			100
Russia	***	***	***	100.0	100
San Marino	...	...	...	...	...
Slovakia	19.0	81.0	100		
Slovenia	0.7	9.6	40.0	49.6	100
Spain	...	...	...	...	...
Sweden	0.5	18.4	28.5	52.6	100
Switzerland	...	...	...	...	...
"the former Yugoslav Republic of Macedonia"	1.6	1.6	24.3	72.5	100
Turkey	30.0	16.1	18.2	35.7	100
Ukraine				100.0	100
UK: England and Wales		52.7		47.3	100
UK: Northern Ireland	2.1	7.4	39.4	51.1	100
UK: Scotland	6.2	6.2	34.5	53.0	100
Mean	4.1	12.3	25.9	63.2	
Median	1.6	10.6	28.9	57.6	
Minimum	0.0	0.0	0.0	35.7	
Maximum	30.0	50.0	40.0	100.0	

I.2 Prison populations

Table 12. Flow of entries, length of imprisonment, escapes and deaths in 2001

Reference : Council of Europe, SPACE 2002.12

	Entries to penal institutions	Rate of entries to penal institutions per 100 000 inhab.	Entries before final sentence	
			Number	%
Albania	...	...	...	...
Andorra	125	188.4	93	74.4
Armenia	...	...	...	...
Austria	2802	34.4	...	...
Azerbaijan	...	...	...	...
Belgium	14375	140.1	9595	66.7
BH: Federation	7386	284.1	2656	36.0
BH: Republika Srpska	2163	154.5	475	22.0
Bulgaria	5304	67.2	2716	51.2
Croatia	17001	383.1	...	...
Cyprus	1318	172.2	673	51.1
Czech Republic	17502	170.4	111609	637.7
Denmark	...	...	...	...
Estonia	5906	433.9	...	...
Finland	6832	131.5	1886	27.6
France	67308	110.3	46471	69.0
Georgia	9783	247.8	6328	64.7
Germany	704657	854.8	...	...
Greece	...	...	...	...
Hungary	31280	307.4	4684	15.0
Iceland	339	118.3	91	26.8
Ireland	12127	312.5	6967	57.5
Italy	78649	139.7	67238	85.5
Latvia	...	...	...	...
Liechtenstein	160	477.3	...	...
Lithuania	...	...	14241	...
Luxembourg	906	204.0	413	45.6
Malta	327	82.9	237	72.5
Moldova	...	...	...	...
Netherlands	...	...	...	...
Norway	12134	268.2	3856	31.8
Poland	95775	247.9	52007	54.3
Portugal	6936	67.1	5958	85.9
Romania	...	...	...	...
Russia	1832153	1272.7	494249	27.0
San Marino	27	95.9	2	7.4
Slovakia	19243	357.7	4731	24.6
Slovenia	5155	258.5	990	19.2
Spain	41359	102.4	27439	66.3
Sweden	...	...	...	...
Switzerland	60735	836.7	50572	83.3
"the former Yugoslav Republic of Macedonia"	3708	181.9	983	26.5
Turkey	100070	144.4	14060	14.1
Ukraine	...	...	...	...
UK: England and Wales	129733	249.3	98781	76.1
UK: Northern Ireland	4717	279.9	2205	46.7
UK: Scotland	34699	685.5	15452	44.5
<i>Mean</i>		287.6		67.0
<i>Median</i>		204.0		48.9
<i>Minimum</i>		34.4		7.4
<i>Maximum</i>		1272.7		637.7

Table 13. Indicator of average length of imprisonment (2001)

Reference: Council of Europe, SPACE 2002.13

22.12

	Total number of days spent in penal institutions	Average number of prisoners in year	Total number of entries (Table 12)	Indicator of average length of imprisonment (in months)
	a	b = a/365	c	d = 12 (b/c)
Albania	...	(1635)	...	...
Andorra	13271	36	125	3.5
Armenia	...	(4213)	...	...
Austria	2580672	7070	2802	30.3
Azerbaijan	...	...	...	...
Belgium	3275586	8974	14375	7.5
BH: Federation	464679	1273	7386	2.1
BH: Republika Srpska	274897	753	2163	4.2
Bulgaria	...	(9283)	5304	21.0
Croatia	...	(2623)	17001	1.9
Cyprus	117895	323	1318	2.9
Czech Republic	7757345	21253	17502	14.6
Denmark	1181177	3236	...	...
Estonia	...	(4789)	5906	9.7
Finland	1144275	3135	6832	5.5
France	17684428	48450	67308	8.6
Georgia	...	...	9783	...
Germany	...	(78707)	704657	1.3
Greece	...	(8343)	...	...
Hungary	846156	2318	31280	0.9
Iceland	45079	124	339	4.4
Ireland	1135880	3112	12127	3.1
Italy	...	(55136)	78649	8.4
Latvia	...	(8617)	...	...
Liechtenstein	4162	11	160	0.8
Lithuania	...	(10750)	...	...
Luxembourg	136214	373	906	4.9
Malta	...	(257)	327	9.4
Moldova	...	(10679)	...	...
Netherlands	4383322	12009	...	...
Norway	958804	2627	12134	2.6
Poland	28731340	78716	95775	9.9
Portugal	...	(13500)	6936	23.4
Romania	...	(50370)	...	...
Russia	...	(971496)	1832153	6.4
San Marino	231	1	27	0.4
Slovakia	2682020	7348	19243	4.6
Slovenia	439095	1203	5155	2.8
Spain	17006810	46594	41359	13.5
Sweden	1970500	5399	...	...
Switzerland	1798371	4927	60735	1.0
"the former Yugoslav Republic of Macedonia"	453443	1242	3708	4.0
Turkey	23622766	64720	100070	7.8
Ukraine	...	(198885)	...	...
UK: England and Wales	...	(67056)	129733	6.2
UK: Northern Ireland	...	(877)	4717	2.2
UK: Scotland	2240005	6137	34699	2.1
Mean				6.8
Median				4.5
Minimum				0.4
Maximum				30.3

Table 14. Number of escapes during 2001

(a) Escapes by prisoners (pre-trial detainees or convicted prisoners) from a closed penal institution or during administrative transfer (2001)

(b) Other forms of escape (e.g. from an open penal institution – agricultural colony or other – semi-detention, during authorised short-term absence (or leave), etc.) in 2001

Reference: Council of Europe, SPACE 2002.14

	(a) Number of escapes by prisoners	Average number of prisoners in 2001 (Table 13)	Rate of escape per 10 000 prisoners	(b) Other forms of escape
Albania	0	(1635)	0	0
Andorra	0	36	0	0
Armenia	0	(4213)	0	0
Austria	34	7070	48.1	228
Azerbaijan	3	...	...	9
Belgium	37	8974	41.2	95
BH: Federation	4	1273	31.4	38
BH: Republika Srpska	8	753	106.2	45
Bulgaria	20	(9283)	21.5	31
Croatia	1	(2623)	3.8	52
Cyprus	0	323	0	0
Czech Republic	3	21253	1.4	22
Denmark	65	3236	200.9	625
Estonia	5	(4789)	10.4	5
Finland	28	3135	89.3	395
France	38	48450	7.8	172
Georgia	0	...	0	14
Germany	18	(78707)	2.3	683
Greece	0	(8343)	0	47
Hungary	4	2318	17.3	5
Iceland	1	124	80.6	0
Ireland	13	3112	41.8	95
Italy	13	(55136)	2.4	205
Latvia	0	(8617)	0	31
Liechtenstein	0	11	0	0
Lithuania	1	(10750)	0.9	8
Luxembourg	0	373	0	9
Malta	0	(257)	0	0
Moldova	12	(10679)	11.2	125
Netherlands	15	12009	12.5	715
Norway	27	2627	102.8	197
Poland	48	78716	6.1	432
Portugal	93	(13500)	68.9	206
Romania	1	(50370)	0.2	7
Russia	78	(971496)	0.8	445
San Marino	0	1	0	0
Slovakia	0	7348	0	6
Slovenia	9	1203	74.8	92
Spain	8	46594	1.7	34
Sweden	34	5399	63.0	423
Switzerland	...	4927	...	...
"the former Yugoslav Republic of Macedonia"	29	1242	233.5	121
Turkey	9	64720	1.4	109
Ukraine	10	(198885)	0.5	19
UK: England and Wales	22	(67056)	3.3	1044
UK: Northern Ireland	4	(877)	45.6	1
UK: Scotland	3	6137	4.9	55

Table 15. Deaths (including suicides) in penal institutions in 2001

Reference: Council of Europe, SPACE 2002.15

	Total number of deaths	number of suicides	Percentage of suicides as a total of deaths	Average number of prisoners in 2001 (Table 13)	Mortality rate per 10 000 prisoners	Suicide rate per 10 000 prisoners
Albania	1	0	0.0	(1635)	6.1	0
Andorra	0	0	...	36	0	0
Armenia	27	0	0.0	(4213)	64.1	0
Austria	38	15	39.5	7070	53.7	21.2
Azerbaijan	236	0	0.0	...	...	...
Belgium	32	21	65.6	8974	35.7	23.4
BH: Federation	3	...	...	1273	23.6	...
BH: Republika Srpska	3	0	0.0	753	39.8	0
Bulgaria	32	3	9.4	(9283)	34.5	3.2
Croatia	12	1	8.3	(2623)	45.7	3.8
Cyprus	0	0	...	323	0	0
Czech Republic	20	5	25.0	21253	9.4	2.4
Denmark	14	10	71.4	3236	43.3	30.9
Estonia	4	0	0.0	(4789)	8.4	0
Finland	14	6	42.9	3135	44.7	19.1
France	236	104	44.1	48450	48.7	21.5
Georgia	22	7	31.8	...	...	...
Germany	171	98	57.3	(78707)	21.7	12.5
Greece	34	5	14.7	(8343)	40.8	6.0
Hungary	55	11	20.0	2318	237.3	47.5
Iceland	0	0	...	124	0	0
Ireland	5	1	20.0	3112	16.1	3.2
Italy	177	69	39.0	(55136)	32.1	12.5
Latvia	10	3	30.0	(8617)	11.6	3.5
Liechtenstein	0	0	...	11	0	0
Lithuania	27	13	48.1	(10750)	25.1	12.1
Luxembourg	0	0	...	373	0	0
Malta	0	0	...	(257)	0	0
Moldova	87	10	11.5	(10679)	81.5	9.4
Netherlands	18	11	61.1	12009	15.0	9.2
Norway	15	4	26.7	2627	57.1	15.2
Poland	142	47	33.1	78716	18.0	6.0
Portugal	106	19	17.9	(13500)	78.5	14.1
Romania	116	6	5.2	(50370)	23.0	1.2
Russia	5722	8	0.1	(971496)	58.9	0.1
San Marino	0	0	...	1	0	0
Slovakia	5	5	100.0	7348	6.8	6.8
Slovenia	7	4	57.1	1203	58.2	33.3
Spain	143	20	14.0	46594	30.7	4.3
Sweden	12	4	33.3	5399	22.2	7.4
Switzerland	...	...	...	4927	...	...
"the former Yugoslav Republic of Macedonia"	5	0	0.0	1242	40.3	0
Turkey	101	25	24.8	64720	15.6	3.9
Ukraine	5404	29	0.5	(198885)	271.7	1.5
UK: England and Wales	132	71	53.8	(67056)	19.7	10.6
UK: Northern Ireland	0	0	...	(877)	0	0
UK: Scotland	20	11	55.0	6137	32.6	17.9
Mean			28.7		38.0	8.5
Median			25.0		24.3	3.9
Minimum			0.0		0.0	0.0
Maximum			100.0		271.7	47.5

II. Prison staff

Table 16. *Full-time* working in penal institutions on 1 September 2002

Reference: Council of Europe, SPACE 2002.16

	Total	Management	Custodial	Treatment	Workshops	Administration
Albania	1424	37	1011	130	4	242
Andorra	45	3	37	3	1	1
Armenia	(1477)	136	1341	125	...	90
Austria	3400	83	2872	311	...	133
Azerbaijan	5595	63	183	96	***	3
Belgium	6853	176	5705	410	34	483
BH: Federation	762	63	432	62	111	88
BH: Republika Srpska	595	32	305	28	115	115
Bulgaria	4606	112	3184	462	247	601
Croatia	3233	30	1409	340	463	
Cyprus	(220)	10	208	3	13	14
Czech Republic	9417	443	5351	1550	...	1331
Denmark	3558,4	51,1	2448,8	486,5	346,6	225,4
Estonia	1920	26	1375	97	***	***
Finland	2946	54	1755	388	264	253
France	23241	327	19389	1378	504	1643
Georgia	3264	105	2435	234	***	152
Germany	37837	451	28123	2646	2120	4497
Greece	3655	20	1976	75	0	281
Hungary	7146	267	3225	761	747	203
Iceland	99	6	74	1	15	3
Ireland	3271	66	2896	79	96	134
Italy	50070	815	42681	1819	8	4747
Latvia	2676	67	1767	308	14	520
Liechtenstein	5	1	4	0	0	0
Lithuania	3134	71	1290	549	350	874
Luxembourg	290	5	210	25	38	12
Malta	233	14	164	10	13	32
Moldova	(2661)	83	2578	671	284	144
Netherlands	11294	2210	6965	1462	...	657
Norway	2708	...	...	...	...	...
Poland	22671	1408	12737	3202	0	5324
Portugal	6263	27	4299	343	24	1401
Romania	11811	629	6552	1806	134	2690
Russia	326340	115236	...	...	...	...
San Marino	(5)	1	5	2	0	0
Slovakia	4410	193	1694	1997	10	516
Slovenia	852	57	426	90	144	135
Spain	22160	419	14439	3453	1115	2734
Sweden	5780	185	4230	225	345	480
Switzerland	3300	...	...	...	...	...
"the former Yugoslav Republic of Macedonia"	448	16	253	57	52	70
Turkey	24870	974	20631	554	1743	968
Ukraine	49597	1652	22739	6541	7370,5	901
UK: England and Wales	40607	1460	29321	1896	1171	3671
UK: Northern Ireland	1816	261	1287	100	28	81
UK: Scotland	4139	611	2515	149	333	531

Table 17. *Part-time staff working in penal institutions on 1 September 2002 (on the basis of full-time equivalents)*

Reference: Council of Europe, SPACE 2002.17

2.16

on

	Total	Management	Custodial	Treatment	Workshops	Administration
Albania	0	0	0	0	0	0
Andorra	5	0	0	4	1	0
Armenia	...	...	...	...	...	...
Austria	134	0	24	88	...	22
Azerbaijan	5595	63	183	96	***	3
Belgium	296.97	5.6	198.75	37.16	0	54.96
BH: Federation	762	63	432	62	111	88
BH: Republika Srpska	***	***	***	***	***	***
Bulgaria	4.5	0	0	4.5	0	0
Croatia	0	0	0	0	0	0
Cyprus	***	***	***	***	***	***
Czech Republic	38.1	0	0	32.5	0	1.2
Denmark	...	...	...	...	...	...
Estonia	7	***	***	7	***	***
Finland	(66)	(2)	(6)	(11)	(17)	(12)
France	735.7	4.3	134.9	272.7	3.5	320.3
Georgia	***	***	***	***	***	***
Germany	...	...	...	...	...	...
Greece	0	0	0	0	0	0
Hungary	104	0	0	17	0	87
Iceland	0	0	0	0	0	0
Ireland	59.5	0	33	24	0	2.5
Italy	237	7	...	141	...	89
Latvia	38.5	0	0	37.5	0	1
Liechtenstein	1.5	0	0	0.1	0	0
Lithuania	0	0	0	0	0	0
Luxembourg	1.5	0	0	0.5	1	0
Malta	17	0	0	17	0	0
Moldova	(69)	0	69	66	14	4
Netherlands	3720	2313	681	441	...	285
Norway	...	...	...	...	...	...
Poland	724	0	0	655	0	69
Portugal	169			163		
Romania	2.5	0	0	2.5	0	0
Russia	...	...	...	...	...	...
San Marino	5	1	0	0	0	0
Slovakia	0	0	0	0	0	0
Slovenia	...	...	...	...	...	...
Spain	219	***	***	219	***	***
Sweden	585	5	370	50	15	40
Switzerland	640	...	...	...	...	...
"the former Yugoslav Republic of Macedonia"	5.5	***	***	3	2	0.5
Turkey	***	***	***	***	***	***
Ukraine						
UK: England and Wales	1026.5	9	237	152.5	11	482
UK: Northern Ireland	9	3	0	0	0	3.5
UK: Scotland	147	10	0	10	0	27

Table 18. Full-time and part-time staff working in penal institutions on 1 September 2002 – on the basis of full-time equivalents (numbers)

Reference: Council of Europe, SPACE 2002.18

	Total	Management	Custodial	Treatment	Workshops	Administration
Albania	1424	37.0	1011.0	130.0	4.0	242.0
Andorra	50	3.0	37.0	7.0	2.0	1.0
Armenia	1477	136.0	1341.0	125.0	0.0	90.0
Austria	3534	83.0	2896.0	399.0	0.0	155.0
Azerbaijan	11190	126.0	366.0	192.0	0.0	6.0
Belgium	7149.97	181.6	5903.8	447.2	34.0	538.0
BH: Federation	1524	126.0	864.0	124.0	222.0	176.0
BH: Republika Srpska	595	32.0	305.0	28.0	115.0	115.0
Bulgaria	4610.5	112.0	3184.0	466.5	247.0	601.0
Croatia	3233	30.0	1409.0	340.0	0.0	463.0
Cyprus	220	10.0	208.0	3.0	13.0	14.0
Czech Republic	9455.1	443.0	5351.0	1582.5	0.0	1332.2
Denmark	3558.4	51.1	2448.8	486.5	346.6	225.4
Estonia	1927	26.0	1375.0	104.0	0.0	0.0
Finland	3012	56.0	1761.0	399.0	281.0	265.0
France	23976.7	331.3	19523.9	1650.7	507.5	1963.3
Georgia	3264	105.0	2435.0	234.0	0.0	152.0
Germany	37837	451.0	28123.0	2646.0	2120.0	4497.0
Greece	3655	20.0	1976.0	75.0	0.0	281.0
Hungary	7250	267.0	3225.0	778.0	747.0	290.0
Iceland	99	6.0	74.0	1.0	15.0	3.0
Ireland	3330.5	66.0	2929.0	103.0	96.0	136.5
Italy	50307	822.0	42681.0	1960.0	8.0	4836.0
Latvia	2714.5	67.0	1767.0	345.5	14.0	521.0
Liechtenstein	6.5	1.0	4.0	0.1	0.0	0.0
Lithuania	3134	71.0	1290.0	549.0	350.0	874.0
Luxembourg	291.5	5.0	210.0	25.5	39.0	12.0
Malta	250	14.0	164.0	27.0	13.0	32.0
Moldova	2730	83.0	2647.0	737.0	298.0	148.0
Netherlands	15014	4523.0	7646.0	1903.0	0.0	942.0
Norway	2708	...	...	...	...	...
Poland	23395	1408.0	12737.0	3857.0	0.0	5393.0
Portugal	6432	27.0	4299.0	506.0	24.0	1401.0
Romania	11813.5	629.0	6552.0	1808.5	134.0	2690.0
Russia	326340	115236.0	0.0	0.0	0.0	0.0
San Marino	10	2.0	5.0	2.0	0.0	0.0
Slovakia	4410	193.0	1694.0	1997.0	10.0	516.0
Slovenia	852	57.0	426.0	90.0	144.0	135.0
Spain	22379	419.0	14439.0	3672.0	1115.0	2734.0
Sweden	6365	190.0	4600.0	275.0	360.0	520.0
Switzerland	3940	...	...	...	...	...
"the former Yugoslav Republic of Macedonia"	453.5	16.0	253.0	60.0	54.0	70.5
Turkey	24870	974.0	20631.0	554.0	1743.0	968.0
Ukraine	49597	1652.0	22739.0	6541.0	7370.5	901.0
UK: England and Wales	41633.5	1469.0	29558.0	2048.5	1182.0	4153.0
UK: Northern Ireland	1825	264.0	1287.0	100.0	28.0	84.5
UK: Scotland	4286	621.0	2515.0	159.0	333.0	558.0

Table 19. Full-time and part-time staff working in penal institutions on 1 September 2002 – on the basis of full-time equivalents (%)

