

Prisons in Europe. 2019 report on European prisons and penitentiary systems

October 2019



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The European Prison Observatory

The European Prison Observatory (hereinafter EPO) is a project coordinated by the Italian NGO Antigone, and developed with the financial support of the Criminal Justice Programme of the European Union. The organizations so far involved are:

Centre for Crime and Justice Studies – United Kingdom

European Public Law Organization – Greece

Fachhochschule Dortmund – Germany

Helsinki Foundation for Human Rights – Poland

ISCTE – Instituto Universitário de Lisboa – Portugal

Ludwig Boltzmann Institute of Human Right – Austria

Latvian Centre for Human Rights – Latvia

Observatoire international des prisons - section française – France

Observatory of the Penal System and Human Rights - Universidad de Barcelona – Spain

Special Account of Democritus University of Thrace Department of Social Administration (EL DUTH) – Greece

Università degli Studi di Padova – Italy

Università degli Studi di Torino – Italy

The European Prison Observatory studies, through quantitative and qualitative analysis, the condition of the national prison systems and the related systems of alternatives to detention, comparing these conditions to the international norms and standards relevant for the protection of detainees' fundamental rights. The European Prison Observatory highlights to European experts and practitioners 'good practices' existing in the different countries, both in the field of prison management and the protection of prisoners' fundamental rights.

Finally, it promotes the adoption of the CPT standards and other international legal instruments on detention as a fundamental reference for the activities of the existing national monitoring bodies.

www.prisonobservatory.org

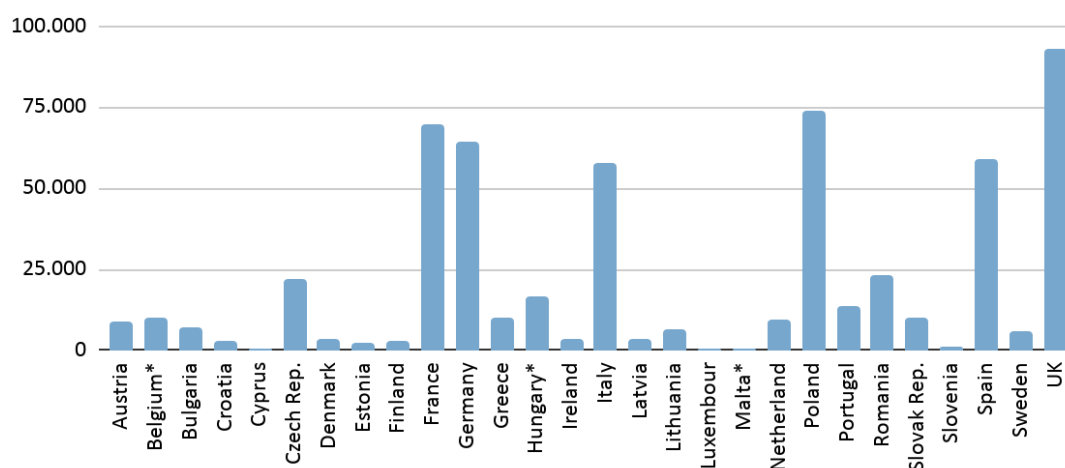
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Consistency of the prison population and crime rates¹

In the European Union, over 584,485 people are currently detained in penal institutes. Countries with the highest prison population are the United Kingdom and Poland (with over 93,000 and over 73,000 detainees respectively) followed by France, Germany, Italy, and Spain, whose prison systems host around 64,000 detainees each. Prison populations have to drop of over 30,000 people to find the following group made up by Romania and the Czech Republic, with a little over 22,000 prisoners. The most numerous group of remaining countries follows at a short distance with numbers ranging between 619 of Malta, and almost 17,000 of Hungary.

Prison population on 1st January 2018 (including pre-trial detainees)



Data source: COE. * data from World Prison Brief

Countries have a completely different ranking when it comes to **incarceration rates**. This statistic facilitates to draw comparisons; in fact, it highlights how many people are detained in each country every 100,000, while keeping into account the size of the population. In general, upon observing the consistency of the prison population, the countries that present a high number of detainees (that belong to central and south Europe) have a large general population, so their incarceration rates are not the highest. The Polish case represents an exception. Poland, with a rate of 194.4, has the highest rate among the countries with the

¹ **Preliminary notes on the data used.** All data is taken from the Council of Europe Statistics on Prison Administration Space I and Space II. It generally refers to 2018 and considers the countries of the European Union. Three of them (Belgium, Hungary, and Malta