Reference: Council of Europe, SPACE 2002.19

	Management	Custodial	Treatment	Workshops	Administration	Total
Albania	2,6	71,0	9,1	0,3	17,0	100,0
Andorra	6,0	74,0	14,0	4,0	2,0	100,0
Armenia	8,0	79,3	7,4	0,0	5,3	(100,0)
Austria	2,3	81,9	11,3	0,0	4,4	100,0
Azerbaijan	1,1	3,3	1,7	0,0	0,1	6,2
Belgium	2,5	82,6	6,3	0,5	7,5	99,4
BH: Federation	8,3	56,7	8,1	14,6	11,5	99,2
BH: Republika Srpska	5,4	51,3	4,7	19,3	19,3	100,0
Bulgaria	2,4	69,1	10,1	5,4	13,0	100,0
Croatia	0,9	43,6	10,5	0,0	14,3	69,3
Cyprus	4,0	83,9	1,2	5,2	5,6	(100,0)
Czech Republic	4,7	56,6	16,7	0,0	14,1	92,1
Denmark	1,4	68,8	13,7	9,7	6,3	100,0
Estonia	1,3	71,4	5,4	0,0	0,0	78,1
Finland	1,9	58,5	13,2	9,3	8,8	91,7
France	1,4	81,4	6,9	2,1	8,2	100,0
Georgia	3,2	74,6	7,2	0,0	4,7	89,6
Germany	1,2	74,3	7,0	5,6	11,9	100,0
Greece	0,5	54,1	2,1	0,0	7,7	64,4
Hungary	3,7	44,5	10,7	10,3	4,0	73,2
Iceland	5,2	64,3	0,9	13,0	2,6	86,1
Ireland	2,0	87,9	3,1	2,9	4,1	100,0
Italy	1,6	84,8	3,9	0,0	9,6	100,0
Latvia	2,5	65,1	12,7	0,5	19,2	100,0
Liechtenstein	15,4	61,5	1,5	0,0	0,0	78,5
Lithuania	2,3	41,2	17,5	11,2	27,9	100,0
Luxembourg	1,7	72,0	8,7	13,4	4,1	100,0
Malta	5,6	65,6	10,8	5,2	12,8	100,0
Moldova	2,1	67,6	18,8	7,6	3,8	(100,0)
Netherlands	30,1	50,9	12,7	0,0	6,3	100,0
Norway	...	...	...	...	...	...
Poland	6,0	54,4	16,5	0,0	23,1	100,0
Portugal	0,4	66,8	7,9	0,4	21,8	97,3
Romania	5,3	55,5	15,3	1,1	22,8	100,0
Russia	35,3	0,0	0,0	0,0	0,0	35,3
San Marino	20,0	50,0	20,0	0,0	0,0	90,0
Slovakia	4,4	38,4	45,3	0,2	11,7	100,0
Slovenia	6,7	50,0	10,6	16,9	15,8	100,0
Spain	1,9	64,5	16,4	5,0	12,2	100,0
Sweden	3,0	72,3	4,3	5,7	8,2	93,4
Switzerland	...	...	...	...	...	...
"the former Yugoslav Republic of Macedonia"	3,5	55,8	13,2	11,9	15,5	100,0
Turkey	3,9	83,0	2,2	7,0	3,9	100,0
Ukraine	3,3	45,8	13,2	14,9	1,8	79,0
UK: England and Wales	3,5	71,0	4,9	2,8	10,0	92,3
UK: Northern Ireland	14,5	70,5	5,5	1,5	4,6	96,6
UK: Scotland	14,5	58,7	3,7	7,8	13,0	97,7
<i>Mean</i>	5,7	61,7	9,7	4,8	9,3	
<i>Median</i>	3,3	65,1	8,7	2,8	8,2	
<i>Minimum</i>	0,4	0,0	0,0	0,0	0,0	
<i>Maximum</i>	35,3	87,9	45,3	19,3	27,9	

Table 20. Other categories of staff on 1 September 2002

Reference: Council of Europe, SPACE 2002.20

	(a) National prison administration	(b) Regional prison administration office	(c) Storage depots	(d) Staff working in penal institutions, but not employed by the prison administration
Albania	68	1424	4	...
Andorra			1	0
Armenia	136	1341	...	77
Austria	41	***	***	88
Azerbaijan	***	***	43	...
Belgium	100	0	51	...
BH: Federation	***	***	3	14
BH: Republika Srpska	6	***	***	...
Bulgaria	135	***	***	132
Croatia	33	0	0	...
Cyprus	***	***	***	4
Czech Republic	288	0	0	...
Denmark	181.6	***	***	...
	25	...	***	59
Finland	119	***	***	305
France	196	822		...
Georgia	331	829	8	1197
Germany	...	...	...	...
Greece	30		49	...
Hungary	173		261	...
Iceland	13	***	0	11.5
Ireland	122	0	51	259
Italy	1118	833	43	6322
Latvia	89	0	0	639
Liechtenstein	2	***	***	...
Lithuania	92	...	...	0
Luxembourg	3	0	0	49
Malta	0	0	0	...
Moldova	223	***	16	...
Netherlands	...	...	...	...
Norway	35	108	0	...
Poland	294	295	369	...
Portugal	400	***	47	...
Romania	197		129	...
Russia	...	...	...	...
San Marino	***	***	***	1
Slovakia	0	0	0	0
Slovenia	20	***	***	37
Spain	471	***	109	4206
Sweden	290		***	...
Switzerland	...	...	...	...
"the former Yugoslav Republic of Macedonia"	4	***	***	31
Turkey	215	***	***	...
Ukraine	...	...	...	589
UK: England and Wales	1822	652	...	...
UK: Northern Ireland	290.5			45.5
UK: Scotland	345	69		...

Table 21. Supervision of prisoners by custodial staff on 1 September 2002

Reference: Council of Europe, SPACE 2002.21

	Total number of prisoners	Total number of custodial staff	Rate of supervision of prisoners by custodial staff (number of prisoners per custodian)
	a	b	c = (a) / (b)
Albania	1785	1011,0	1,8
Andorra	55	37,0	1,5
Armenia	5624	1341,0	4,2
Austria	7511	2896,0	2,6
Azerbaijan	18321	366,0	...
Belgium	9253	5903,8	1,6
BH: Federation	1293	864,0	1,5
BH: Republika Srpska	816	305,0	2,7
Bulgaria	9607	3184,0	3,0
Croatia	2584	1409,0	1,8
Cyprus	345	208,0	1,7
Czech Republic	16861	5351,0	3,2
Denmark	3439	2448,8	1,4
Estonia	4640	1375,0	3,4
Finland	3466	1761,0	2,0
France	53463	19523,9	2,7
Georgia	7343	2435,0	3,0
Germany	78506	28123,0	2,8
Greece	8284	1976,0	4,2
Hungary	18054	3225,0	5,6
Iceland	107	74,0	1,4
Ireland	3028	2929,0	1,0
Italy	56200	42681,0	1,3
Latvia	8517	1767,0	4,8
Liechtenstein	17	4,0	4,3
Lithuania	11345	1290,0	8,8
Luxembourg	380	210,0	1,8
Malta	283	164,0	1,7
Moldova	10532	2647,0	4,0
Netherlands	16239	7646,0	2,1
Norway	2662	...	...
Poland	80610	12737,0	6,3
Portugal	13730	4299,0	3,2
Romania	51476	6552,0	7,9
Russia	1068197	...	...
San Marino	1	5,0	0,2
Slovakia	7849	1694,0	4,6
Slovenia	1120	426,0	2,6
Spain	50994	14439,0	3,5
Sweden	6506	4600,0	1,4
Switzerland	4987	...	...
"the former Yugoslav Republic of Macedonia"	1248	253,0	4,9
Turkey	60091	20631,0	2,9
Ukraine	198946	22739,0	8,7
UK: England and Wales	71324	29558,0	2,4
UK: Northern Ireland	1076	1287,0	0,8
UK: Scotland	6513	2515,0	2,6
Mean			3,1
Median			2,7
Minimum			0,2
Maximum			8,8

Notes – Table 1

General note: The prison population figure of Albania does not seem to include prisoners in non-Ministry of Justice facilities. Such facilities are also used in other countries. However, the impact of this usage on the general population figure is not always possible to gauge.

Belgium: Total capacity includes capacity in penal institutions and in the temporary placement centre for young persons, and the places set aside in the Mons and Tournai social protection establishments for detained persons transferred from prison.

Bosnia and Herzegovina: Population figures are estimates.

According to information given to the Council of Europe Joint Steering Group on Prison Reform in Bosnia and Herzegovina, the prison capacity in 2002 in the Federation of Bosnia and Herzegovina was 1183 and 1095 in Republika Srpska. These figures are lower than the ones included in the answers to the SPACE questionnaire sent by the two Entities. Therefore, the prison density per 100 places in both Entities could be higher than the one showed in Table 1.

Cyprus: Population figures refer to the whole island, but prison population figures do not include prisoners held in the northern part of the island which is not under control of the authorities of the Republic of Cyprus. Therefore, the prison population rate per 100000 population is underestimated.

Liechtenstein: See general notes.

Luxembourg: The figure for prison capacity should be used cautiously as it implies an increase of 59% of the total capacity that could not be confirmed before the print deadline of this issue.

Les taux d'accroissement au cours des douze derniers mois sont les suivants:

Increase of more than 5%	Between -5% and +5%	Decrease of more than 5%
Armenia: 33,3%	Slovakia: 5,0%	Turkey: -7,0%
United Kingdom 23,7%	Italy: 4,7%	Cyprus: -7,3%
Northern Ireland: 16,1%	Hungary: 3,8%	"the former Yugoslav Republic of Macedonia" -12,4%
Moldova: 14,4%	Romania: 2,0%	Czech Republic: -20,7%
Andorra: 13,7%	Poland: 0,8%	
Finland: 13,6%	Portugal: 0,6%	
France: 12,2%	Ukraine: -0,1%	
Lithuania: 9,1%	Latvia: -0,3%	
Albania: 8,8%	Germany: -0,6%	
United Kingdom 8,8%	Norway: -0,6%	
England and Wales: 8,8%	Greece: -0,7%	
Denmark: 8,4%	Ireland: -2,5%	
Austria: 7,9%	Estonia: -2,6%	
Spain: 6,8%	Croatia: -2,8%	
Bulgaria: 6,7%	Slovenia: -3,2%	
Malta: 6,6%	Iceland: -3,8%	
Sweden: 5,8%	Switzerland: -4,0%	
Luxembourg: 5,7%	Russia: -4,8%	
Belgium: 5,6%		

Netherlands:

– Data on the number of prisoners and prison capacity include the figures for TBS clinics and institutions caring for juvenile delinquents. The following tables do not include these two categories and so relate to a total of 13000 prisoners.

Total number of prisoners (including pre-trial detainees): 16 239	13 000 in prison service 2009 in institutions for offenders 1230 in TBS clinics
Total capacity of penal institutions/prisons: 16 686	13 059 in prison service 2346 in institutions for juvenile offenders 1281 in TBS clinics

– A TBS clinic is a hospital/clinic for the treatment of criminals that have committed very serious crimes but are considered mentally ill. Possible translations of this concept into English include: Forensic Psychiatric Hospital, Custodial Clinic, or Placement under a Hospital Order.

Portugal: 221 people with psychiatric troubles are subject to security measures and they are not included in the total number of prisoners.

San Marino: See general notes.

Sweden: Total number of prisoners includes those in remand prisons. Data includes persons serving their sentence outside prison in institutions for the treatment of drug addicts, hospitalised prisoners and escapees.

Switzerland: Total capacity of penal institutions: includes custody in police stations for more than 24 hours (see general notes).

The year-on-year rates of increase are as follows:

Notes – Table 2

Netherlands: Number of prisoners under 18 years of age (including pre-trial detainees): 101 of which 90 illegal aliens.

Poland:

- Median age of the prison population: The mean age (instead of the median) of the prison population has been indicated.
- Number of prisoners under 18 years of age: Data relate to 8 May 2003 (instead of 1 September 2002) and include prisoners aged 18 and under (i.e. refers to prisoners under 19 years of age).

Sweden: Median age of the prison population and number of prisoners aged 18 to less than 21 years: Data are only available for sentenced prisoners.

Turkey: The median age of the prison population has been verified twice. Our national correspondent in Turkey suggests that one possible explanation for this quite high figure can be found in the traditional culture of very strong family ties. Moreover, young people tend to be not only under the care and protection of their family, but also of society in general. In Turkey, the main age bracket for delinquency is 24 to 40 years of age.

Notes – Table 3

Germany: Data relate to 31 March 2002 for female prisoners and to 31 March 2001 for foreign prisoners.

Sweden: Number of foreign prisoners: Data are only available for sentenced prisoners.

Switzerland: Number of foreign prisoners (including remand prisoners): estimate.

United Kingdom

Northern Ireland: The category "foreign prisoners" includes all nationalities excluding Northern Ireland, Great Britain and the Republic of Ireland. It also includes 10 immigration detainees.

Notes – Table 4

Armenia: The breakdown of prisoners by legal status has been indicated for a total of 5783 prisoners instead of the 5624 indicated in Table 1.

Austria: (e) includes 511 prisoners undergoing measures of prevention (i.e. mentally ill persons who cannot be sentenced but are dangerous), and 40 persons serving administrative sentences, prisoners awaiting deportation and persons in custody pending extradition.

Belgium:

Number of foreign prisoners (including remand prisoners): estimate.

- The breakdown of prisoners according to legal status is based on a total of 9271, compared to the 9253 indicated in Table 1.
- (e) The category "other cases" includes:
 - Detained mentally disordered offenders
 - Offenders/detainees held under section 21 of the Social Protection Act
 - Vagrants/beggars placed at the government's disposal
 - Foreign nationals placed at the government's disposal
 - Repeat/habitual offenders placed at the government's disposal (under the Social Protection Act)
 - Procurers placed at the government's disposal (under Article 280 B of the Criminal Code)
 - Temporary juvenile placement (Act of 1 March 2003)

The Act of 1 March 2003 on the temporary placement of young persons who have committed an act classified as an offence authorises the temporary placement of minors in closed centres run by the federal Ministry of Justice when there is a shortage of places in Community public institutions. The closed centre is directly responsible to the Director General for the execution of sentences and other judicial measures. It does not constitute a penal institution.

In accordance with this Act, a partnership has been agreed with the communities, which are responsible for the young persons' education.

Croatia: (e) 98 correctional measures and 131 administrative sanctions.

Czech Republic: (e) 90 in custody pending expulsion and 48 in custody pending extradition (total: 138).

Denmark: (e) Detainees according to the Aliens Act.

Finland: (e) Inmates who serve sentence for unpaid fines.

France:

- (c) Number of sentenced prisoners who have appealed or who are within the statutory limit to do so: 1582 (appealed or within the statutory limit)
- (e) 1 civil imprisonment

Hungary:

- The breakdown of prisoners by legal status has been indicated for a total of 18879 prisoners instead of the 18054 indicated in Table 1.
- (e) 50 referred to custody and 192 treated under constraint.

Italy: (e) Detainees: subject to security measures

Latvia: (e) persons awaiting the enforcement of their sentence: 841; persons located in a remand house in accordance with the Act on Enforcement of Sentences (Sections 16 and 20): 28; persons awaiting transportation from remand house to prison: 76; persons under transit process: 11; persons located in the Prison Hospital: 197; Total: 853.

Liechtenstein: (a) The statistical system does not distinguish between (a) and (c). Therefore, the figure given under (a) includes (a) and (c).

Lithuania: The breakdown of prisoners by legal status has been indicated for a total of 11938 prisoners instead of the 11345 indicated in Table 1.

Moldova: The breakdown of prisoners by legal status has been indicated for a total of 10306 prisoners instead of the 10532 indicated in Table 1.

Netherlands:

- The breakdown of prisoners by legal status has been indicated for the 13000 prisoners serving their sentence in penal institutions (prisoners in institutions for juvenile offenders and TBS clinics are not included).
- (e) subsidiary = 222; aliens = 1279; others = 61; unknown = 172; principal = 76

Norway:

- (a) Number of untried prisoners (i.e. no court decision yet reached): 676 (comprises remand in custody and sentenced prisoners who have lodged an appeal, i.e. the sentence is not final).
- (e) In default of payment of fines and unspecified

Portugal: 221 people with psychiatric troubles are subject to security measures (they are not included in the total number of prisoners).

Romania: 1112 petty offenders ("contrevenants").

Russia: The breakdown of prisoners by legal status has been indicated for a total of 942116 prisoners instead of the 919330 indicated in Table 1.

Slovenia: (e) The educational measure of attendance at a juvenile correctional facility shall be carried out in the correctional home, which is the internal organisational unit of the Administration. There are 25 young people detained in this institution aged between 16 and 21 years, although some may be as old as 23. This measure is not final. The number of persons imprisoned for a misdemeanour is 40. (40+25=65).

Sweden:

- (a) (b) (c): It is not possible to keep these groups apart in the statistics. The total number of remand prisoners is 1393.
- (e) "Other cases" relate to prisoners who are drug addicts, illegal immigrants awaiting deportation, persons awaiting placement in psychiatric institutions and persons who have broken probation rules.

Ukraine: The breakdown of prisoners by legal status has been indicated for a total of 196255 prisoners instead of the 198946 indicated in Table 1.

United Kingdom

England & Wales: (e) Non-criminals / People held under the Immigration Act and people held in police cells.

Northern Ireland: (e) 10 immigration detainees and 14 fine defaulters.

Notes – Table 5

REMINDER

- Where the item "*Sentenced prisoners who have appealed or who are within the statutory time-limit for doing so*" is left blank in the questionnaire for lack of available data – without any further information being provided – it is assumed that prisoners in this situation are included among "*sentenced prisoners (final sentence)*". In this case, neither rate (a) – *percentage of prisoners not serving a final sentence* – nor rate (b) – *prisoners not serving a final sentence per 100000 inhabitants* – can be calculated.
- Where the item "*Prisoners convicted but not yet sentenced*" is left blank in the questionnaire for lack of available data – without any further information being provided – it is assumed that prisoners in this situation are included among "*untried prisoners (not yet convicted)*". In this case, neither rate (c) – *proportion of untried prisoners (not yet convicted), as a percentage* – nor rate (d) – *untried prisoners (not yet convicted) per 100000 inhabitants* – can be calculated.

Notes – Table 6

Austria: The statistical system does not allow the breakdown of prisoners by main offence; therefore each prisoner is counted once for each offence included in his or her sentence (i.e. the counting unit is the offence, not the person).

Bosnia and Herzegovina

Republika Srpska: The breakdown of sentenced prisoners by main offence has been indicated for a total of 682 sentenced prisoners instead of the 637 indicated in column (d) of Table 4.

Explanation: The statistical system does not allow the breakdown of prisoners by main offence; therefore each prisoner is counted once for each offence included in his or her sentence (i.e. the counting unit is the offence, not the person).

Bulgaria: The breakdown of sentenced prisoners by main offence has been indicated for a total of 5435 sentenced prisoners instead of the 7701 indicated in column (d) of Table 4.

Estonia: The breakdown of sentenced prisoners by main offence has been indicated for a total of 3333 sentenced prisoners instead of the 3210 indicated in column (d) of Table 4.

Explanation: The statistical system does not allow the breakdown of prisoners by main offence; therefore each prisoner is counted once for each offence included in his or her sentence (i.e. the counting unit is the offence, not the person).

Finland:

The breakdown of sentenced prisoners by main offence has been indicated for a total of 2764 sentenced prisoners instead of the 2774 indicated in column (d) of Table 4.

– Data relate to 1 May 2002.

France: "Rape" includes rape and indecent assault.

Germany: The breakdown of sentenced prisoners by main offence has been indicated for a total of 60742 sentenced prisoners instead of the 60443 indicated in column (d) of Table 4 because it includes 299 prisoners in preventive detention.

Liechtenstein: According to a treaty between Liechtenstein and Austria, long-term prisoners usually serve their sentences in Austrian penal institutions. Therefore, they are not included in the statistics of Liechtenstein.

Slovakia: The breakdown of sentenced prisoners by main offence has been indicated for a total of 9182 sentenced prisoners instead of the 5665 indicated in column (d) of Table 4.

Possible explanation: The statistical system may not allow the breakdown of prisoners by main offence; therefore each prisoner would be counted once for each offence included in his or her sentence (i.e. the counting unit would be the offence, not the person).

Spain: Figures for robbery are quite high because, according to the Spanish Penal Code, theft with violence (i.e. robbery according to other legislations) includes all kinds of burglary.

Ukraine: The breakdown of sentenced prisoners by main offence has been indicated for a total of 151712 sentenced prisoners instead of the 159678 indicated in column (d) of Table 4.

United Kingdom

England & Wales: Data relates to 30 June 2000. As a consequence, the breakdown of sentenced prisoners by the length of the sentence has been indicated for a total of 53180 sentenced prisoners (on 30 June 2000) instead of the 57359 indicated in column (d) of Table 4 (which relate to 31 August 2002).

Notes – Table 7

See Notes for Table 6

Notes – Table 8

Austria: The breakdown of sentenced prisoners by the length of the sentence has been indicated for a total of 5061 sentenced prisoners instead of the 5013 indicated in column (d) of Table 4 because it includes prisoners serving administrative (short) sentences.

Belgium: The computerised SIDIS detention system does not use the same categories as those proposed by SPACE. To reach the total of 4856 prisoners, therefore, the following categories of offenders must be added to those included in the Table:

- Persons sentenced to a correctional term of imprisonment of more than five years: 20 (a category no longer used but which still applies to certain prisoners)
- Offenders serving a fixed term criminal sentence (308)

With regard to the latter point, the Belgian criminal code provides for three types of sentence:

1. criminal – imprisonment, which may be for life or for a fixed term (from 5 to 30 years)
2. correctional terms of imprisonment
3. imprisonment for summary offences

In the prison administration system fixed-term sentences in category (1) are not subdivided according to length, unlike sentences under (2) and (3). Fixed-term sentences are therefore recorded in their totality under a single heading.

As a result, in the breakdown of prisoners according to length of sentence, relatively long sentences are under-represented.

The figure in column (k) refers to a person sentenced to death before the abolition of the capital punishment whose situation has not been administratively settled.

Finland:

- Data refer to 1 May 2002.
- The breakdown of sentenced prisoners by the length of the sentence has been indicated for a total of 2765 sentenced prisoners instead of the 2774 indicated in column (d) of Table 4.
- The 1622 prisoners in the category "more than one year" are distributed as follows:
 - one year to less than 2 years: 614
 - 2 years to less than 4 years: 518
 - 4 years to less than 8 years: 363
 - 8 years and over: 127

Germany:

There are differences in the lower and upper limits of categories (d), (e), (f), (g) and (h). These are the limits that have been used:

- (d) 6 months to one year (instead of 6 months to less than one year)
- (e) more than one year to 2 years (instead of one year to less than 3 years)
- (f) more than 2 years to 5 years (instead of 3 years to less than 5 years)
- (g) more than 5 years to 10 years (instead of 5 years to less than 10 years)
- (h) more than 10 years to 15 years (instead of 10 years to less than 20 years)

Greece: Breakdown of 3275 of the 6276 sentenced prisoners (final sentence) according to length of sentence (handed down):

- less than 6 months: 129
- 6 months to less than one year: 196
- one year to less than 2 years: 192
- 2 years to less than 5 years: 540
- 5 years to less than 10 years: 898
- 10 years to less than 15 years: 556
- 15 years and more: 448
- Life imprisonment: 314
- Death sentenced prisoners: 2

The figure in column (k) refers to persons sentenced to death before the abolition of capital punishment.

Netherlands:

- (g) 5 years to less than 12 years (instead of 5 years to less than 10 years)
- (h) (i): 12 years and more (instead of 10 years and more)
- The addition of all columns does not reach 100% (i.e. 5445 prisoners) because the length of the sentence is unknown for 302 prisoners.

Romania: The 23438 prisoners in the category "one year to less than 5 years" are distributed as follows: "one year to less than 2 years" = 4684; "2 years to less than 5 years" = 18754.

Russia: The breakdown of sentenced prisoners by the length of the sentence has been indicated for a total of 755114 sentenced prisoners instead of the 770463 indicated in column (d) of Table 4.

Slovakia: The breakdown of sentenced prisoners by main offence has been indicated for a total of 9182 sentenced prisoners instead of the 5665 indicated in column (d) of Table 4.

Possible explanation: The statistical system may not allow the breakdown of prisoners by main offence; therefore each prisoner would be counted once for each offence (i.e. the counting unit would be the offence, not the person).

Slovenia: The minimum term is 15 days and the maximum 15 years. The sentence of 30 years imprisonment may alternatively be prescribed for the intentional committing of the most serious crimes. The Criminal Code does not provide life sentences.

Spain:

- Prisoners sentenced under the old Criminal Code (code of 1973): "less than one month" (46), "one month to less than six months" (189), "six months to less than six years" (2049), "six years to less than twelve years" (1212), twelve years to less than twenty years (913), twenty to thirty years (963). Total: 5372
- Prisoners sentenced under the new Criminal Code (code of 1995): "six months to less than three years" (11936), "three years to less than eight years" (13883), "eight years to less than fifteen years" (5844), "fifteen to less than twenty years" (1 045), "more than twenty years" (390), sentence of weekend arrest (444), fines (80), security measures (person not criminally responsible) (457). Total: 34079.

Ukraine:

- The breakdown of sentenced prisoners by the length of the sentence has been indicated for a total of 151712 sentenced prisoners instead of the 159678 indicated in column (d) of Table 4.
- Death sentenced prisoners: Moratorium.

United Kingdom

England & Wales: Because of rounding while calculating the figures, the breakdown of sentenced prisoners by the length of the sentence has been indicated for a total of 57378 sentenced prisoners instead of the 57359 indicated in column (d) of Table 4.

Scotland: The breakdown of sentenced prisoners by the length of the sentence excludes 243 prisoners recalled from supervised release orders. Thus, the breakdown has been indicated for a total of 4977 sentenced prisoners instead of the 5220 indicated in column (d) of Table 4.

Notes – Table 9

- See notes on Table 8.
- For some countries, the percentages do not add up to 100%. This is the case for:
 - Belgium: 93,2%, see notes on Table 8.
 - Cyprus: 13%, because only data on life imprisonment is available.
 - Estonia: 99,5%, because some data are not available.
 - Netherlands: 94,7%, see notes on Table 8.

Notes – Table 10:

See Notes for Tables 8 and 9.

Notes – Table 11:

See Notes for Tables 8 and 9.

Notes – Table 12

Latvia: 5186 entries and 3699 sentenced persons who have been sent from remand house to prisons during 2001.

Lithuania: Including all entries that must be excluded according to the explanation to this category, the total would be 35000.

United Kingdom

England and Wales: Data relate to 2000 (general remark for the whole of part I.2 of the survey).

Notes – Table 13

Where we do not have the total number of days spent in penal institutions in 2001 we have used the total number of prisoners on 1 September 2001 as an estimate of the average number of prisoners in that year (source: SPACE 2001). This applies to Albania, Armenia, Bulgaria, Croatia, Estonia, Germany, Greece, Italy, Latvia, Lithuania, Malta, Moldova, Portugal, Romania, Russia, Ukraine, England and Wales, and Northern Ireland. For this reason, these figures are indicated in brackets.

Notes – Table 14

Andorra: No escape, but there was an attempted escape

Denmark:

- (a) Number of escapes: 30 from closed penal institutions and 35 during administrative transfers.
- (b) Other forms of escape: 232 from open penal institutions and 493 during authorised short-term absence (or leave).

Finland: (b) Other forms of escape: 38 from open penal institutions and 357 during authorised short-term absence (or leave).

Ireland: (b) Other forms of escape: 95 from open penal institutions.

Latvia: (b) Other forms of escape: 12 from open penal institutions and 19 during authorised short-term absence (or leave).

Moldova: (b) Other forms of escape: 111 from open penal institutions, 8 while in semi-detention, and 6 during authorised short-term absence (or leave).

Portugal:

- (a) Total number of escapes from closed or open establishments, but not including escapes during home leave.
- (b) 206 escapes during home leave.

Russia: (b) Other forms of escape: 285 from open penal institutions and 160 while in semi-detention. No data available on escapes during authorised short-term absence (or leave).

Slovakia: (b) Other forms of escape: 1 while in semi-detention, and 5 during authorised short-term absence (or leave).

Slovenia: (b) 16 escapes from open institutions, 76 escapes during leave, including 23 juveniles from the correctional home.

Notes – Table 16

- For reasons that have not been explained, in some countries the total is less than the sum of the other headings. This applies to Armenia, Cyprus, Moldova and San Marino.
- In some other cases the total is greater than the sum of the other headings. This is because the total includes persons not covered by the headings in the questionnaire. This applies to Austria, Azerbaijan, Belgium, Federation of Bosnia and Herzegovina, Croatia, Czech Republic, Estonia, Finland, Georgia, Greece, Hungary, Norway, Portugal, Russia, Switzerland, Ukraine, England and Wales and Northern Ireland.

Croatia: Total number of staff: The total includes 991 employees working in "prison factories" that do not belong in the categories specified in the questionnaire.

Czech Republic: The "staff responsible for workshops or vocational training" is included in the category "treatment staff".

Denmark: Full-time staff and part-time staff on the basis of full-time equivalents.

France:

- The total number of staff also includes contractual staff in establishments and in the prison rehabilitation and probation services;
- Management staff include prison directors and directors of prison rehabilitation and probation services;
- Staff concerned with treatment include social services technical advisers, senior prison rehabilitation and probation service staff, social services assistants and rehabilitation and probation advisers;
- The staff responsible for workshops and vocational training are called technical staff.

Germany: Data relate to 31 March 2002 instead of 1 September 2002 (general remark for the whole part I.2 of the survey)

Norway:

- It is not possible to give an exact differentiation between management and administrative staff for four reasons:
 1. The terms management and administration are not exactly defined terms.

- 2. The same person may execute administrative and management functions.
- 3. Professional titles do not always reflect job descriptions.
- 4. Security staff can also have administrative functions.
- All figures relate to number of positions (or posts) and not persons. It is not possible to separate full- from part-time staff. Each prison is allocated a certain number of posts. Local management will decide if each post will be filled as one full-time or two part-time.

Poland: Data relate to 30 June 2002.

Romania: Detailed breakdown of custodial staff (6522 persons): guards = 1980; escorts = 2505; surveillance = 2067.

Russia: Data relate to 30 January 2002.

Sweden:

- Data about staff are estimated.
- The total includes kitchen staff, cleaners, staff working with stores and staff working with buildings.
- Most of the custodial staff are also working with treatment programmes.

United Kingdom

England and Wales: Other staff (industrials) = 3088.

Notes – Table 17

- For reasons not explained, in the case of Moldova the total is less than the sum of the other headings.
- In other cases the total is greater than the sum of the other headings. This is because the total includes persons not covered by the headings in the questionnaire. This applies to Azerbaijan, Belgium, Federation of Bosnia and Herzegovina, Czech Republic, Finland, Liechtenstein, Portugal, San Marino, Sweden, Switzerland, England and Wales, Northern Ireland and Scotland.

Finland: Part-time staff have not been calculated on the basis of "full-time equivalents" but on the basis of persons.

Sweden:

- Data about staff are estimated.
- The total includes kitchen staff, cleaners, staff working with stores and staff working with buildings.
- Most of the custodial staff are also working with treatment programmes.

United Kingdom

England and Wales: Other staff (industrials) = 135.

Notes – Table 18

See notes on Tables 16 and 17 (Table 17 is a combination of those two tables).

Finland: As part-time staff (Table 16; 66 persons) have not been calculated on the basis of "full-time equivalents" but on the basis of persons, the totals presented here overestimate slightly the real totals.

Notes – Table 19

See Notes on Tables 16 and 17.

- For some countries the sum of the different categories is less than 100%. This is because the total of staff working in penal institutions includes persons not covered by the headings in the questionnaire.
- For countries where the sum of the different categories of staff would have given a total greater than the total number of staff indicated (that is more than 100%), we have calculated a new total that only takes account of the persons indicated by the country for each category of staff in the Table. This applies to Armenia, Cyprus and Moldova (see also the notes on Tables 16 and 17).

Notes – Table 20

Armenia: Staff working in penal institutions, but not employed by the prison administration: 68 doctors and 9 teachers.

Bosnia and Herzegovina

Federation: Staff working in penal institutions, but not employed by the prison administration: 10 doctors and 4 instructors.

Cyprus: Staff working in penal institutions, but not employed by the prison administration: 1 teacher, 1 doctor, 1 social worker and 1 psychologist.

Estonia: Staff working in penal institutions, but not employed by the prison administration: 59 teachers.

Finland: Staff working in penal institutions, but not employed by the prison administration: 300 teachers, 3 deacons and 2 clergymen (not Lutheran).

France: (a) The staff assigned to the national prison administration exclude staff of the general administration and equipment directorate of the Ministry of Justice.

Georgia: Staff working in penal institutions, but not employed by the prison administration: 11 teachers, 98 doctors and 1088 perimeter guards.

Iceland: Staff working in penal institutions, but not employed by the prison administration: 1,5 doctors, 1 nurse, 4 teachers and 5 kitchen personnel.

Ireland: Staff working in penal institutions, but not employed by the prison administration: 215 teachers and 44 probation and welfare staff.

Italy: Staff working in penal institutions, but not employed by the prison administration: 5272 health-care staff, 726 experts in psychology, 112 experts in criminology and 212 chaplains (catholic religion).

Latvia: Staff working in penal institutions, but not employed by the prison administration: 63 teachers (financed by the Latvian Ministry of Education, foreign funds and organisations) and 576 perimeter guards.

Luxembourg: Staff working in penal institutions, but not employed by the prison administration: 16 medical and paramedical staff and medical secretariat, 9 teachers, 17 unemployed persons employed by the employment service of the Ministry of Labour and Employment and 7 manual workers employed under the "disabled workers" provisions.

Norway:

- (a) The Department of Corrections in the Ministry of Justice has 47 positions but these, collectively, administer both prison and probation services. Some tasks will be exclusively prison or probation whilst others will relate to both services. It is therefore impossible to measure how much time each employee spends on either service but at a very rough estimate 75% (of 47=35,2) of time is spent on prison matters.

- (d) The "import model" is employed consistently and the relevant authority supplies all health and teaching services, etc. The number of persons involved will vary greatly at different times and the Prison Administration collates no such statistics.

Slovenia: Staff working in penal institutions, but not employed by the prison administration: 33 doctors and 4 teachers.

Spain: Staff working in penal institutions, but not employed by the prison administration: 4206 NGO representatives (Non-governmental organisations).

"The former Yugoslav Republic of Macedonia": Staff working in penal institutions, but not employed by the prison administration: 31 security staff.

Ukraine: Staff working in penal institutions, but not employed by the prison administration: 589 teachers.

United Kingdom

Northern Ireland: Staff working in penal institutions, but not employed by the prison administration: 20 teachers, 23 probation staff, 2,5 doctors, nurses and dentists.

Appendices

Italy

Data concerning juvenile institutions

A. Population of penal institutions for minors on 1 September 2002

	1 September 2002	Numbers
1	total number of prisoners (including pre-trial detainees)	461
2	total capacity of penal institutions / prisons	622
3	median age of the prison population (including pre-trial detainees)	17.7
4	number of prisoners under 18 years of age (including pre-trial detainees)	240
5	number of prisoners 18 less to less than 21 years of age	221
6	number of female prisoners (including pre-trial detainees)	40
7	number of foreign prisoners (including pre-trial detainees)	231

8. Breakdown of prisoners (including pre-trial detainees) by legal status

	1 September 2002	Numbers
8.0	total number of prisoners (including pre-trial detainees)	461
8.1	number untried (i.e. no court decision yet reached)	211
8.2	number convicted, but not yet sentenced	---
8.3	number of sentenced prisoners who have appealed or who are within the statutory limit to do so	78
8.4	number of sentenced prisoners (final sentence)	172
8.5	other cases (specify the make-up of the category "other cases")	

9. Breakdown of sentenced prisoners (final sentence) by main offence

	1 September 2002	Numbers
9.0	number of sentenced prisoners (final sentence)	172
9.1	homicide (including attempts)	12
9.2	assault	3
9.3	Rape	2
9.4	Robbery	57
9.5	other types of theft	42
9.6	drug offences	33
9.7	other	23

10. Breakdown of sentenced prisoners (final sentence) by length of the sentence

	1 September 2002	Numbers
10.0	number of sentenced prisoners	172
10.1	less than 1 month	0
10.2	1 month to less than 3 months	8
10.3	3 months to less than 6 months	12
10.4	6 months to less than one year	23
10.5	one year to less than 3 years	69
10.6	3 years to less than 5 years	39
10.7	5 years to less than 10 years	17
10.8	10 years to less than 20 years	4
10.9	20 years and over	0
10.10	life imprisonment	***
10.11	death sentenced prisoners	***

B Other information**11.-12. Entries to penal institutions / prisons in the year 2001**

	Year 2001	Numbers
11	Total number of entries in 2001	1.644
12	number of entries before final sentence, in 2001	1.407

13. Total number of days spent in penal institutions/prisons

	Year 2001	Numbers
13	Total number of days spent in penal institutions/prisons in 2001 (including pre-trial-detention)	177.755

14. Number of escapes

	Year 2001	Numbers
14.1	Number of escapes, in 2001 (by convicted prisoners or pre-trial detainees under the supervision of the prison administration) from a closed penal institution or during administrative transfer (e.g. to/from a court, another penal institution, a hospital)	3
14.2	Other forms of escape in 2001 (absconding or running off) for example: – by prisoners in open institutions (e.g. work farms); – semi-detention; – during authorised short-term absence (or leave) from all types of institutions (including closed prisons).	16

15. Number of deaths

	Year 2001	Numbers
15.1	Total number of deaths in penal institution / prison in 2001 (including pre-trial detainees and sentenced prisoners who died in hospital)	0
15.2	Number of suicides in penal institution / prison in 2001 (including pre-trial detainees and sentenced prisoners who died in hospital)	1

C. Prison staff on 1 September 2002**17. Full-time staff working in penal institutions, omitting part-time staff (and also omitting staff not employed by the prison administration)**

	On 1 September 2002	Numbers
17.0	Total number of staff*	993
17.1	Management staff	17
17.2	Custodial staff (excluding staff already included in 17.1)	732
17.3	Treatment staff (including medical staff, psychologists, social workers, teachers /educators, etc.), excluding staff already included in 17.1 or 17.2	123
17.4	Staff responsible for workshops or vocational training, excluding staff already included in 17.1 to 17.3	
17.5	Administration staff, excluding staff already included in 17.1 to 17.4	106

* The total number of staff also includes 15 workmen.

18. Part-time staff working in penal institutions at 1 September 2002 (omitting staff not employed by the prison administration)

	On 1 September 2002	Number
18.0	Total number of staff	6
18.1	Management staff	0
18.2	Custodial staff (excluding staff already included in 18.1)	0
18.3	Treatment staff (including medical staff, psychologists, social workers, teachers /educators, etc.), excluding staff already included in 18.1 or 18.2	6
18.4	Staff responsible for workshops or vocational training, excluding staff already included in 18.1 to 18.3	0
18.5	Administration staff, excluding staff already included in 18.1 to 18.4	0

19. Staff working in penal institutions but not employed by the prison administration

	On 1 September 2002	Number
19.	Doctors	17
	Teachers	40
	Staff responsible for vocational training	60
	Others	50

20. Staff working at the national prison administration or in regional prison administration offices and other staff not working in penal institutions (e.g. at food or equipment storage depots)

	On 1 September 2002	Numbers
20.1	Staff at the national prison administration	152
20.2	Staff in regional prison administration offices	210
20.3	Other staff working not in penal institutions but e.g. in storage depots – of food, equipment, etc.	

Notes:

- In Italy, the enforcement of conditions imposed on minors, both awaiting trial and after conviction, is entrusted not only to juvenile prisons (*istituti penali per i minorenni*), to which the questionnaire refers, but also to other penal institutions (*centri di prima accoglienza, comunità, uffici di servizio sociale per i minorenni*).
- In particular, the Juvenile Court can entrust to open institutions (so-called *comunità*) both minors awaiting trial, for precautionary measures, and convicted minors, for alternative measures.
- In 2001, there were 1,339 entries to *comunità*, of which 972 were for precautionary measures and 17 were for alternative measures. As of June 30, 2002, there were 366 minors in *comunità*.
- As for the staff, there were 965 working in the other penal institutions, on 1 September 2002.

Canada

I.1 Population of penal institutions (29.9.2002)

total number of prisoners	13528	Prison density per 100 places	98.0
total capacity of penal institutions	13809		
median age of the prison population	36.5		
number of prisoners under 18 years of age	1		
number of prisoners 18 to less than 21 years of age	407	% Prisoners aged under 18	0.0
number of female prisoners	403	% Prisoners 18 to less than 21 years	3.0
number of foreign prisoners	685	% of female prisoners	3.0
		% of foreign prisoners	5.1

Breakdown of prisoners by legal status

Total number of prisoners	13528
number untried (i.e. no court decision yet reached)	***
number convicted, but not yet sentenced	***
number of sentenced prisoners who have appealed or who are within the statutory limit to do so	***
number of sentenced prisoners (final sentence)	13528
other cases (Specify the make-up of the category "other cases")	***

Breakdown of sentenced prisoners by main offence

number of sentenced prisoners (final sentence)	13528		
homicide (including attempts)	3408	% homicide (including attempts)	25.2
assault	1459	% assault	10.8
Rape	1453	% rape	10.7
robbery	3147	% robbery	23.3
other types of theft	966	% other types of theft	7.1
drug offences	1186	% drugs	8.8
other	1909	% other cases	14.1

Breakdown of sentenced prisoners by length of sentence

number of sentenced prisoners (final sentence)	13528		
less than 1 month	***	% less than 1 month	***
1 month to less than 3 months	***	% 1 month to less than 3 months	***
3 months to less than 6 months	***	% 3 months to less than 6 months	***
6 months to less than one year	***	% 6 months to less than one year	***
one year to less than 3 years	***	% one year to less than 3 years	***
3 years to less than 5 years	6131	% 3 years to less than 5 years	45.3
5 years to less than 10 years	2961	% 5 years to less than 10 years	21.9
10 years to less than 20 years	1263	% 10 years to less than 20 years	9.3
20 years and over	382	% 20 years and over	2.8
life imprisonment	2791	% life imprisonment	20.6
death sentenced prisoners	***	% death sentenced prisoners	***

I.2 Flow of entries, length of imprisonment, escapes and deaths in 2001

total number of entries in 2001	8812	Entries before final sentence, in %	4.3
number of entries before final sentence, in 2001	376	Indicator of the average length of imprisonment (in months)	22.5
Total number of days spent in penal institutions/prisons, in 2001 (including pre-trial detention)	6034559	Rate of escape per 10'000 prisoners	30.2
Number of escapes, in 2001 from a closed penal institution or during administrative transfer	50		
Other forms of escape in 2001	3330	% of suicides compared to the total number of deaths	23.5
Total number of deaths in penal institution in 2001 / prison	51	Mortality rate per 10'000 prisoners	30.8
Number of suicides in penal institutions/prisons in 2001	12	Suicide rate per 10'000 prisoners	7.3
		Number of deaths in 2001 (suicides excluded)	39.0
		Mortality rate per 10'000 prisoners (suicides excluded)	23.6

Notes

- Data relate to the federal system only.
- Information on items in part I.1 for 29 September 2002;
- The total number of prisoners also includes prisoners under provincial jurisdiction;
- Sentences of 3 years to less than 5 years: the figure shows the number of persons sentenced to 2 years to less than 5 years (the original lower limit has been modified to reflect federal jurisdiction, that is persons sentenced to two or more years' imprisonment);
- Number of entries before final sentence, in 2001: includes offenders whose entry is based on revocation of parole with outstanding charges;

- Cell occupation is used to establish the number of days spent by offenders in a penal institution;
- Other forms of escape: the number indicated is that of suspension warrants (3289) issued for which the date of execution was more than one day later than the date of issue. The computer system does not make it possible to identify those who were genuinely at large. This is therefore an estimate of the number of persons unlawfully at large following authorised temporary absence. The number of persons at large following authorised temporary absence (41) is also given.

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Space II – Council of Europe penal statistics 2001 survey on community sanctions and measures (CSM)

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The present version of SPACE II concerns community sanctions and measures (CSMs) ordered in 2001. SPACE II covers only those measures and sanctions applied in the community, as defined by the Council of Europe. According to Recommendation No. R (92) 16, CSMs are to be understood as "sanctions and measures which maintain the offender in the community and involve some restriction of his/her liberty through the imposition of conditions and/or obligations, and which are implemented by bodies designated in law for that purpose." The term, furthermore, "designates any sanction imposed by a court or a judge, and any measure taken before or instead of a decision or a sanction as well as ways of enforcing a sentence of imprisonment outside a prison establishment".

Arrangements for their implementation must entail some form of assistance and supervision in the community (fines or suspended sentences without supervision are therefore not CSMs). SPACE II is not designed to cover all CSMs. It does not cover the sanctions and measures provided for in juvenile criminal law. It only concerns measures taken subsequent to the passing of a sentence. In some countries the prosecuting authorities can choose to impose certain measures which are "taken before or instead of a decision on a sanction". Such measures are not covered by SPACE II.

Specific comments

- The CSMs must have been ordered as principal and not supplementary penalties.
- SPACE II concerns statistics for the CSMs ordered in year n, irrespective of the date of enforcement (year n, subsequent year or not enforced at all).
- SPACE II does not cover measures taken in favour of a prisoner prior to release from a penal institution (semi-liberty for example, unless such measures were ordered *ab initio*).
- SPACE II does not cover post-prison supervisory, support or probation measures applied to offenders in the community once they have served their sentence.

Sanctions and measures registered

1. Conditional deferral of a sentence: postponement of the passing of a sentence for a given period in order to assess the convicted person's conduct over that period.

2. Treatment ordered *ab initio* for:
 - a. drug-dependent offenders
 - b. alcoholics
 - c. offenders with mental disorders
 - d. persons convicted of a sexual offence.
3. Compensation ordered *ab initio* by a criminal court (money payable by the offender to the victim in damages).
4. Community service:
 - a. a sanction in its own right after an offender has been found guilty
 - b. a sanction in cases where a fully suspended prison sentence has been passed
 - c. a sanction imposed in the case of non-payment of a fine
 - d. unsuspended custodial sentence, followed by community service after release
 - e. community service performed as part of probation (sanction in its own right) or other forms of community service.
5. Probation:
 - a. a sanction in its own right after an offender has been found guilty (without the passing of a sentence of imprisonment),
 - b. a fully suspended prison sentence is passed
 - c. a partially suspended prison sentence is passed.

It is recalled that these sentences must entail assistance and supervision in the community.
6. Enforcement, in the community, of a sentence involving deprivation of liberty under an electronic monitoring scheme (measure ordered *ab initio*).
7. Semi-liberty ordered *ab initio*.
8. Conditional release of an offender before completion of the sentence.
9. Combined sanctions and measures, other than those mentioned in item 5.c: unsuspended custodial sentences, followed by treatment ordered *ab initio* for:
 - a. drug-dependent offenders
 - b. alcoholics
 - c. offenders with mental disorders
 - d. persons convicted of a sexual offence.

10. Other sanctions and measures which the respondent considers important in statistical terms and which are not covered by the preceding categories.

For purposes of comparison, data were also collected on prison sentences without either partial or full suspensions, specifying length of sentence.

Presentation of the statistical data

Conventions

Case 1 – When the completed questionnaire explicitly indicates that the CSM does not exist in the legislation of a state, the entry in the tables is "****" meaning "question not applicable".

Case 2 – When the completed questionnaire explicitly indicates that the CSM exists in the legislation of a state but that it was not ordered during the reference year, the entry in the tables is "0".

Case 3 – When the completed questionnaire explicitly indicates that the CSM exists in the legislation of a state but that relevant statistical data are not available, the entry in the tables is

Case 4 – When the completed questionnaire indicates that there is provision for CSM but that the definition of the latter does not correspond with the definition used by SPACE, the entry in the tables is: (...). Where a country has provided figures, they are given in brackets.

Case 5 – When it cannot be decided whether the situation is as specified in Cases 1 to 4 "—" are entered. This is done when the questionnaire box is left blank or bears a symbol of imprecise meaning (e.g. "/", "-").

To sum up:

***	Question not applicable
0	No CSM ordered, but it exists in law
...	Statistics not available, but the CSM exists in law
(...)	There is provision in legislation for CSM but the definition is not the same as the one used by SPACE. Wherever possible, differences are explained in the notes on the tables.
[--]	Unable to decide between the above options.

The total numbers for the ten categories of sanctions or measures defined above are given in Table 1.

Tables 2, 3 and 4 contain the data concerning prison sentences without full or partial suspension. These provide a means of comparison for determining the frequency with which the various CSMs are applied.

On that basis we have calculated two indices: a *global frequency index (GFI)* obtained by finding the ratio of the number of CSMs in each category ordered in 2001 to the number of prison sentences without full or partial suspension ordered the same year (figure per 100), and a *specific frequency index (SFI)*, calculated as before but including only sentences of less than one year in the denominator.

Both indices are expressed as a percentage. Accordingly, the GFI represents the number of CSM in each category ordered for every 100 custodial sentences, without full or partial suspension, handed down in the same year. The SFI represents the number of CSM in each category ordered for every 100 custodial sentences of less than one year, without full or partial suspension, handed down in the same year.

The GFI figures for each of the main categories are given in Table 5 and the SFI figures on Table 6 Note, however, that they are not calculated in respect of conditional releases (see below).

Tables 7-11 deal with CSMs which may take different forms: treatment ordered, community service, probation, combined sanctions and measures, and others.

Measures of conditional release (CR) have undergone special processing (Table 12). GFI and SFI figures are not at all meaningful for these measures, which apply to prisoners serving a custodial sentence. It is more instructive to work out a ratio between the number of CRs for the year and the average number of prisoners eligible for them, using as the denominator the number of finally sentenced prisoners present at 1.9.1999 given in SPACE I. At all events this does not represent a "rate of award", as not all prisoners serving sentences necessarily fulfil the prescribed conditions to be granted conditional release.

Measures of central tendency

In the tables containing ratios or percentages for at least 10 countries we have used the following measures to clarify further the distribution of data:

- a. Average: the arithmetic average or arithmetic mean is the sum of the data provided divided by the number of countries having supplied them. Very high or very low values can have a pronounced effect on the average, which is why we have also indicated the median as a measure of central tendency;
- b. Median: the median is the value which divides the data provided by the countries into two equal groups. 50% of countries will be above the median and the other 50% below it. The median is not affected by very high or very low values.
- c. minimum: the lowest value in the table;
- d. maximum: the highest value in the table.

Validation procedure

We have introduced a validation procedure into this edition of SPACE II. We noticed certain inconsistencies in some of the completed questionnaires. Sometimes these were just minor problems, caused by typing errors

when the figures were being entered; sometimes the data did not seem to be entirely consistent throughout the questionnaire; sometimes the sum of the cells did not coincide with the totals given in the tables; and sometimes, when calculating the ratios per 100,000 inhabitants or the GFI and SFI indices, we noticed anomalous data (outliers), ie extreme values which were difficult, if not impossible, to explain.

Accordingly, we asked for further clarification and verification from 11 of the 29 countries which had sent in replies. Six of these responded to our questions. In most cases, it was possible to correct the data, but in others, it was necessary to add explanations, sometimes very detailed, for certain data which might otherwise have seemed inconsistent. For those countries which did not respond to our questions, we have added some notes to those tables containing implausible data. Readers are therefore advised to read the notes to the various tables.

Lastly, despite considerable effort to identify errors and inconsistencies, some may have been missed. In addition, it should be pointed out that it was not always possible to correct satisfactorily the errors and inconsistencies.

General Notes

1) Population figures

- The 2001 population figure was arrived at by calculating the average population based on figures as at 1 January 2001 and 1 January 2002. The figures come from "Recent demographic developments in Europe 2001" and "Recent demographic developments in Europe 2002", Council of Europe Publishing, Strasbourg.
- For the population of Scotland, we have used figures provided by our national correspondent, reflecting the population as at 30 June 2000 (the most recent figures available).

2) Reference year

Poland: Figures for 2000 (instead of 2001).

3) Bosnia and Herzegovina

Only one of the two Entities of which Bosnia and Herzegovina is composed, the Federation of Bosnia and Herzegovina (the Federation), has provided figures. The other Entity, Republika Srpska, has not.

Table 1. Community sanctions and measures ordered in 2001: numbers

	Deferral	Treatment ordered <i>ab initio</i>	Compensa-tion order	Community service	Probation	Electronic monitoring	Semi-liberty ordered <i>ab initio</i>	Conditional release	Combined sanctions & measures
Albania									
Andorra	***	0	158	0	472	0	0	9	8
Armenia									
Austria	***	***	***	***	...	***	***	1165	***
Azerbaijan	***	***	***	0	***	***	***	1423	***
Belgium	(3357)	***	***	3567	4177	***	***	832	***
Bosnia and Herzegovina: Federation	***	92	***	***	[--]	***	***	[--]	21
Bulgaria									
Croatia									
Cyprus	...	...	...	0	179	***	***	***	***
Czech Republic	32817	...	...	(8835)	...	***	***	4264	...
Denmark	***	2007	***	4238	1820	***	***	1400	***
Estonia	[--]	[--]	...	[--]	[--]	[--]	[--]	...	[--]
Finland									
France									
Georgia									
Germany	...	***	3510	...	84552	...	...	17190	***
Greece									
Hungary	...	264	***	...	...	***	***	...	***
Iceland	0	...	...	(142)	17	***	***	100	0
Ireland									
Italy	***	***	***	***	***	***	39	35	***
Latvia	***	...	...	1014	***	***	***	734	...
Liechtenstein									
Lithuania	10245	***	1800	155	***	***	***	1829	***
Luxembourg	31	...	***	(116)	275	***	***	28	...
Malta									
Moldova	...	...	***	***	6029	***	...	232	***
Netherlands	23001	***	8488	(22416)	***	[--]	***	***	***
Norway	...	...	...	766	12440	***	***	3710	***
Poland	143497	...	***	25284	171662	***	14796	15977	***
Portugal	***	31	***	...	...	...	***	1903	***
Romania	***	246	...	***	***	***	***	25512	40
Russia									
San Marino									
Slovakia	16431	429	***	***	***	***	***	1700	...
Slovenia	***	36	***	***	...	***	***	(467)	***
Spain									
Sweden	(9434)	***	...	4320	6429	***	***	5235	***
Switzerland	***	...	***	(4027)	...	(...)	***	...	***
"the former Yugoslav Republic of Macedonia"	2421	[--]	[--]	[--]	[--]	[--]	[--]	333	[--]
Turkey	...	...	...	...	...	...	***	...	***
Ukraine									
United Kingdom: England and Wales									
Northern Ireland									
Scotland	...	...	1138	4869	8171	201	***	340	...

Table 2. Number of prison sentences ordered in 2001 (without full or partial suspension) per 100 000 inhabitants

	Number of prison sentences	Number of inhabitants (average in 2001) in thousands	Prison sentence rate per 100 000 inhabitants
Albania			
Andorra	66	66	100
Armenia			
Austria	5718	8 130	70
Azerbaijan	14949	8 111	184
Belgium	12003	10 263	117
Bosnia and Herzegovina: Federation	920	3 900	24
Bulgaria			
Croatia			
Cyprus	1318	762	173
Czech Republic	12533	10 268	122
Denmark	9489	5 359	177
Estonia	...	***	...
Finland			
France			
Georgia			
Germany	40753	82 345	49
Greece			
Hungary	...	***	...
Iceland	306	285	107
Ireland			
Italy	...	***	...
Latvia	3272	2 355	139
Liechtenstein			
Lithuania	10406	3 481	299
Luxembourg	408	442	92
Malta			
Moldova	7061	3 631	194
Netherlands	21910	16 046	137
Norway	8441	4 514	187
Poland	(30687)	38 638	79
Portugal	5118	10 299	50
Romania	33955	22 430	151
Russia			
San Marino			
Slovakia	4332	5 379	81
Slovenia	1197	1 992	60
Spain			
Sweden	12793	8 896	144
Switzerland	...	***	...
"the former Yugoslav Republic of Macedonia"	4555	2 035	224
Turkey	...	***	...
Ukraine			
United Kingdom: England and Wales			
Northern Ireland			
Scotland	(16498)	5 115	323
Average			137
Median			130
Minimum			24
Maximum			323

Table 3.1 Prison sentences ordered in 2001 (without full or partial suspension): breakdown according to length/numbers

	Less than one year	One year to less than 3 years	3 years to less than 5 years	5 years to less than 10 years	10 years to less than 20 years	20 years and over	Life sentence
Albania							
Andorra	46	15	2	2	1	0	***
Armenia							
Austria	4096	1212	222		181		7
Azerbaijan	205	1402	5006	5580	2598	0	158
Belgium	10203	1417	264	71	25	***	22
Bosnia and Herzegovina: Federation	259	216	109	195	135	6	[--]
Bulgaria							
Croatia							
Cyprus	805	438	49	16	9	0	1
Czech Republic	8407	3563			562		1
Denmark	8645	629	109		99	***	3
Estonia	[--]	[--]	[--]	[--]	47	[--]	2
Finland							
France							
Georgia							
Germany	24929	10990	3161	1364	202	...	107
Greece							
Hungary	...	...	...	...	...	...	...
Iceland	245	42	8	7	4	0	0
Ireland							
Italy	...	...	...	...	...	...	...
Latvia	386	2042	386	281	57	***	1
Liechtenstein							
Lithuania	817	3373	2353	2765	1010	9	0
Luxembourg	251			157			
Malta							
Moldova	41	506	1557	3110	1801		46
Netherlands	19658	1410	555	243	43	0	0
Norway	7624	611	114	...	...	...	***
Poland	13996	13054	2411	836	195	49	12
Portugal	782	1657	1149	1267	238	25	***
Romania	7079	...	...	3242	473	288	8
Russia							
San Marino							
Slovakia	[--]	[--]	[--]	[--]	[--]	[--]	[--]
Slovenia	814	270	79	29	5	0	***
Spain							
Sweden	10961		1822			***	10
Switzerland	...	...	...	...	...	...	...
"the former Yugoslav Republic of Macedonia"	3716	723	77	31	8	***	***
Turkey	...	...	...	...	...	...	...
Ukraine							
United Kingdom: England and Wales							
Northern Ireland							
Scotland	14487	1326	358	264	29	0	34

Table 3.2 Prison sentences ordered in 2001 (without full or partial suspension): breakdown according to length/percentages

	Less than one year	One year to less than 3 years	3 years to less than 5 years	5 years to less than 10 years	10 years to less than 20 years	20 years and over	Life sentence
Albania							
Andorra	69,7	22,7	3,0	3,0	1,5	0,0	***
Armenia							
Austria	71,6	21,2	3,9		3,2		0,1
Azerbaijan	1,4	9,4	33,5	37,3	17,4	0,0	1,1
Belgium	85,0	11,8	2,2	0,6	0,2	***	0,2
Bosnia and Herzegovina:							
Federation	28,2	23,5	11,8	21,2	14,7	0,7	[--]
Bulgaria							
Croatia							
Cyprus	61,1	33,2	3,7	1,2	0,7	0,0	0,1
Czech Republic	67,1		28,4		4,5		0,01
Denmark	91,1	6,6	1,1		1,0	***	0,0
Estonia	[--]	[--]	[--]	[--]	...	[--]	...
Finland							
France							
Georgia							
Germany	61,2	27,0	7,8	3,3	0,5	...	0,3
Greece							
Hungary							
Iceland	80,1	13,7	2,6	2,3	1,3	0,0	0,0
Ireland							
Italy							
Latvia	11,8	62,4	15,4	8,6	1,7	***	0,0
Liechtenstein							
Lithuania	7,9	32,4	22,6	26,6	9,7	0,1	0,0
Luxembourg	61,5			38,5			
Malta							
Moldova	0,6	7,2	22,1	44,0	25,5	0,7	
Netherlands	89,7	6,4	2,5	1,1	0,2	0,0	0,0
Norway	90,3	7,2	1,4	...	...	...	***
Poland	45,6	42,5	7,9	2,7	0,6	0,2	0,04
Portugal	15,3	32,4	22,5	24,8	4,7	0,5	***
Romania	20,8	...	...	9,5	1,4	0,8	0,02
Russia							
San Marino							
Slovakia	[--]	[--]	[--]	[--]	[--]	[--]	[--]
Slovenia	68,0	22,6	6,6	2,4	0,4	0,0	***
Spain							
Sweden	85,7			14,2		***	0,1
Switzerland	...	...	...	...	...	...	...
"the former Yugoslav Republic of Macedonia"							
Turkey	81,6	15,9	1,7	0,7	0,2	***	***
Ukraine	...	...	...	...	...	...	...
United Kingdom: England and Wales							
Northern Ireland							
Scotland	87,8	8,0	2,2	1,6	0,2	0,0	0,2
<i>Average</i>	55,8	21,4	9,2	11,2	3,5	0,2	0,2
<i>Median</i>	67,1	21,2	3,9	3,0	1,0	0,0	0,1
<i>Minimum</i>	0,6	6,4	1,1	0,6	0,2	0,0	0,0
<i>Maximum</i>	91,1	62,4	33,5	44,0	17,4	0,8	1,1

Table 3.3 Prison sentences ordered in 2001 (without full or partial suspension): breakdown according to length/ cumulated frequencies in %

	Total sentences	Less than one year (Tab. 3.2)	1 year and over (of determinate duration)	3 years and over (of determinate duration)	5 years and over (of determinate duration)	10 years and over (of determinate duration)	20 years and over (of determinate duration)	Life sentence (Tab. 3.2)
Albania								
Andorra	100.0	69.7	30.3	7.6	4.5	1.5	0.0	***
Armenia								
Austria	100.0	71.6	28.2	7.0	3.2	...	...	0.1
Azerbaijan	100.0	1.4	97.6	88.2	54.7	17.4	0.0	1.1
Belgium	100.0	85.0	14.8	3.0	0.8	0.2	***	0.2
Bosnia and Herzegovina: Federation	100.0	28.2	71.8	48.4	36.5	15.3	0.7	[--]
Bulgaria								
Croatia								
Cyprus	100.0	61.1	38.8	5.6	1.9	0.7	0.0	0.1
Czech Republic	100.0	67.1	32.9	...	4.5	...	...	0.01
Denmark	100.0	91.1	8.8	2.2	1.0	...	***	0.0
Estonia	...	[--]	[--]	[--]	[--]	[--]	[--]	...
Finland								
France								
Georgia								
Germany	100.0	61.2	38.6	11.6	3.8	0.5	...	0.3
Greece								
Hungary	...	...	...	...	...	...	...	...
Iceland	100.0	80.1	19.9	6.2	3.6	1.3	0.0	0.0
Ireland								
Italy	...	...	...	...	...	...	...	...
Latvia	100.0	11.8	88.2	25.8	10.3	1.7	***	0.0
Liechtenstein								
Lithuania	(99.2)	7.9	91.4	59.0	36.4	9.8	0.1	0.0
Luxembourg	100.0	61.5	38.5	...	...	...	...	...
Malta								
Moldova	100.0	0.6	98.8	91.6	69.6	25.5	...	0.7
Netherlands	100.0	89.7	10.3	3.8	1.3	0.2	0.0	0.0
Norway	98.9	90.3	8.6	1.4	...	...	...	***
Poland	(99.6)	45.6	53.9	11.4	3.5	0.8	0.2	0.04
Portugal	100.0	15.3	84.7	52.3	29.9	5.1	0.5	***
Romania	32.7	20.8	...	...	11.8	2.2	0.8	0.02
Russia								
San Marino								
Slovakia	...	[--]	[--]	[--]	[--]	[--]	[--]	[--]
Slovenia	100.0	68.0	32.0	9.4	2.8	0.4	0.0	***
Spain								
Sweden	100.0	85.7	14.2	...	...	...	***	0.1
Switzerland	...	...	...	...	...	...	...	...
"the former Yugoslav Republic of Macedonia"	100.0	81.6	18.4	2.5	0.9	0.2	***	***
Turkey	...	...	...	...	...	...	...	...
Ukraine								
United Kingdom: England and Wales								
Northern Ireland								
Scotland	100.0	87.8	12.0	3.9	1.8	0.2	0.0	0.2
<i>Average</i>		55.8	42.4	23.2	14.1	4.9	0.2	0.2
<i>Median</i>		67.1	32.5	7.6	3.7	1.3	0.0	0.1
<i>Minimum</i>		0.6	8.6	1.4	0.8	0.2	0.0	0.0
<i>Maximum</i>		91.1	98.8	91.6	69.6	25.5	0.8	1.1

Table 4.1 Prison sentences of *less than one year*, ordered in 2001 (without full or partial suspension): breakdown according to length/numbers

	Less than 3 months	3 months to less than 6 months	6 months to less than one year	Total: less than one year (Table 3.1)
Albania				
Andorra	32	6	8	46
Armenia				
Austria	1800	1137	1159	4096
Azerbaijan	***	67	138	205
Belgium	5086	3131	1986	10203
Bosnia and Herzegovina: Federation	62	83	114	259
Bulgaria				
Croatia				
Cyprus	444	227	134	805
Czech Republic		8407		8407
Denmark	6343	1476	826	8645
Estonia	[--]	[--]	[--]	[--]
Finland				
France				
Georgia				
Germany		11543	13386	24929
Greece				
Hungary	...	...	...	...
Iceland	153	64	28	245
Ireland				
Italy	...	...	...	...
Latvia		386		386
Liechtenstein				
Lithuania	0	229	588	817
Luxembourg	47	66	138	251
Malta				
Moldova	***	***	41	41
Netherlands	15297	2766	1595	19658
Norway	5888	790	946	7624
Poland	***	920	13076	13996
Portugal	117	195	654	966
Romania	3168	...	3911	7079
Russia				
San Marino				
Slovakia	[--]	[--]	[--]	[--]
Slovenia	191	312	311	814
Spain				
Sweden	5541	2538	2882	10961
Switzerland	...	...	...	...
"the former Yugoslav Republic of Macedonia"	1353	1372	991	3716
Turkey	...	...	...	...
Ukraine				
United Kingdom: England and Wales				
Northern Ireland				
Scotland	4691	7148	2648	14487

Table 4.2 Prison sentences of *less than one year*, ordered in 2001 (without full or partial suspension): breakdown according to length/percentages

	Less than 3 months	3 months to less than 6 months	6 months to less than one year	Total: less than one year (Table 3.1)
Albania				
Andorra	69.6	13.0	17.4	100
Armenia				
Austria	43.9	27.8	28.3	100
Azerbaijan	***	32.7	67.3	100
Belgium	49.8	30.7	19.5	100
Bosnia and Herzegovina; Federation	23.9	32.0	44.0	100
Bulgaria				
Croatia				
Cyprus	55.2	28.2	16.6	100
Czech Republic		100.0		100
Denmark	73.4	17.1	9.6	100
Estonia	[--]	[--]	[--]	...
Finland				
France				
Georgia				
Germany	46.3		53.7	100
Greece				
Hungary	...	...	...	...
Iceland	62.4	26.1	11.4	100
Ireland				
Italy	***	***	***	...
Latvia		100.0		100
Liechtenstein				
Lithuania	0.0	28.0	72.0	100
Luxembourg	18.7	26.3	55.0	100
Malta				
Moldova	***	***	100.0	100
Netherlands	77.8	14.1	8.1	100
Norway	77.2	10.4	12.4	100
Poland	***	6.6	93.4	100
Portugal	12.1	20.2	67.7	100
Romania	44.8	...	55.2	100
Russia				
San Marino				
Slovakia	[--]	[--]	[--]	...
Slovenia	23.5	38.3	38.2	100
Spain				
Sweden	50.6	23.2	26.3	100
Switzerland	...	...	...	...
"the former Yugoslav Republic of Macedonia"	36.4	36.9	26.7	100
Turkey	...	...	...	...
Ukraine				
United Kingdom: England and Wales				
Northern Ireland				
Scotland	32.4	49.3	18.3	100
<i>Average</i>	44.2	25.6	40.1	
<i>Median</i>	44.8	27.1	28.3	
<i>Minimum</i>	0.0	6.6	8.1	
<i>Maximum</i>	77.8	49.3	100.0	

Table 4.3 Prison sentences of *less than one year*, ordered in 2001 (without full or partial suspension): breakdown according to length/cumulated frequencies in %

	Total less than one year	Less than 3 months (Table 4.2)	Less than 6 months
Albania			
Andorra	100	69.6	82.6
Armenia			
Austria	100	43.9	71.7
Azerbaijan	100	***	32.7
Belgium	100	49.8	80.5
Bosnia and Herzegovina: Federation	100	23.9	56.0
Bulgaria			
Croatia			
Cyprus	100	55.2	83.4
Czech Republic	100	...	...
Denmark	100	73.4	90.4
Estonia	...	[--]	[--]
Finland			
France			
Georgia			
Germany	100	...	46.3
Greece			
Hungary	...	...	...
Iceland	100	62.4	88.6
Ireland			
Italy	...	...	...
Latvia	100	...	...
Liechtenstein			
Lithuania	100	0.0	28.0
Luxembourg	100	18.7	45.0
Malta			
Moldova	***	***	***
Netherlands	100	77.8	91.9
Norway	100	77.2	87.6
Poland	100	***	6.6
Portugal	100	12.1	32.3
Romania	100	44.8	...
Russia			
San Marino			
Slovakia	...	[--]	[--]
Slovenia	100	23.5	61.8
Spain			
Sweden	100	50.6	73.7
Switzerland	...	...	...
"the former Yugoslav Republic of Macedonia"	100	36.4	73.3
Turkey	...	...	...
Ukraine			
United Kingdom: England and Wales			
Northern Ireland			
Scotland	100	32.4	81.7
<i>Average</i>		44.2	63.9
<i>Median</i>		44.8	73.3
<i>Minimum</i>		0.0	6.6
<i>Maximum</i>		77.8	91.9

Table 5. Community sanctions and measures ordered in 2001: global frequency index (GFI) per 100 prison sentences (without full or partial suspension)

	Deferral	Treatment ordered <i>ab initio</i>	Compensation order	Community service	Probation	Electronic monitoring	Semi-liberty ordered <i>ab initio</i>	Conditional release-	Combined sanctions & measures
Albania									
Andorra	***	0.0	239.4	0.0	715.2	0.0	0.0		12.1
Armenia									
Austria	***	***	***	***	...	***	***		***
Azerbaijan	***	***	***	0.0	***	***	***		***
Belgium	(28.0)	***	***	29.7	34.8	***	***		***
Bosnia and Herzegovina:									
Federation	***	10.0	***	***	[--]	***	***		2.3
Bulgaria									
Croatia									
Cyprus	...	...	...	0.0	13.6	***	***		***
Czech Republic	261.8	...	...	(70.5)	...	***	***		...
Denmark	***	21.2	***	44.7	19.2	***	***		***
Estonia	[--]	[--]	...	[--]	[--]	[--]	[--]		[--]
Finland									
France									
Georgia									
Germany	...	***	8.6	...	207.5	...	...		***
Greece									
Hungary	...	...	***	...	...	***	***		***
Iceland	0.0	...	...	(46.4)	5.6	***	***		0.0
Ireland									
Italy	***	***	***	***	***	***	...		***
Latvia	***	...	...	31.0	***	***	***		...
Liechtenstein									
Lithuania	98.5	***	17.3	1.5	***	***	***		***
Luxembourg	7.6	...	***	(28.4)	67.4	***	***		...
Malta									
Moldova	...	...	***	***	85.4	***	***		***
Netherlands	105.0	***	38.7	(102.3)	***	[--]	***		***
Norway	...	...	...	9.1	147.4	***	***		***
Poland	467.6	...	***	82.4	559.4	***	48.2		***
Portugal	***	0.6	***	...	...	...	***		***
Romania	***	0.7	...	***	***	***	***		0.1
Russia									
San Marino									
Slovakia	379.3	9.9	***	***	***	***	***		...
Slovenia	***	3.0	***	***	...	***	***		***
Spain									
Sweden	(73.7)	***	...	33.8	50.3	***	***		***
Switzerland	***	...	***	(...)	...	(...)	***		***
"the former Yugoslav Republic of Macedonia"	53.2	[--]	[--]	[--]	[--]	[--]	[--]		[--]
Turkey	...	...	...	...	...	...	***		***
Ukraine									
United Kingdom: England and Wales									
Northern Ireland									
Scotland	...	...	6.9	29.5	49.5	1.2	***		...

Table 6. Community sanctions and measures ordered in 2001: specific frequency index (SFI) per 100 prison sentences (without full or partial suspension)

	Deferral	Treatment ordered <i>ab initio</i>	Compensation order	Community service	Probation	Electronic monitoring	Semi-liberty ordered <i>ab initio</i>	Conditional release-	Combined sanctions & measures
Albania									
Andorra	***	0,0	343,5	0,0	1026,1	0,0	0,0		17,4
Armenia									
Austria	***	***	***	***	...	***	***		***
Azerbaijan	***	***	***	0,0	***	***	***		***
Belgium	(32,9)	***	***	35,0	40,9	***	***		***
Bosnia and Herzegovina: Federation	***	35,5	***	***	[--]	***	***		8,1
Bulgaria									
Croatia									
Cyprus	...	...	...	0,0	22,2	***	***		***
Czech Republic	390,4	...	...	(105,1)	...	***	***		...
Denmark	***	23,2	***	49,0	21,1	***	***		***
Estonia	[--]	[--]	...	[--]	[--]	[--]	[--]		[--]
Finland									
France									
Georgia									
Germany	...	***	14,1	...	339,2	...	...		***
Greece									
Hungary	...	...	***	...	...	***	***		***
Iceland	0,0	...	...	(58,0)	6,9	***	***		0,0
Ireland									
Italy	***	***	***	***	***	***	...		***
Latvia	***	...	...	262,7	***	***	***		...
Liechtenstein									
Lithuania	1254,0	***	220,3	19,0	***	***	***		***
Luxembourg	12,4	...	***	(46,2)	109,6	***	***		...
Malta									
Moldova	...	...	***	***	14704,9	***	...		***
Netherlands	117,0	***	43,2	(114,0)	***	[--]	***		***
Norway	...	...	...	10,0	163,2	***	***		***
Poland	1025,3	...	***	180,7	1226,5	***	105,7		***
Portugal	***	4,0	***	...	...	...	***		***
Romania	***	3,5	...	***	***	***	***		0,6
Russia									
San Marino									
Slovakia	...	...	***	***	***	***	***		...
Slovenia		4,4					***		***
Spain									
Sweden	(86,1)	***	...	39,4	58,7	***	***		***
Switzerland		...	***	(...)	...	(...)	***		***
"the former Yugoslav Republic of Macedonia"	65,2	[--]	[--]	[--]	[--]	[--]	[--]	[--]	[--]
Turkey	...	...	...	...	...	...	***		***
Ukraine									
United Kingdom: England and Wales									
Northern Ireland									
Scotland	...	...	7,9	33,6	56,4	1,4	***		...

Table 7.1 Treatment ordered *ab initio* in 2001: numbers

	Treatment ordered <i>ab initio</i> for ...				
	Total	Drug-dependent offenders	Alcoholics	Offenders with mental disorders	Persons convicted of a sexual offence
Albania					
Andorra	0	0	0	0	0
Armenia					
Austria	***	***	***	***	***
Azerbaijan	***	***	***	***	***
Belgium	***	***	***	***	***
Bosnia and Herzegovina: Federation	92	[--]	[--]	[--]	[--]
Bulgaria					
Croatia					
Cyprus	...	33	...	...	3
Czech Republic	...	...	...	...	...
Denmark	2007	33	1627	326	21
Estonia	[--]	[--]	[--]	[--]	[--]
Finland					
France					
Georgia					
Germany	***	***	***	***	***
Greece					
Hungary	264	***	158	106	***
Iceland	...	...	...	...	...
Ireland					
Italy	***	***	***	***	***
Latvia	...	...	...	...	...
Liechtenstein					
Lithuania	***	***	***	***	***
Luxembourg	...	...	...	...	...
Malta					
Moldova	...	...	...	...	...
Netherlands	***	***	***	***	***
Norway	...	...	...	...	...
Poland	...	...	...	...	***
Portugal	31	3	***	28	***
Romania	246	...	...	...	...
Russia					
San Marino					
Slovakia	429	250	135	...	...
Slovenia	36	***	***	36	***
Spain					
Sweden	***	***	***	***	***
Switzerland	...	...	...	...	...
"the former Yugoslav Republic of Macedonia"	[--]	[--]	[--]	[--]	[--]
Turkey	...	134	3	...	32
Ukraine					
United Kingdom: England and Wales					
Northern Ireland					
Scotland	...	276	...	...	...

Table 7.2 Treatment ordered *ab initio* in 2001: percentages

	Treatment ordered <i>ab initio</i> for ...				
	Total	Drug-dependent offenders	Alcoholics	Offenders with mental disorders	Persons convicted of a sexual offence
Albania					
Andorra	0	0	0	0	0
Armenia					
Austria	***	***	***	***	***
Azerbaijan	***	***	***	***	***
Belgium	***	***	***	***	***
Bosnia and Herzegovina: Federation	100,0	[--]	[--]	[--]	[--]
Bulgaria					
Croatia					
Cyprus	...	...	...	...	...
Czech Republic	...	...	...	...	...
Denmark	100,0	1,6	81,1	16,2	1,0
Estonia	[--]	[--]	[--]	[--]	[--]
Finland					
France					
Georgia					
Germany	***	***	***	***	***
Greece					
Hungary	100,0	***	59,8	40,2	***
Iceland	...	...	...	...	...
Ireland					
Italy	***	***	***	***	***
Latvia	...	...	...	...	...
Liechtenstein					
Lithuania	***	***	***	***	***
Luxembourg	...	...	...	...	...
Malta					
Moldova	...	...	...	...	...
Netherlands	***	***	***	***	***
Norway	...	...	...	...	...
Poland	...	...	...	...	***
Portugal	100,0	9,7	***	90,3	***
Romania	100,0	...	...	...	...
Russia					
San Marino					
Slovakia	89,8	58,3	31,5	...	...
Slovenia	100,0	***	***	100,0	***
Spain					
Sweden	***	***	***	***	***
Switzerland	...	...	...	...	...
"the former Yugoslav Republic of Macedonia"	[--]	[--]	[--]	[--]	[--]
Turkey	...	...	...	...	...
Ukraine					
United Kingdom: England and Wales					
Northern Ireland					
Scotland	...	...	...	...	...

Table 8.1 Penalties of community service ordered in 2001: numbers

- (a) Sanction in its own right after an offender has been found guilty
- (b) Sanction in cases where a fully suspended prison sentence has been passed
- (c) Sanction imposed in the case of non-payment of a fine
- (d) Unsuspended custodial sentence, followed by community service after release
- (e) Community service performed as part of probation (sentencing in its own right) or other forms of community service

	Total	(a)	(b)	(c)	(d)	(e)
Albania						
Andorra	0	***	0	***	0	***
Armenia						
Austria	***	***	***	***	***	***
Azerbaijan	0	0	...	...	***	***
Belgium	3567	***	...	***	***	734
Bosnia and Herzegovina: Federation	***	***	***	***	***	***
Bulgaria						
Croatia						
Cyprus	0	0	***	***	***	0
Czech Republic	(8835)	***	***	***	***	***
Denmark	4238	...	...	***	74	4164
Estonia	[--]	...	[--]	...	[--]	[--]
Finland						
France						
Georgia						
Germany	...	...	***	31372	***	***
Greece						
Hungary	...	...	...	...	...	...
Iceland	(142)	***	***	***	***	***
Ireland						
Italy	***	***	***	***	***	***
Latvia	1014	1014	***	***	***	***
Liechtenstein						
Lithuania	155	***	***	155	***	...
Luxembourg	(116)	***	***	***	***	***
Malta						
Moldova	***	***	***	***	***	***
Netherlands	(22416)	[--]	[--]	[--]	[--]	[--]
Norway	766	...	***	***	...	***
Poland	25284	14507	***	10777	***	***
Portugal	...	94	...	***	***	...
Romania	***	***	***	***	***	***
Russia						
San Marino						
Slovakia	***	***	***	***	***	***
Slovenia	***	***	***	***	***	***
Spain						
Sweden	4320	***	***	***	***	4320
Switzerland	(4027)	***	***	***	***	(...)
"the former Yugoslav Republic of Macedonia"	[--]	[--]	[--]	[--]	[--]	[--]
Turkey	...	...	...	...	...	...
Ukraine						
United Kingdom: England and Wales						
Northern Ireland						
Scotland	4869	4869	***	***	***	(1441)

Table 8.2 Penalties of community service ordered in 2001: percentages

- (a) Sanction in its own right after an offender has been found guilty
- (b) Sanction in cases where a fully suspended prison sentence has been passed
- (c) Sanction imposed in the case of non-payment of a fine
- (d) Unsuspended custodial sentence, followed by community service after release
- (e) Community service performed as part of probation (sentencing in its own right) or other forms of community service

	Total	(a)	(b)	(c)	(d)	(e)
Albania						
Andorra	0	***	0	***	0	***
Armenia						
Austria	***	***	***	***	***	***
Azerbaijan	0	0	...	...	***	***
Belgium	(20.6)	***	...	***	***	20.6
Bosnia and Herzegovina: Federation	***	***	***	***	***	***
Bulgaria						
Croatia						
Cyprus	0	0	***	***	***	0
Czech Republic	(...)	***	***	***	***	***
Denmark	100.0	...	...	***	1.7	98.3
Estonia	...	...	[--]	...	[--]	[--]
Finland						
France						
Georgia						
Germany	...	...	***	...	***	***
Greece						
Hungary	...	...	...	...	...	...
Iceland	(...)	***	***	***	***	***
Ireland						
Italy	***	***	***	***	***	***
Latvia	100.0	100.0	***	***	***	***
Liechtenstein						
Lithuania	100.0	***	***	100.0	***	...
Luxembourg	(...)	***	***	***	***	***
Malta						
Moldova	***	***	***	***	***	***
Netherlands	(...)	[--]	[--]	[--]	[--]	[--]
Norway	...	...	***	***	...	***
Poland	100.0	57.4	***	42.6	***	***
Portugal	...	...	...	***	***	...
Romania	***	***	***	***	***	***
Russia						
San Marino						
Slovakia	***	***	***	***	***	***
Slovenia	***	***	***	***	***	***
Spain						
Sweden	100.0	***	***	***	***	100.0
Switzerland	(...)	***	***	***	***	(...)
"the former Yugoslav Republic of Macedonia"	...	[--]	[--]	[--]	[--]	[--]
Turkey	...	...	...	...	...	...
Ukraine						
United Kingdom: England and Wales						
Northern Ireland						
Scotland	100.0	100.0	***	***	***	(...)

Table 9.1 Probation measures ordered in 2001: numbers

(a) Sentence in its own right after an offender has been found guilty, without the passing of a sentence of imprisonment
 (b) Fully suspended prison sentence is passed (*)
 (c) Partially suspended prison sentence is passed (*)

	Total	(a)	(b)	(c)
Albania				
Andorra	472	***	445	27
Armenia				
Austria	...	***	...	...
Azerbaijan	***	***	***	***
Belgium	4177	***	2265	1912
Bosnia and Herzegovina: Federation	[--]	[--]	[--]	[--]
Bulgaria				
Croatia				
Cyprus	179	17	162	...
Czech Republic	...	***	...	***
Denmark	1820	1300	300	220
Estonia	[--]	[--]	[--]	[--]
Finland				
France				
Georgia				
Germany	84552	***	84552	***
Greece				
Hungary	...	...	...	...
Iceland	17	...	13	4
Ireland				
Italy	***	***	***	***
Latvia	***	***	***	***
Liechtenstein				
Lithuania	***	***	***	***
Luxembourg	275	***	219	56
Malta				
Moldova	6029	5788	241	...
Netherlands	***	***	***	***
Norway	12440	***	10255	2185
Poland	171662	***	15977	***
Portugal	...	...	1743	***
Romania	***	***	***	***
Russia				
San Marino				
Slovakia	***	***	***	***
Slovenia	...	***	...	***
Spain				
Sweden	6429	6164	***	***
Switzerland	...	...	...	...
"the former Yugoslav Republic of Macedonia"	[--]	[--]	[--]	[--]
Turkey	...	...	...	...
Ukraine				
United Kingdom: England and Wales				
Northern Ireland				
Scotland	8171	8171	***	***

Table 9.2 Probation measures ordered in 2001: percentages

(a) Sentence in its own right after an offender has been found guilty, without the passing of a sentence of imprisonment
 (b) Fully suspended prison sentence is passed (*)
 (c) Partially suspended prison sentence is passed (*)

	Total	(a)	(b)	(c)
Albania				
Andorra	100.0	***	94.3	5.7
Armenia				
Austria	...	***	***	***
Azerbaijan	***	***	***	***
Belgium	100	***	54.2	45.8
Bosnia and Herzegovina: Federation	[--]	[--]	[--]	[--]
Bulgaria				
Croatia				
Cyprus	100.0	9.5	90.5	...
Czech Republic	...	***	...	***
Denmark	100.0	71.4	16.5	12.1
Estonia	...	[--]	[--]	[--]
Finland				
France				
Georgia				
Germany	100.0	***	100.0	***
Greece				
Hungary	...	...	...	...
Iceland	100.0	...	76.5	23.5
Ireland				
Italy	***	***	***	***
Latvia	***	***	***	***
Liechtenstein				
Lithuania	***	***	***	***
Luxembourg	100.0	***	79.6	20.4
Malta				
Moldova	100.0	96.0	4.0	...
Netherlands	***	***	***	***
Norway	100.0	***	82.4	17.6
Poland	(9.3)	***	9.3	***
Portugal	...	...	...	...
Romania	***	***	***	***
Russia				
San Marino				
Slovakia	***	***	***	***
Slovenia	...	***	...	***
Spain				
Sweden	(95.9)	95.9	***	***
Switzerland	...	...	...	...
"the former Yugoslav Republic of Macedonia"	...	[--]	[--]	[--]
Turkey	...	...	...	...
Ukraine				
United Kingdom: England and Wales				
Northern Ireland				
Scotland	100.0	100.0	***	***

Table 10.1 Combined sanctions and measures ordered in 2001 (other than those indicated in Table 9, item c): numbers

	Unsuspended custodial sentence, followed by an obligation to undergo treatment after release planned for ...				
	Total	Drugs addicts	Alcoholics	Persons suffering from psychiatric problems	Persons imprisoned for sex-related offences
Albania					
Andorra	8	5	2	1	0
Armenia					
Austria	***	***	***	***	***
Azerbaijan	***	***	***	***	***
Belgium	***	***	***	***	***
Bosnia and Herzegovina: Federation	21	18	3	[--]	[--]
Bulgaria					
Croatia					
Cyprus	***	***	***	***	***
Czech Republic	...	...	...	...	...
Denmark	***	***	***	***	***
Estonia	[--]	[--]	[--]	[--]	[--]
Finland					
France					
Georgia					
Germany	***	***	***	***	***
Greece					
Hungary	***	***	***	***	***
Iceland	0	0	0	0	0
Ireland					
Italy	***	***	***	***	***
Latvia	...	...	...	...	...
Liechtenstein					
Lithuania	***	***	***	***	***
Luxembourg	...	...	...	...	...
Malta					
Moldova	***	***	***	***	***
Netherlands	***	***	***	***	***
Norway	***	***	***	***	***
Poland	***	***	***	***	***
Portugal	***	***	***	***	***
Romania	40	2	...	38	...
Russia					
San Marino					
Slovakia	...	...	...	...	...
Slovenia	***	***	***	***	***
Spain					
Sweden	***	***	***	***	***
Switzerland	***	***	***	***	***
"the former Yugoslav Republic of Macedonia"	[--]	[--]	[--]	[--]	[--]
Turkey	***	***	***	***	***
Ukraine					
United Kingdom: England and Wales					
Northern Ireland					
Scotland	...	...	...	...	...

Table 10.2 Combined sanctions and measures ordered in 2001 (other than those indicated in Table 9, item c): percentages

	Unsuspended custodial sentence, followed by an obligation to undergo treatment after release planned for ...				
	Total	Drugs addicts	Alcoholics	Persons suffering from psychiatric problems	Persons imprisoned for sex-related offences
Albania					
Andorra	100.0	62.5	25.0	12.5	0.0
Armenia					
Austria	***	***	***	***	***
Azerbaijan	***	***	***	***	***
Belgium	***	***	***	***	***
Bosnia and Herzegovina: Federation	100.0	85.7	14.3	[--]	[--]
Bulgaria					
Croatia					
Cyprus	***	***	***	***	***
Czech Republic	...	...	...	...	...
Denmark	***	***	***	***	***
Estonia	...	[--]	[--]	[--]	[--]
Finland					
France					
Georgia					
Germany	***	***	***	***	***
Greece					
Hungary	***	***	***	***	***
Iceland	0	0	0	0	0
Ireland					
Italy	***	***	***	***	***
Latvia	...	...	...	...	...
Liechtenstein					
Lithuania	***	***	***	***	***
Luxembourg	...	...	...	...	...
Malta					
Moldova	***	***	***	***	***
Netherlands	***	***	***	***	***
Norway	***	***	***	***	***
Poland	***	***	***	***	***
Portugal	***	***	***	***	***
Romania	100.0	5.0	...	95.0	...
Russia					
San Marino					
Slovakia	...	...	...	...	...
Slovenia	***	***	***	***	***
Spain					
Sweden	***	***	***	***	***
Switzerland	***	***	***	***	***
"the former Yugoslav Republic of Macedonia"	...	[--]	[--]	[--]	[--]
Turkey	***	***	***	***	***
Ukraine					
United Kingdom: England and Wales					
Northern Ireland					
Scotland	...	...	...	...	...

Table 11 Other community sanctions and measures, (with support and supervision) ordered in 2001, perceived as important in statistical terms in the country considered, and not covered by the preceding items

	Type of measure	Numbers
Andorra	1) Conditional release for employment purposes 2) Release conditional on there being no contact with certain specified individuals 3) Release conditional on not leaving home during specified hours 4) Release conditional on compensation given to the victim 5) Release conditional on regular payment of alimony	4 1 1 6 2
Cyprus	Security for keeping the peace	448
Czech Republic	1) The conditional cessation of criminal prosecution imposed (ordered) by: The Public Prosecutor's Office The court 2) Legal settlement (mediation)	7 704 3 589 242
Denmark	1) Treatment instead of imprisonment (special alternative to incarceration) 2) Withdrawal of charges: According to the Danish Criminal Justice Administration Act, paragraph 723, the judge can decide to withdraw charges and instead order supervision for a period. This is mainly used vis-à-vis young offenders. In the 13 cases reported in SPACE II, the supervision was provided by the probation service.	319 13
Iceland	1) Prisoners transferred from prison for the last six weeks of their imprisonment to an in-patient treatment program for alcohol and drug addicts in a private institution 2) Prisoners transferred from prison for the six last months of their imprisonment to a half way house run by the prisoners Aid Association 3) Conditional withdrawal (waiver) of prosecution with two years supervision	28 43 97
Italy	1) Assignment of the offender to the probation service (alternative measure to imprisonment) (including 3321 drug or alcohol addicts) 2) Home detention (alternative measure granted to some particular categories sentenced to imprisonment) 3) Semi-liberty (alternative measure granted to offenders sentenced to imprisonment)	14454 7476 1835
Latvia	Suspended sentence with obligations. Obligations: 1) to allay the harm caused; 2) not to change the place of residence; 3) to appear periodically for registration at a specified institution.	6938
Netherlands	1) The in-patient hospital order. This measure can be imposed upon accused persons who were suffering from retarded development or mental illness when they committed the crime. 2) Placement in a special institution for drug addict treatment	53 7
Portugal	Fully suspended prison sentence	7820
Slovakia	Protective education	6
Slovenia	Work carried out for the benefit of humanitarian organisations or the local community. This sanction is ordered by the court as a replacement for a prison sentence of up to three months. The offender serves such a sentence by working for a humanitarian organization or local community. The offender thus does not have contact with a penal institution. His personal freedom is restricted only in time and as much as necessary to work for a humanitarian organization or local community as an alternative to imprisonment. Such an alternative sentence should not interfere with his employment. Centres for Social Work supervise this method of serving a sentence. These Centres participate in management, organization and supervision of work and they must inform the courts if they believe that the offender is not performing his work for a humanitarian organisation or local community. In such cases, the court orders that a prison sentence must be served.	4

Table 12. Conditional releases before completion of sentence ordered in 2001

	Total of measures of conditional release granted in 2001	Number of finally sentenced prisoners present at 1.9.2001	Rate of measures of conditional release per 100 sentenced prisoners
Albania			
Andorra	9	14	64.3
Armenia			
Austria	1165	4609	25.3
Azerbaijan	1423	...	...
Belgium	832	5133	16.2
Bosnia and Herzegovina: Federation	[--]	...	...
Bulgaria			
Croatia			
Cyprus	***	319	...
Czech Republic	4264	15452	27.6
Denmark	1400	2291	61.1
Estonia	...	3357	...
Finland			
France			
Georgia			
Germany	17190	57137	30.1
Greece			
Hungary	...	12425	...
Iceland	100	100	100.0
Ireland			
Italy	35	29817	0.1
Latvia	734	4957	14.8
Liechtenstein			
Lithuania	1829	8486	21.6
Luxembourg	28	196	14.3
Malta			
Moldova	232	7399	3.1
Netherlands	***	5278	...
Norway	3710	1980	187.4
Poland	15977	54763	29.2
Portugal	1903	9251	20.6
Romania	25512	37743	67.6
Russia			
San Marino			
Slovakia	1700	5566	30.5
Slovenia	(467)	(733)	(63.7)
Spain			
Sweden	5235	4763	109.9
Switzerland	...	2819	...
"the former Yugoslav Republic of Macedonia"	333	1170	28.5
Turkey	...	31447	...
Ukraine			
United Kingdom: England and Wales			
Northern Ireland			
Scotland	340	...	...

Notes – Table 1

Deferral

General note

Although only some figures appear in brackets, caution is required when interpreting this column. The very high figures provided by some countries indicate that their understanding of the concept of deferral does not correspond to that in SPACE II.

Austria

Although Austrian criminal law does not provide for a measure that fully corresponds to deferral in SPACE II, the latter is comparable to one of the measures of diversion introduced during a recent reform of the Austrian Code of Criminal Procedure (1 January 2000) – such measures may be imposed in cases of less serious offences. Thus, the Code provides that under certain circumstances the prosecutor (before the commencement of the judicial proceedings) and the judge (during the judicial proceedings but before the end of the trial) may issue an order adjourning the case for a period of probation (1 to 2 years). The order may provide for assistance by the probation service and/or compliance with certain obligations. The difference with deferral in SPACE II is that these orders are made without the person having been convicted. If the suspect is not convicted of an offence during the probation period and has fulfilled the obligations that may have been imposed on him/her, the prosecutor or judge is obliged to discontinue the case. No obligations may be imposed without the suspect having been fully informed of the consequences of the measures and the alternatives and if s/he does not voluntarily agree with the settlement. The interests of the victim must be also taken into consideration. As a rule, the suspect should be required to compensate the victim for his/her (financial and/or moral) damages. A similar measure of diversion is provided for under Austrian juvenile criminal law. In 2001, 11495 such decisions were made in cases of adult and juvenile offenders (9717 with obligations and 1778 without).

The juvenile criminal court may also issue a judgement suspending the sentence for a probation period of up to 3 years, if it considers this to be sufficient to deter the juvenile offender from committing further offences. There were 714 such cases in 2001. This measure does not come under SPACE II because it exclusively concerns juvenile offenders.

Belgium

All deferrals ordered in 2001 were accompanied by probation. Therefore, they were not a principal penalty.

Sweden

According to the Swedish Criminal Law, a conditional sentence may be imposed by a court for an offence for which the sanction of a fine is considered inadequate.

Persons receiving conditional sentences are subject to a two-year probationary period. If the offender does not comply with the conditions, the court may revoke the conditional sentence and impose another sanction.

Treatment ordered *ab initio*

Austria

Under the Austrian Criminal Code it is possible to order treatment *ab initio* under certain circumstances for offenders with mental disorders, alcohol-addicted or drug-addicted offenders. In 2001, 119 such orders were made. There is no breakdown per category of offenders. This measure does not fully correspond to treatment ordered *ab initio* in SPACE II because it involves deprivation of liberty.

Belgium

Treatment cannot be imposed as a principal sentence. It may only be imposed together with another penalty.

Slovenia

The figure is for compulsory psychiatric treatment and care in a medical institution and compulsory psychiatric treatment in the community. It is imposed instead of a criminal sentence when the offender is not considered criminally responsible.

Compensation order

Austria

Austrian criminal law does not provide for compensation orders as a principal sentence.

Belgium

Compensation orders can only be issued *ab initio* by the prosecution authorities (i.e. they cannot be issued *ab initio* by a court).

United Kingdom: Scotland

In addition, 4861 compensation orders were imposed as a secondary penalty.

Community service

Austria

This is one of the measures of diversion introduced during the reform of the Code of Criminal Procedure mentioned under deferral. Measures of diversion may be imposed under certain circumstances by the prosecutor (before the judicial proceedings) or the judge (during the judicial proceedings) before the verdict is pronounced. This is why they are not covered by SPACE II. In 2001, 848 community orders were made in cases of juvenile or adult offenders.

Belgium

Community service did not exist in 2001. It was introduced as an autonomous sentence in 2002.

Czech Republic, Luxembourg and Netherlands

The breakdown of the figure for community service provided for Tables 8.1 and 8.2 indicates that these countries' understanding of the concept of community service does not correspond to that in SPACE II.

Iceland

The figure refers to community service as a way of serving prison sentences of certain duration or fines converted to prison sentences.

Sweden

Community service is not a principal sanction. It can be pronounced in connection with a conditional sentence (3382 sentences in 2001) or with probation (938 sentences in 2001).

Switzerland

Community service is not a sentence imposed *ab initio* but a way of serving a sentence. The figure refers to converted unsuspended prison sentences and fines. Moreover, it refers to cases where the community service started in 2001 (the original sentence may have been imposed before).

United Kingdom: Scotland

See note on Tables 8.1 and 8.2.

Probation

Austria

In 2001 there were 14713 cases of suspended sentences of imprisonment, concerning either juvenile or adult offenders. Not all of them involved assistance and supervision in the community. No distinction is made in the statistics available between probation with assistance and supervision in the community (e.g. designation of a probation officer) and without. In 2001, there were 12385 cases of fully suspended prison sentences and 2328 cases of partially suspended prison sentences concerning either juvenile or adult offenders. In Austrian criminal law there also exists the possibility of suspension of fines on probation.

Probation as a sentence in its own right, after the offender has been found guilty and without a sentence of imprisonment having been imposed, only exists in the Austrian juvenile criminal law. The juvenile criminal court may, under certain conditions, issue a judgment without a sentence. There were 99 such cases in 2001. As mentioned under deferral, it is also possible for the juvenile Court to suspend the sentence for a probation period of up to 3 years, if it considers that this is sufficient to deter the juvenile offender from committing further offences. There were 714 such cases in 2001.

Bosnia and Herzegovina: Federation

The same figure (394) has been provided in respect of conditional release.

Germany

Figure for 2000.

United Kingdom: Scotland

See note on Tables 8.1 and 8.2.

Electronic monitoring

Belgium

Electronic monitoring is not a principal sentence but a way of serving a sentence. It is the Prison Service that decides on the use of this measure.

Sweden

Electronic monitoring is not a principal sentence but a way of serving a prison sentence. Persons sentenced to a maximum of three months' imprisonment may request that they serve their prison sentences in this manner. In 2001, 2269 persons began serving their prison sentences in this manner (although some of them may have been sentenced in 2000).

Semi-liberty ordered *ab initio*

Belgium

Electronic monitoring is not a principal sanction but a way of serving a sentence. The Prison Administration decides on the use of this measure.

Italy

The figure refers to semi-detention. Under Italian law, this is the closest measure to semi-liberty ordered *ab initio*.

Conditional release

Bosnia and Herzegovina: Federation

The same figure (394) has been provided in respect of probation.

Slovenia

The figure refers to conditional releases ordered by the competent commission. Prison governors may also under certain circumstances release on parole offenders that have served at least three quarters of their sentence and have less than a month to serve. In 2001, there were 315 such cases. There is no supervision of conditionally released prisoners.

Notes – Table 2

Belgium

The figure includes 17 military sentences.

Poland

Total number of absolute deprivations of liberty as opposed to total number of convictions.

United Kingdom: Scotland

Total number obtained by adding the figures of Tables 3 and 4.

Notes – Tables 3.1 to 3.3

Austria

Prison sentences imposed in 2001

Figures include convictions of both adults and juveniles.

The breakdown of the sentences is as follows: up to 3 months (including a sentence of 3 months), more than 3 months up to 6 months (including a sentence of 6 months) and so on.

Belgium

The breakdown of sentences according to their length is given for a total number of 12002 sentences (instead of the 12003 indicated in Table 2).

Czech Republic

The 562 sentences given under "5 years and over" can be broken down as follows:

- 5-14 years: 547
- 15 years and over: 15

Denmark

The 99 sentences given under "5 years and over" can be broken down as follows:

- 5 -11 years: 93
- 12-16 years: 6

Four more sentences should be added under "indeterminate custody" (sentences to an indeterminate deprivation of liberty for grave offences), giving a total of 9489 custodial sentences.

Latvia

The breakdown of the sentences is as follows: more than 1 year up to 3 years, more than 3 years up to 5 years, more than 5 years up to 10 years and more than 10 years and over.

Lithuania

Categories do not add up to 100% for unknown reasons.

Moldova

The 1801 sentences given under "10 years and over" can be broken down as follows:

- 10-14 years: 1402
- 15 years and over: 399

Netherlands

The breakdown of the sentences according to their length is given for a total number of 21909 sentences (instead of the 21910 indicated in Table 2).

Norway

Categories do not add up to 100% because no data was available for three categories.

Poland

Categories do not add up to 100% because the total refers to the total number of absolute deprivations of liberty as opposed to total number of convictions (see note on Table 2).

Romania

Categories do not add up to 100% because no data was available for two categories.

"the former Yugoslav Republic of Macedonia"

According to the Criminal Code, imprisonment may not be shorter than 30 days or longer than 15 years.

United Kingdom: Scotland

There was 1 case where the sentence length was not known.

Notes – Tables 4.1 to 4.3

Belgium

The figure in Table 4.1 for prison sentences of less than 3 months includes 16 military sentences and the figure for 3 months to less than 6 months 1 military sentence.

Notes – Table 5

See notes on Table 1.

Notes – Table 6

See notes on Table 1.

Notes – Tables 7.1 and 7.2

General note

See notes on Table 1.

Slovakia

Categories do not add up to 100% because data was not available for two categories.

Notes – Tables 8.1 and 8.2

General note

See notes on Table 1.

Belgium

- Categories do not add up to 100% because no data was available for some categories.
- Community service performed as part of probation (sentencing in its own right) or other forms of community service: 734 sentences of which 675 were ordered by the Public Prosecution Service and 59 under conditional release.

Germany

Community service: sanction imposed in the case of the non-payment of a fine: Figure for 1999 (except for Berlin, Hamburg and Schleswig-Holstein).

United Kingdom: Scotland

Community service while on probation (sanction in its own right) or community service: other cases.

1441 cases not included in the 4869 total but included in the totals of the category "Probation" and the sub-category "Probation: a sentence in its own right after an offender has been found guilty (without the pronouncement of a sentence of imprisonment)".

This means that, when the community service is imposed together with a probation sentence, it is not considered a sanction in its own right; therefore, only the probation sentence is counted.

If that had not been the case, Scotland would have had 6310 community services, of which 4869 (77.2%) as a sanction in its own right and 1411 (22.8%) while on probation.

Notes – Tables 9.1 and 9.2

General note

See notes on Table 1.

Denmark

Figures for (a), (b) and (c) are estimates.

Poland and Sweden

(a), (b) and (c) do not add up to 100% because the categories of the national system do not correspond to the categories of SPACE II.

United Kingdom: Scotland

See notes on Tables 8.1 and 8.2.

Notes – Table 12

Bosnia and Herzegovina: Federation

See notes on Table 1.

Slovenia

See notes on Table 1.

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Updating the European prison rules

On 18 September 2002 at the 808th meeting of the Ministers' Deputies, the Committee of Ministers of the Council of Europe decided, on a proposal by the European Committee on Crime Problems (CDPC), that the European Prison Rules contained in Recommendation No. R (87) 3 should be updated. It

gave a mandate, to this effect, to the Council for Penological Co-operation (PC-CP), which is reproduced below together with a discussion paper by Mr Norman Bishop that had been put before the CDPC when it decided to propose to the Committee of Ministers the updating of the Rules.

I. Ad hoc terms of reference for the Council of Penological Co-operation (PC-CP) relating to the revising of the European prison rules

Decision CDPC/125/130202

1. Name of the Committee: Council for Penological Co-operation (PC-CP)
2. Source of the terms of reference: European Committee on Crime Problems (CDPC)
3. Date by which the terms of reference must be carried out: 31 December 2005
4. Terms of reference:

The European Prison Rules were originally introduced in Resolution (73) 5. They were based on the United Nations Standard Minimum Rules for the Treatment of Prisoners. They were subsequently revised and, in their present version, are contained in Recommendation No. R (87) 3. The Rules have thus long provided progressive standards to improve both the treatment of prisoners and the management of penal establishments. As the main normative instrument in the penitentiary field, the European Prison Rules fulfil a paramount reference function in the continuous development and reform of prison systems in Europe, particularly in the new member States.

Since their revision in 1987, developments in society, crime policy, sentencing practice, research and information technology, together with the accession of new member States to the Council of Europe, have significantly changed the context for prison management in Europe. These changed circumstances give rise to a number of questions that the existing Prison Rules do not address. Furthermore, the existing Rules need to be harmonised with the provisions of the more recent Recommendations of relevance in this field and should take account of the work undertaken by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT), of developments in the case-law of the European Convention on Human Rights as well as of the outcome of the work undertaken by the Steering Committee for Human Rights (CDDH) on a draft Protocol to the European Convention on Human Rights to secure certain additional rights to persons deprived of their liberty.

In updating the Prison Rules, attention should be paid to contemporary trends and changes in the philosophy and practice of prison treatment and management so as to promote the best of these developments. In doing so, account should be taken of general problems arising from new forms of criminality and specific problems encountered in new member States. A major aim should be to uphold the requirements of human rights and dignity of prisoners and lay down standards for humane and effective prison management that inter alia seeks to enable prisoners to lead a law-abiding life after release while ensuring the safety of prisoners, the prison staff and the community.

Among the issues to be addressed the following merit particular consideration:

- Remand in custody: ways and means of providing appropriate conditions of detention and safeguards against undue restrictions of their rights, bearing in mind the principle of presumption of innocence as enshrined in article 6.2 of the European Convention of Human Rights;
- The management of particular categories of prisoners such as young prisoners, the elderly, women, mothers with babies, cultural or ethnic minorities, foreigners, long-term prisoners and lifers, the mentally disturbed, vulnerable prisoners, violent, disruptive and/or socially dangerous prisoners, alcohol and drug misusing prisoners, HIV- positive prisoners, prisoners detained in connection with sex offences, domestic violence, organised crime and terrorist acts;
- Management problems concerning such matters as sentence planning, maximum security units, prison overcrowding, staff, medical and psychosocial services, privatised prisons, violence among inmates, riots and disturbances, the distinction between disciplinary and criminal offences and the procedures to be followed for either type of offence;
- Guaranteeing prisoners' fundamental rights including civil, political and social rights, as well as their rights in complaint and in disciplinary procedures;
- Research on and evaluation of effective methods of treatment, management and organisation.

With a view to ensuring congruence between the Prison Rules and more recent Recommendations, account should be taken of the following:

- Recommendation No. R (89) 12 on education in prison
- Recommendation No. R (92) 16 on the European Rules on community sanctions and measures
- Recommendation No. R (93) 6 concerning prison and criminological aspects of the control of transmissible diseases including aids and related health problems in prison
- Recommendation No. R (97) 12 on staff concerned with the implementation of sanctions and measures
- Recommendation No. R (98) 7 concerning the ethical and organisational aspects of health care in prison
- Recommendation No. R (99) 22 concerning prison overcrowding and prison population inflation
- Recommendation Rec(2000)22 improving the implementation of the European rules on community sanctions and measures

Due account should also be taken of previous work of the Council for Penological Co-operation (PC-CP) on conditional release, of the work of the Committee of Experts on the management of life-sentenced and other long-term prisoners (PC-LT) as well as that of the Committee of Experts on pre-trial detention and its implications for the management of penal institutions (PC-DP).

Consideration should furthermore be given to the substantive sections of the General Reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT).

The work should lead to:

- a) a report identifying
 - significant problems and new possibilities for the management of prison systems;
 - the results of recent research bearing on the management of prisons and prisoners;
 - the need for provisions on matters not covered by the present Prison Rules;
 - examples of good contemporary prison practice and
- b) a draft Recommendation with explanatory memorandum updating the European Prison Rules.

In order to perform this task, the PC-CP would need to consult, as and when appropriate, the European Committee for the Prevention of Torture and Inhuman or degrading treatment (CPT), the Steering Committee for Human Rights (CDDH) and the Committee of Experts on pre-trial detention and its implications for the management of penal institutions (PC-DP). It would also need the assistance of three scientific experts and ad hoc consultants with specific knowledge of relevant legislation and legal practice, of International norms and conventions and in particular the European Convention on Human Rights and its case law, of recent developments in research and practice in penitentiary issues and of the main problems encountered in the reform of the prison systems in member States.

The PC-CP should keep the European Committee on Crime Problems (CDPC) regularly informed about the progress of its work.

II. The European Prison Rules: why they should be revised

A discussion paper prepared by
Norman Bishop (Sweden)

Purpose of this paper

1. This paper is a revised version of an earlier paper. As with the previous version the purpose is to present reasons why the European Prison Rules (EPR) should be amended. The aim, however, of the revision has been to provide a greater number of concrete examples of lacunae in the EPR. This is not to say that all weaknesses in the EPR have been identified. If it is decided that they should be revised, further weaknesses and deficiencies will doubtless come to light.

History and development of the EPR

2. The EPR first appeared in 1973 as a European version of the UN Standard Minimum Rules for the Treatment of Prisoners. The latter, adopted in 1955, have never been revised although a new rule (Rule 95) was added in 1977. It has been suggested from time to time that the UN Standard Minimum Rules should be revised but hitherto it has been successfully argued that political divisions at world level would probably only result in a weakening of the UN Rules if a revision were attempted. This argument has considerable force since the Standard Minimum Rules are applicable in a world in which there exist fundamental conflicts about the nature and protection of human rights.

3. The situation is different with Council of Europe member States. All member States have ratified the Council of Europe Convention on Human Rights and the European Convention for the Prevention of Torture and Inhuman or Degrading Punishment or Treatment. The decisions and judgements of the control organs of the Convention on Human Rights and the often-critical inspection reports of the Committee for the Prevention of Torture (CPT) exercise a significant influence on national penal practice. In addition, a number of Recommendations on the enforcement of imprisonment have been adopted and transmitted to member governments, among them Recommendation No. R (87) 3 containing the EPR. The member States of the Council of Europe share a common interest in developing good prison practice with the help of the Council's legal instruments.

4. Unlike the UN Standard Minimum Rules, the EPR, following inquiries into their implementation, have already been revised on a previous occasion, in 1987. The revision led to Recommendation No. R (87) 3, which contains the present version of the EPR. Originally, the intention was to follow up the implementation of the EPR at five-yearly periods and assess whether further revision was called for. For various reasons this has not been done. However, in 1993, the Council for Penological Co-operation undertook an inquiry into the implementation of the EPR. The late Mr K.J. Lång

(Finland) reported to the 11th Conference of Directors of Prison Administrations on the results of the inquiry¹. He drew attention to a number of problems that had been reported in the responses, among them:

- The harsh conditions of remand in custody;
- Staffing problems;
- Failure of staff to maintain conduct in accordance with international ethical norms;
- Poor staff-inmate relations;
- Violence between inmates;
- Inadequate provision for special groups of prisoners, among them young offenders, foreign prisoners, and mentally disturbed inmates;
- The poor physical and material condition of many prisons.

He concluded by emphasising the important part played by the EPR in combating these and other problems.

Some findings from the visits of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

5. The CPT was created in 1987 by the European Convention for the Prevention of Torture or Inhuman or Degrading Treatment or Punishment. The Convention, which was opened for signature on 26.11.87 and entered into force 1.2.89, empowers the CPT to inspect any place in which persons are deprived of their liberty by decision of a public authority. Its inspections are not, therefore, limited to prisons. The inspections are intended to lead to the prevention of torture and degrading or inhuman treatment or punishment.

6. The CPT visits have led to published reports on prison conditions in member States. A marked feature of these conditions is that they are frequently shown to be unsatisfactory and in some cases wholly unacceptable. This is especially true of the conditions of remand in custody under which in many countries a sizeable number of legally innocent persons are held pending investigation and arraignment².

7. The CPT reports covering the last three years reveal the following examples of unsatisfactory conditions concerning *remand in custody*:

- Long periods of restricted contact with families, newspapers, and association with other prisoners with few, if any, activities;

1. See Document CDAP (95) 5.

2. "Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law", Article 6 (2) of the European Convention on Human Rights.

- Time out of cell frequently less than five hours in every 24 hours;
- Visits limited to 10 minutes per week;
- No access granted within four days remand in custody to a lawyer;
- The right to notify next of kin about the remand not always clearly laid down in instructions;
- Information on the rights of remanded persons not always made available;
- Depression, suicidal thoughts (and on occasion completed suicide) by reason of harsh conditions during a time, for many remanded persons, of considerable stress;
- An absence of clear directives about the treatment of persons remanded in custody;
- Insufficient control by the courts of the prosecutor's decision to restrict the contacts of a remanded person with the outside world;
- Courts insufficiently attentive to medical reports on the state of mind of the accused, especially concerning depression and suicidal thoughts.

8. Rules 90 – 98 of the EPR deal with untried prisoners. The provisions are of very general character and do not take account of the specific problems noted by the CPT, examples of which are given above. Thus, for instance, Rule 92 (2) merely states that untried prisoners shall be able to receive visits under humane conditions "... subject only to such restrictions and supervision as are necessary in the interests of the administration of justice ... etc.". Such a general formulation fails to take account of the CPT finding that severe restrictions on association, contact and communication have been imposed by prosecutors without judicial control and with deleterious effects on remanded prisoners.

9. Since Rule 92 (2) contains no provisions to safeguard remanded prisoners from harmful and unjust treatment, a revision of the Rules is required. The revision should take full account of the CPT reports on remand in custody and, having regard to the presumption of innocence, provide comprehensive protection and guarantees for persons remanded in custody.

10. The CPT reports covering the last three years reveal the following examples of unsatisfactory conditions concerning *ordinary prisons*:

- Credible complaints by prisoners of staff violence and intimidation;
- Cell size has been found inadequate;
- In cells without integrated sanitation, access to toilets, especially at night has been found inadequate;
- Violence between prisoners has not always received sufficient attention by national administrations;
- Inadequate visiting and checking by a supervising judge or supervising body charged with scrutiny of prison conditions;
- Inadequate complaints procedures;

- Life prisoners unnecessarily kept apart from other long-term prisoners;
- Medical examinations conducted within of the sight and hearing of basic grade staff although this was not requested by the examining doctor;
- Absence of statement of ethical requirements on the part of staff.

11. The following comments can be made about the above-mentioned deficiencies. Part III of the EPR deals with staff. No rule in this section prohibits staff violence and intimidation. Rules 14 – 19 contain general provisions on accommodation for prisoners but no specific provision on access to toilets at all times. The prevention of violence between prisoners is not mentioned in the EPR. Rules 4 and 5 provide for qualified inspections and judicial control to ensure the legality of enforcement and protection of prisoner rights. However, consideration might well be given to reinforcing the Rules by referring to inspection objectives and methods, emphasising the importance of frequency of inspections, requiring special inspections on the occasion of serious incidents, noting the importance of specialised inspections, for example concerning industrial safety, and urging the publication of inspection reports. The provisions on inspections should include a recommendation that inspection reports be made public¹. The questions of complaint procedures and the absence of ethical guidelines are dealt with below.

12. In view of the comments in paragraph 11, the EPR should be revised so that comprehensive and specific standards are laid down concerning the absence of good prison practice as noted in paragraph 10.

Characteristics of contemporary prison populations

General

13. One finding of the inquiry into the implementation of the EPR that the Council for Penological Co-operation conducted in 1993 was that prison populations were tending to become more difficult. Although no comprehensive survey of the characteristics of prison populations has been conducted since then, reports from a number of member countries suggest that the prison population continues to be difficult, perhaps increasingly difficult, to manage. And as community sanctions come more and more into use, it is inevitable that the prisons will increasingly have to cope with offenders who, for various reasons, cannot be contained in the community. In short, the increasing use of community sanctions – not least for reasons of economy – is likely to "skim off the cream" of the offender population and leave the most difficult and dangerous offenders to be dealt with in the prisons. In this context, it may be noted that prison administrations have, over recent years, had to deal with severe

1. An excellent overview of inspection goals and methods is to be found in "Making standards work: an international handbook on good prison practice", (joint publication of the United Nations and Prison Reform International).

prison riots and disturbances. Prison riots and disturbances always run the risk of causing injury and even death to prisoners, staff and others involved. They frequently give rise to serious debate about possible infringements of human rights.

14. The EPR give no guidance on the prevention of prison riots and disturbances or on the methods for dealing with them if they occur. New rules might well, therefore, be added to deal with these matters.

15. Even if certain of the problems mentioned below have long existed, their severity seems to have increased in recent years. Other problems are of recent origin and have not, therefore, been taken account of in the EPR. A brief account of some of these problems follows.

Dangerous prisoners

16. In a number of countries more dangerous offenders are being sent to prison – for example, motorcycle gang members (type "Hell's Angels"), terrorists and organised crime professionals. Their presence in prison has led to a climate of blackmail, threats and violence against other prisoners as well as staff. The management of difficult and dangerous prisoners, often with long sentences, has led to imposition of severe restrictions on such prisoners and, notably, the setting-up of especially secure units within maximum-security prisons. Dealing with problems posed by these prisoners places prison administrations in a dilemma. Prisons should be safe places for other prisoners, the staff and the community at large. In order to achieve this, firm measures may have to be adopted. But the retained human rights, even of difficult and dangerous prisoners, must be respected. In dealing with difficult prison populations, prison administrations have to steer a delicate course between satisfying public and political demands for effective action and maintaining the humane and ethical standards demanded by international legal instruments. The CPT has on at least one occasion criticised the operation of a maximum-security unit¹.

17. The EPR give no guidance to prison administrations on the handling of dangerous prisoners. Indeed, nowhere in the Rules is the term "dangerous prisoners" to be found. In particular, the Rules do not lay down desirable standards in the operation of maximum-security units or principles that should govern the use of necessary force. These deficiencies should be remedied by a revision of the Rules.

Drug misuse, HIV and AIDS

18. Increasingly prisons contain drug-misusing prisoners. Although it is possible to motivate some of them to undertake treatment or serve their sentences in drug-free wings, others have no desire to deal with their drug dependence and are only interested in trying to obtain drugs illicitly while serving their sentence.

1. The CPT visited Sweden in May 1991. In its report on Kumla Prison, the maximum-security unit there was criticised as having an oppressive atmosphere and an unduly restrictive internal regime.

Related to this problem is the presence of HIV-positive prisoners and those who have already developed AIDS illnesses.

19. Quite apart from the practical aspects of managing these problems, important ethical issues arise concerning the testing of prisoners for HIV infection, drug misuse and access to the information obtained. A further question concerns the treatment of prisoners in terminal illness, which increasingly arises in connection with AIDS. These matters are to some extent dealt with in Recommendation No. R. (98) 7 on the Ethical and Organisational Aspects of Health Care in Prison (see further reference to this Recommendation below).

The problems arising from drug misuse, HIV infection and AIDS are not mentioned in the EPR. The Rules should be revised to give guidance on these matters.

Sex offenders and those sentenced for domestic violence

20. Recent years have seen an increase in the number of rapists, paedophiles and other sex offenders sentenced to imprisonment. They are usually despised by other prisoners and, in consequence, are subject to threats and violence by other inmates. At the same time, it is obviously an urgent task to get them to address their offending behaviour and seek to control it. Similar considerations apply to prisoners who have been sentenced for assaults on women.

21. The management of sex offenders and those sentenced for domestic violence receives no mention in the present EPR. The Rules should be revised to give guidance on the protection of sex offenders in prison and on providing treatment for them and prisoners sentenced for acts of domestic violence.

Mentally disturbed prisoners

22. There is some evidence that prison populations contain a number – perhaps an increasing number – of mentally disturbed prisoners. Often, a precise psychiatric diagnosis proves difficult to obtain (so-called "border line" cases). Often, too, they are not motivated for treatment. Such prisoners are usually highly disruptive and are not, therefore, welcomed in civilian psychiatric hospitals. Prison services need skilled staff to deal with them.

23. The present EPR acknowledge the importance of providing psychiatric treatment in Rules 26 and 32. Having regard, however, to the seriousness of the problems posed by mentally disturbed prisoners, the difficulty of providing them with treatment and the need for skilled handling, the EPR might well be revised to give improved guidance on the control and care of such prisoners.

Prison staff

24. It is platitudinous to assert that the most important instrument available to prison administrations is a staff that, at all levels, acts professionally and in accord with ethical principles. Yet, the CTP visits reveal on

occasion that prison staff are not always correct in their dealings with prisoners and may even be guilty of physical and mentally abusing them. The problem of recruiting, training and retaining prison staff is especially acute in the newer member countries. The importance of recruiting, training and using staff in the most advantageous ways has led to a major Council of Europe Recommendation, namely Recommendation No. (97) 12 on Staff concerned with the Implementation of Sanctions and Measures.

25. This Recommendation deals with the recruitment, selection, training and management of *both* prison and probation staff. This fact alone is of importance. As Pierre Tournier states in his Conclusions to the European Conference on the implementation of European standards for imprisonment and community sanctions and measures: "The frequent dichotomy between prison on the one hand and community sanctions and measures on the other is simplistic and dangerous... the two often interlock. Custodial measures for instance, can be converted into early release under supervision... *To a large extent it is at the interface between the 'closed setting' and the 'open setting' that the direction which prisoners' lives will take is decided*" (my emphasis). The Recommendation emphasises inter alia the importance of collaboration between staff working with custodial and community sanctions.

26. Appendix II of Recommendation No. R (97) 12 contains guidelines for national codes of ethics for prison and probation staff. These guidelines deal with the ethical responsibilities that prison administrations and their staffs at all levels in the organisation, have towards the employing administration, to other members of staff and to the offenders with which they have to deal. The EPR in their present form make no reference to the ethical obligations of prison administrations and their staff.

27. Part III of the EPR emphasises the importance of prison staff as the major instrument of good prison management. It contains provisions concerning the recruitment, selection, training and use of prison staff. However, these provisions might be strengthened.

28. The existing EPR provisions might well be reinforced either by citing or making reference to, for example, the requirements of Recommendation No. R (97) 12 concerning debriefing sessions for prison staff who have been involved in traumatic incidents (Provision 43) and mobility between staff with responsibility for enforcing custodial sanctions and those responsible for supervising offenders in the community (Provisions 48-51). Attention should also be drawn in the EPR to the ethical provisions contained in Appendix II of the Recommendation.

The EPR and Council of Europe Recommendations

29. Many of the situations and problems currently facing prison administrations – some of which have been described above – have received attention in

Council of Europe Recommendations. These Recommendations contain detailed principles for constructive approaches to many of the problems faced by prison administrations. Recommendation No. R (97) 12 is only one of a number of such Recommendations. At least two other Recommendations are particularly relevant to the EPR provisions.

30. *Recommendation No. R (98) 7 on the Ethical and Organisational Aspects of Health Care in Prison* sets out standards for the health care of prisoners and delineates the status of and functions of medical personnel working in prisons. As the problems associated with drug and alcohol misuse, HIV infection and AIDS illnesses accumulate, the Recommendation is of exceptional importance. The Recommendation is also of importance in defining the role and function of doctors and nursing staff working in prisons. In particular, the Recommendation emphasises that they should have normal doctor-patient relations with prisoners, should not certify whether prisoners are fit to receive punishment but should instead be active in intervening when such punishment causes physical or mental deterioration. The Recommendation also deals with the importance of using community health services and of collaboration with Ministries of Health.

31. Whilst the EPR in their present form lay down many important standards concerning medical services they might well be strengthened by citing or making reference to the Recommendation. In particular, the definition of the role and function of doctors working in a prison as laid down in the Recommendation should come to expression in the EPR.

32. *Recommendation No. R (99) 22 on Prison Over-crowding and Prison Population Inflation* reviews the problems associated with overcrowding and the over-use of imprisonment. A number of solutions are put forward for the amelioration of these problems. The over-use of imprisonment and overcrowding are to be found in a number of countries, especially those of eastern and central Europe.

33. Prison administrations should be encouraged by suitable provisions in revised EPR to seek to promote these solutions to overcrowding and the over-use of imprisonment.

Comparison between the EPR and the European Rules on Community Sanctions and Measures

34. A lively interest in the development of non-custodial sanctions came to expression in the United Nations Standard Minimum Rules for Non-custodial Measures, the so-called Tokyo Rules. These Rules were adopted at the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders in 1990. A later Council of Europe Recommendation – Recommendation No. R (92) 16 – contains the European Rules on Community Sanctions and Measures (ERCSM). These are an adaptation of the UN Rules to European conditions and possibilities. Some of the provisions of the ERCSM could, I suggest, usefully be included in the EPR.

1. Document CDAP (2000) 1. point 7.b.

35. To begin with, Chapter II of the ERCSM contains detailed provisions about complaint procedures. The CPT has noted that complaint procedures in some countries' prisons are inadequate. The ERCSM provisions emphasise the need for simple and speedy complaints procedures, the desirability of hearing the complainant in person, the communication of a decision on a complaint in writing, and the possibility of being assisted by a lawyer or other person of the complainant's choice (see Rules 13-19). The provisions on complaint procedures in the EPR (see Rule 42) also emphasise simple and speedy procedures. But they make no reference to the complainant being heard in person or to being supported by a lawyer or other person or to written communication of decision.

36. Accordingly, I recommend that the provisions on complaint procedures in the ERCSM be studied with a view to making the present provisions of the EPR more comprehensive and precise.

37. Chapter III of the European Rules on Community Sanctions and Measures contains detailed provisions concerning respect for the fundamental rights of offenders subject to community sanctions and measures. The EPR provisions as at present formulated are far less comprehensive and detailed. In particular, they do not require *inter alia* that:

- the civil and political rights of prisoners shall not be restricted except as unavoidably necessary for the enforcement of imprisonment (cf. ERCSM Rule 21);
- enforcement procedures shall not jeopardise the dignity of prisoners' families and relatives (cf. ERCSM Rule 23);
- medical or psychological treatment or procedures must be in conformity with internationally adopted ethical standards (cf. ERCSM Rule 25);
- imprisonment shall be enforced in ways that do not aggravate its afflictive character (cf. ERCSM Rule 27);
- where prisons are privatised, responsibility for ensuring compliance with the EPR shall rest with the prison administration (cf. ERCSM Rule 29).

38. The EPR should be revised with a view to strengthening the provisions on the fundamental rights of prisoners.

39. Chapter X of the ERCSM deals with the operation of the sanction or measure and the consequences of non-compliance with conditions or obligations laid down. To begin with, Rules 78 and 79 refer to minor transgressions. These may be dealt with by discretionary means, usually of administrative character. Major transgressions are to be reported to, and dealt with by, a judicial body or a body possessing similar powers. There are also provisions on the manner of reporting non-compliance, the necessity of making a detailed examination of the facts with reported non-compliance, and the opportunities for defence to be given to offenders reported for non-compliance (see Rules 80-85).

40. Non-compliance by offenders with the requirements of a non-custodial sanction or measure can be considered as similar to disciplinary infractions committed by prisoners. Hence, provisions that are similar to those in the ERCSM might well be considered applicable to prisoners reported for disciplinary infractions. The EPR contain no provisions on the procedures for dealing with disciplinary offences. This is a serious omission.

41. Minor disciplinary infractions will normally be dealt with by an internal prison adjudication and will not attract the "due process" safeguards of Article 6 of the Convention on Human Rights. But Convention case law makes plain that some alleged disciplinary offences are of such gravity, and open possibilities for such severe punishment, that they amount, in effect, to criminal charges¹. As such, they should attract the same safeguards as would apply to a criminal court hearing.

42. Even internal prison disciplinary procedures should offer guarantees of fairness to prisoners. (I personally found on one occasion in a member State that a prison governor punished prisoners who had committed disciplinary offences without either seeing or hearing them in person. He relied solely on the reports presented by his staff and awarded punishment accordingly).

43. The EPR should be revised to give guidance on the importance of making a distinction between major and minor infractions and the ways of dealing with each. The EPR should also lay down principles for the conduct of internal prison disciplinary procedures in order to ensure that prisoners are dealt with fairly. In particular, the provisions should state the necessity for the accused prisoner to be heard in person, and for a full record of the proceedings to be kept.

44. Chapter XI of the ERCSM contains rules on research and evaluation. An important part of the follow-up of the implementation of the ERCSM which led to the adoption of Rec(2000)22 is devoted to describing the results of meta-analyses of personal change programmes for offenders and their implications for influencing offenders more effectively. These results suggest that programmes modelled on cognitive psychology and social learning offer markedly better possibilities than heretofore to influence offenders positively².

45. The meta-analytic findings, and the programmes that are based on these findings, apply to rehabilitative

1. See in this connection the European Court's decision in *Campbell v the United Kingdom* (1985) 7 EHRR 165. In this case a prisoner had been charged with mutiny and severely dealt with under a prison disciplinary procedure. The Court held that the alleged offence and the severity of the potential (and actual) punishment meant that the mutinous conduct should have been resulted in a criminal charge.

2. An account of these results and their implications for work with offenders can be found in the report "Psychosocial interventions in the criminal justice system", Criminological research, Volume XXI, Council of Europe Press 1995, and in the draft Final Activity Report of Committee PC-ER referred to in footnote 4.

efforts with prisoners as well as to those sentenced to non-custodial sanctions. One further consequence of this development is an increased emphasis on evaluating personal change programmes in order to ascertain what does, and what does not, make for effectively influencing offenders. In short, there is now a strong emphasis on the importance of evidence-based action rather than action based on hope or belief unsupported by evaluated results.

46. The EPR contain no provisions on research and evaluation. In view of the research knowledge that is emerging on more effective ways of influencing offenders, the EPR should be revised to contain provisions urging the use of evidence-based methods and emphasising the importance of evaluating personal change programmes based on these approaches.

Council of Europe instruments and prison practice

47. Prison practice in member States is influenced by the Convention on Human Rights, the case law deriving from the decisions of its control organs, the Recommendations adopted by the Committee of Ministers, and the visit and annual General Reports of the CPT.

48. Under Article 53 of the Convention on Human Rights, the contracting parties undertake to abide by the decision of the Court in any case to which they are parties. Recommendations do not have the same obligatory force. They amount instead to informed advice to member governments about improving law, policy and practice. Recommendations are arrived at through intergovernmental discussions and a decision by the European Committee on Crime Problems to transmit any particular draft recommendation to the Committee of Ministers for adoption. This procedure imbues Recommendations with considerable authority even if there is no formal obligation to follow their provisions.¹.

1. The General Reports of the CPT contain "substantive sections" in which the CPT enunciates the general principles that should guide practice on particular matters.

49. As mentioned above and in footnote 9, the CPT also presents general principles for the guidance of member governments in the substantive section of its annual General Reports. This means that member governments receive two series of recommendations, one series by decision of the Committee of Ministers and another set from the CPT in the substantive sections of its annual General Reports.

50. The question whether it is desirable for two sets of recommendations, arrived at by two different procedures, to be enjoined upon governments has never been examined. Nor, if this practice is considered desirable, is any attempt made to ensure that the recommendations made are congruent.

51. If it were decided to revise the EPR, steps should be taken to involve the CPT in some suitable way in order to discuss solutions to the problem here described.

Final remarks

52. Governments frequently plead that a shortage of financial and human resources accounts for prison conditions and operations that receive – and often deserve – criticism. The EPR, by laying down standards that represent the best advice that can be given at a particular moment in time, can play a part in assisting prison administrations to request and receive budgetary allocations that are congruent with the standards that should be met. However, as I have sought to demonstrate in this paper, new prison situations arise and new knowledge about prison management becomes available in the course of time. The "best advice" that can be given is always, therefore, to some extent, provisional. Periodic revision of the EPR thus becomes essential if they are to be seen as focusing on contemporary problems and solutions that are in accordance with an observance of human rights requirements, the findings of research and an implementation of imprisonment that is safe, humane and effective.

In 2001, the Austrian Prison Service requested the Council of Europe, more specifically the latter's Directorate General I – Legal Affairs, Department of

Crime Problems, to carry out a survey on the issue of conjugal visits in prison.

Summary of the survey on conjugal visits in various Member States of the Council of Europe

by Irene Koeck

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I. Background of Austria's request

A. The origins of modern penal enforcement

The enforcement of punishment for criminal offences has undergone a radical change during the last two hundred years. In this connection, two important steps may be discerned. The first reflects the influence of enlightenment which brought about, very broadly, the transition from punishment as a form of retaliation – expressed in the traditional definition of punishment, according to which *poena est malum inflictum quod infligitur propter malum factum* – to punishment as a means of prevention, by deterring the perpetrator from further criminal offences (so-called special prevention) as well as other members of the society from engaging in like activities (so-called general prevention). This change of approach towards the purpose of punishment was accompanied by a change of approach towards the person of the criminal offender who was not regarded anymore as having put himself outside society and as having become a *hostis humani generis* who was to be made harmless by all possible means; rather, the criminal offender – while continuing to be a member of society – came to be seen as someone infected by a social disease who had to be kept in quarantine until cured and thus no longer constituting a danger for society at large. According to this approach, it was recognised that criminal offenders retained their character as human beings with all the consequences deriving therefrom for their treatment under punishment. Yet, the influence of these ideas remained limited for a long time, as is proven by the retention of capital punishment – the social disease reflected in certain criminal offences being regarded as too dangerous to be coped with otherwise than by eliminating the person infected – and the rather harsh conditions prevailing in the various systems of prison regime, a fact that has even provided the material for several renowned works of world literature.

The second step was brought about by the recognition of punishment primarily as a means of reforming the criminal offender into a valuable member of society. Regarding the individual perpetrator, deterrence had thus to give way, at least in principle, to social education; and mere detention of the offender was, in itself, no longer regarded a sufficient means for that purpose. As a consequence, imprisonment had to change from a

regime of mere custody to a regime of treatment. This new approach was accompanied by a growing awareness of the impact of human rights on the conditions of imprisonment, and the offender kept in custody was no longer accorded the minimal rights of a human being only but came to be regarded as continuing to be an individual endowed with human dignity and entitled to have it respected even in prison.

B. The new approach to penal execution

Both resocialisation and the quest for humane conditions of imprisonment have resulted in important changes. In recent decades, penal institutions have been transformed, from (to express it in a simplified manner) jails, i.e. places of detention, into establishments that are, at the same time, living quarters for living, work areas, and educational institutions. The pace of this development has not been the same in all countries, even in Western Europe; but this region may be said to have set the standards, especially if we take into account not only the principles professed in the various national legislations but also their practical implementation.

The realisation of these objectives has, of course, always to be compatible with the objectives of security and good order in prisons. Making the different objectives compatible requires measures that permit their combined attainment. These measures constitute an additional financial burden for all national prison services; and this burden has come to be felt more strongly in times when there is a pressing need to cut down public expenses. It is, therefore, understandable that countries want to draw on the experience of others in this field, both for establishing the current trends and for discerning the most efficient ways for realising the various ends. For member States of the Council of Europe, this institution offers a valuable platform for information and an exchange of views; and the Council has engaged in several important programmes and activities to enhance the above-mentioned objectives.

C. The issue of conjugal visits

Apart from this over-all approach towards what may be considered an ideal system of penal enforcement, there are its various aspects which are taken up individually whenever a need for improvement is felt, either from

practical experience within the particular national system or from their discussion on the international level. One aspect that has become a focus of interest for some time already is the maintenance of the relationship between an inmate and his or her family, and, more particularly, of conjugal ties. This problem is generally addressed, because of the most usual way it is dealt with, as the issue of conjugal visits.

This issue adds a new dimension to the area of penal enforcement. So far, penal enforcement has been regarded a bilateral relationship, one side being the prisoner, and the other being society acting through its political organisation, the State, and, more specifically, its prison service. With conjugal visits (or what goes by the term of it), a third person enters the scene, and a trilateral relationship is created. This new dimension is characterised by the fact that the third person – a spouse or other long-term partner – has not violated the law and therefore claims a right to be not unduly affected by the imprisonment of her or his partner. It is, therefore, not only the interests of the prisoner which have to be weighed against the considerations of security and good order but also the rights of the third person involved.

D. Current legal basis for conjugal visits

The issue of conjugal visits has been given increasing attention in legal writing and penal practice. While national legislation is the basis for handling the issue in the various countries, there also exist certain international rules which either override the respective national provisions or which at least serve as a guide for their interpretation, taking into account that domestic law should always be construed, as much as possible, in conformity with international norms and standards, whether the latter may be directly binding or may constitute a recommendation only; for there exists a duty for all States to which the recommendation is directed to give it due consideration.

1. Article 8 ECHR

For Member States of the Council of Europe, Article 8 of the European Convention on Human Rights (ECHR) has turned out to be relevant also with regard to prisoners. While paragraph 1 contains the principle that "[e]veryone has the right to respect for his [...] family life [...]", paragraph 2 provides that "[t]here shall be no interference by a public authority with the exercise of this right" unless this should be necessary for certain enumerated reasons, amongst which being also "the prevention of disorder or crime".

It is this reservation that offers the basis for placing restrictions on the exercise of the family life of a prisoner in general, and for conjugal visits in particular, because for these a certain amount of privacy is an inherent condition, and this of course poses special problems of surveillance and security.

2. Article 23 ICCPR

Similarly, the International Covenant on Civil and Political Rights (ICCPR), concluded under the auspices of

the United Nations and adopted in 1966, provides in Article 23: "The family is the natural and fundamental group unit of society and is entitled to protection by society and the State."

3. European Prison Rules and Standard Minimum Rules

In addition to Article 8 ECHR and Article 23 ICCPR, there exist two sets of international standards which are also applicable in this context. The European Prison Rules (EPR) – Recommendation No. R (87) 3 of the Committee of Ministers of the Council of Europe adopted on 12 February 1987 – contain, in this regard, only a very general provision in Rule 43.1, stating that "[p]risoners should be allowed to communicate with their families [...]. Even more laconic is Rule 60 of the United Nations Standard Minimum Rules on the Treatment of Prisoners (SMR) which date back to 1957. It provides in paragraph 1 that "[t]he regime of the institution should seek to minimise any differences between prison life and life at liberty which tend to lessen the [...] respect due to their dignity as human beings."

While the SMR are thus silent on this specific matter, the principle of normalcy as expressed in Rule 60 (1) above has come to be regarded as implying that the right to sexual contacts between prisoners and their partners should be allowed, if this is possible under relatively normal conditions. The Explanatory Memorandum to the EPR (EM) does not make express reference to the issue of conjugal visits either but contains certain statements which are of importance in this context. With regard to Rule 43.1, the EM states, on the one hand, that "[f]amily visits to prisoners or the arrangements for and the availability of prison leave should command high priority for resources and in daily routines", and on the other that "[p]rison leave is especially important in strengthening family ties and facilitating the social reintegration of prisoners." Since the EM contains, in this connection, also a reference to the need for privacy, stating that "[v]isits in prison should be without surveillance, at least subject to visual surveillance only", it may be concluded that conjugal visits are also covered by the notion of "family visits". If no comparable reference is made with regard to prison leave, this can be easily explained by the fact that they inherently also provide privacy for sexual relations, a privacy which is not a matter of course in prison.

4. The case law under the ECHR

The case law of the institutions set up by the ECHR for the international protection of human rights may be regarded as ambivalent in this regard. While the European Court of Human Rights has ruled, in 1979, that prisoners have the right to marry whilst in prison, a right which would presumably also include the right to intercourse, the European Commission of Human Rights stated, in 1978, that security and good order in prison would be seriously put in question if all married prisoners were permitted to continue their conjugal relations in prison.

The Commission, before winding up its activities under the revised ECHR, confirmed its position in 1997. The case dealt with the special aspect of procreation. The Commission opined that a reduced possibility for prisoners to procreate may be regarded as the direct result of a lawfully imposed prison sentence, and may therefore be deemed to have a reasonable and objective justification.

5. Legal writing

Notwithstanding the rather cautious approach taken by the Commission, doctrine has expressed, in recent years, some doubts in this regard, questioning the continuing validity of the Commission's reasoning in the light of the experiences of those Member States of the Council which, in the meantime, have adopted a more liberal practice.

E. The Austrian situation

In Austria, the issue was recently raised in a case brought before the Constitutional Court, which referred it to the Administrative Court where it is still pending; and it is not improbable that it will also have to be dealt with by the permanent European Court of Human Rights set up in 1998.

The Austrian Prison Act provides that prisoners should be granted, for the maintenance of family and other personal relations, the opportunity of receiving visits in adequate rooms. These visits should be of reasonable frequency and length. Surveillance of such visits may be dispensed with if there appear to be no objections in the particular case. It is up to the prison governor to decide on the visit and the conditions under which it could be made. In addition, the Austrian Prison Act also provides that leave for the settlement of important family affairs may be granted to prisoners whose remaining term of imprisonment does not exceed three years.

II. The request for a survey on the issue of conjugal visits

Since international norms and rules and the standards reflected therein do not petrify but should be regarded a living thing that has to be taken together with its entire context, and since their meaning is also expressed in the relevant practice of the States parties to the instrument in which they are embodied, the Austrian Prison Service decided, in 2001, to inquire into the handling of the issue of conjugal visits in other Member States of the Council of Europe. On request of the Austrian Prison Service, the Directorate General I – Legal Affairs, Department of Crime Problems, sent a Restrictions (length of the sentence, type of offence, restrictions concerning the person of the visitor or the prisoner);

1. Restrictions (length of the sentence, type of offence, restrictions concerning the person of the visitor or the prisoner);

2. Frequency and length of the visit;
3. Furnishing and location of the visiting rooms;
4. Security checks of the visitors and prisoners;
5. Precaution in hygienic matters; and
6. Legislation (rights granted to the prisoner by law or left to the discretion of the prison administration).

III. The results of the survey

Within the time limit set by the circular letter, replies were received from the Prison Services of the following Member States: Denmark, Estonia, Hungary, Italy, Romania, Sweden, Switzerland, Turkey and the United Kingdom (Prison Service of England and Wales)¹. While the number of member States participating in the inquiry may not seem to be so impressive, the replies received reflect the state of affairs in practically all the different regions of Europe, and the outcome of the inquiry may therefore be regarded a representative picture of the situation.

A. Scandinavian States

As regards the Scandinavian States, family visits are permitted rather frequently.

1. Denmark

In Denmark, visitors – whether family members or friends – are admitted at least once a week. The length of the visit is at least one hour, but this is considered to be a minimum only. Where the circumstances make it possible, visits may be made even more frequently and for a longer time.

These visits may also be used for sexual intercourse. This can be taken from the fact that a limited number of condoms is discretely placed in the visiting rooms and is also distributed to those who request it.

2. Sweden

In Sweden, there does not exist a regulation concerning the frequency and length of visits. Prisoners may receive visits to the extent that this can be conveniently arranged.

It is left to the local prison authority to decide about the visit in each specific case. In order to determine whether a particular prisoner may be allowed, in a particular case, to receive a visit, or whether the visit shall be supervised, an investigation is conducted prior to it and the necessary information collected about the visitor. This includes the question of whether the visitor has been already sentenced for, or is suspected of, criminal activities.

1. *Editor's note:* The Secretariat of the Council of Europe received, in addition, replies from Armenia, Azerbaijan, Belgium, Bulgaria, Cyprus, Czech Republic, Finland, Georgia, Germany, Iceland, Ireland, Luxembourg, Moldova, Poland, and Slovenia, which the Austrian Prison Service, for a variety of reasons, could not take into account.

Conjugal visits seem to occur frequently and to be regarded as normal. In prisons where there exists a visiting flat the visitor may even stay overnight. These flats are furnished like ordinary homes. In these cases, a visiting spouse may even be accompanied by a child, as is indicated by the fact that there are also toys for the children.

Visits may go without surveillance. However, a prisoner who has had an unsupervised visit shall be subject to a body search.

B. Baltic States

Baltic States permit conjugal visits under similar conditions as in Scandinavia.

1. Estonia

In Estonia, prisoners may receive short-term visits as well as long-term ones. The law provides the right to both kinds of visits.

A prisoner is allowed to receive long-term visits from his or her partner on the following conditions. The prisoner and his or her partner (a) have a common child, or (b) have shared a common household, or (c) have cohabitated, prior to the commencement of the prison sentence, for at least two years.

A prisoner is entitled to a long-term visit at least every six months. The length of a long-term visit may be up to three days.

Long-term visiting rooms are furnished with beds, chairs, a table, a cooking range, and a television set. The visiting area is equipped with the necessary sanitary installations, permitting both the visitor and the inmate to use a bathroom and a WC.

2. Latvia

Long-term visits are granted to close relatives only. These visits may have a length from 24 up to 48 hours. Visitors may be accompanied by children.

There exist long-term visiting rooms which are, in fact, small apartments, because they include also a toilet, a bathroom and a kitchen equipped with all necessary things. The long-term visiting rooms are furnished with beds for adult persons as well as for children. There are also chairs, tables, a cooking range, and a television set.

C. Western Europe

The replies received from member States in Western Europe show a tendency of facilitating family visits. This does not, however, extend necessarily to conjugal visits.

1. United Kingdom: England and Wales

Within the Prison Service of England and Wales, there is an emphasis on initiatives which attempt to maximise fully the existing potential for allowing prisoners to establish and maintain contact with their families. This includes the creation of new family visitors' centres, refurbishing of existing visiting rooms and providing play areas for children.

However, the Prison Service of England and Wales does not permit conjugal visits. The reason for this restriction is twofold. First, conjugal visits are considered a risk to security and good order. Second, limiting the prisoners' activities in relation to, and freedom of association with, the outside world in a way which is considered necessary for maintaining the effectiveness of imprisonment and of the system of criminal justice appears in the view of the Prison Service of England and Wales, to be called for by the need to ensure public safety. In this regard, reference is made to the above-mentioned decision of the European Commission of Human Rights rendered in 1997 in a case that had come from the United Kingdom.

2. Switzerland

In Switzerland, the administration of penal enforcement is a matter for the component states (the Cantons). Therefore, the practice with regard to conjugal visits may differ in the various Cantons.

In general, it may be said that Switzerland permits family visits without surveillance. However, the availability of adequate rooms at a given time may pose a certain limit. The fact that the prisoners and their visitors may enjoy privacy during the visit, and that the family-visit rooms are furnished not only with tables and chairs but also with a bed, and are equipped with a separate bathroom, indicates that family visits also include conjugal visits.

Visitors, on entering the penal institution, are subject to a security check; but in general no body search is carried out.

D. Southern Europe

As regards this region, a reply was received from:

Italy

In this reply it is stated briefly that the law provides neither for conjugal visits nor for other kinds of long-term or unsupervised visits.

E. Central and Eastern Europe

This region appears to be at the beginning a transition from a system of restricted visits only to a system that would also provide for conjugal visits.

1. Hungary

The conditions under which visits are permitted are determined by the prison governor. The law provides for visits in penal institutions so that each prisoner has the right to receive one visit per month, for a length of one to one-and-a-half hours. Since this is the compulsory minimum only, some institutions are in a position to offer more frequent visits.

In order to provide decent conditions for the visits, both the visitor and the inmate are offered a seat, but there is a desk that separates the former from the latter.

In some of the Hungarian penal institutions, separate family-visit facilities have already been introduced. These facilities will seemingly offer an opportunity for conjugal visits, too.

2. Romania

In Romania, prisoners may receive visitors four times a month. The length of the visits varies from half an hour up to two hours.

The visiting rooms are furnished with chairs and tables. One may conclude that there are no conjugal visits permitted in Romania.

F. South-Eastern Europe

As regards this region, a reply was received from

Turkey

In this country, the law does not allow unsupervised family visits.

However, prisoners who have served one fourth of their term with good behaviour are entitled to prison leave. Such right to prison leave may be exercised three times a year, and each leave may have a length of up to seven days.

Apparently, in Turkey conjugal relations can be entertained only outside the penal institutions.

IV. Conclusions

It appears from the replies received that the practice of Member States of the Council of Europe with regard to the issue of conjugal visits still varies considerably. While some regimes can be regarded, in this respect, as rather liberal, others are more restrictive.

The survey reflects the still conflicting positions taken by the various Member States of the Council of Europe on the question of how important it is that a prisoner be allowed or even encouraged to maintain a marital relationship as fully as possible. This question is, however, relevant both under the human rights aspect involved and from the therapeutical point of view, because these relations are considered as useful for the prisoner's social reintegration.

Those who advocate the maintenance of marital relationships plead for an extensive right of family members to visit prisoners in penal institutions. These visits should take place under conditions which are as natural as the prison environment will permit, and should include the opportunity of sexual intercourse between spouses, long-term and other partners. Where conjugal visits exist, the practice by the Member States concerned recognises also that as much privacy as possible should be allowed to the partners.

According to recent developments and the change of attitude vis-à-vis homosexual relationships, some jurisdictions do not limit the right to visit and to have sexual relations to heterosexual partners only. Thereby, the notion of conjugal visits takes a broader meaning.

Other Member States still give priority to the aspects of security and good order – important for society at large – over the rights of the prisoner and his or her family. While recognising, at least to a certain degree, that the maintenance of marital relationships may be desirable in principle, they have not yet found a way of reconciling the conflicting interests of the individual and of society. Some may even doubt that such reconciliation is possible.

Moreover, these Member States incline to the view that visits, especially with close family members, which may also include conjugal visits, are to be regarded as a privilege rather than a right. In contrast, the more liberal Member States consider such visits a basic human right. They more or less adhere to the opinion that – as Andrew Coyle's Handbook for prison staff, edited by the International Centre for Prison Studies, King's College, in 2002, states – "[a]ny restriction on [the] frequency of private family visits or the conditions in which they take place [would need] to be justified in each case. The presumption should be to maximise visiting and to allow the most favourable conditions possible." This stand does not exclude, however, that these countries too take the precautionary measures which they deem necessary for preserving security and good order. This may include prior investigations into the person of the visitor as well as examinations on entering the penal institutions. Even body searches seem not to be excluded.

An intermediary position is taken by those countries which – while not excluding conjugal visits as a matter of principle – tend to regard prison leave as the more appropriate time and place for sexual relations.

At present, no uniform practice or theory on conjugal visits can be identified. As long as the European Court of Human Rights will not declare, on the basis of Article 8 ECHR, that the maintenance of a marital relationship is a basic human right of the prisoner as well as of his or her spouse, that this right also includes a right to regular sexual intercourse and therefore to conjugal visits or to prison leave, and that – although this right may be implemented according to the laws and regulations of each Member State – such regulation must not (to use the Court's terminology) "injure the substance of the right", a common position of the Member States of the Council of Europe on the issue of conjugal visits is not likely to evolve in the near future. Recent decisions by the European Court of Human Rights, especially in the *Kalashnikov* case referred to in this context by the Austrian Constitutional Court, do not seem to be fully pertinent.

Sir Graham Smith (1939-2002)

by Hans-Jürgen Bartsch

Former Head of the Department of Crime Problems
Directorate General I – Legal Affairs
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It is my sad duty to inform readers that Sir Graham Smith passed away on 11 August 2002, four days before his 63rd birthday, succumbing to the cruel illness which had afflicted him, just when he had begun to enjoy his retirement.

Sir Graham was an outstanding leader of his country's probation service. From 1992 to 2001 he served as HM Chief Inspector of Probation. Although in appearance and style the typical Englishman, he was no parochial civil servant. He was genuinely interested in other countries' experience and developed many international professional contacts.

One of these was with the Council of Europe which he generously let benefit from his unique experience in all matters concerning the enforcement of non-custodial sentences. For over six years, he was a member of the Council for Penological Co-operation, an advisory body to the European Committee on Crime Problems (CDPC) on the international aspects of both prison management and probation. From 1998 until 2002 he chaired it. In fact, he had just been re-elected when he learned

of his illness and was forced to resign. Until 2000 he also chaired a committee on the implementation of community sanctions.

His commitment, his expertise, his wisdom, his kindness, his tolerance, and his sense of humour won him many friends in Strasbourg. Having had the privilege of working with him over many years, I should like, also on behalf of my colleagues, to pay tribute to this outstanding man and wonderful person. Nothing describes Graham better than this entry in his diary which was read out at a very moving memorial service at Westminster Abbey in London on 27 November 2002; he had written it a few hours after the diagnosis of his cancer had been confirmed:

"Do not think what you will miss, but take pleasure in imagining it. Do not consider you have been unlucky, because you have not. Be grateful for what you have had – the love you have felt."

Graham will be dearly missed by his colleagues and friends.

Information

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Turkish Ministry of Justice has produced a compilation of all Council of Europe and other international instruments related to prisons.

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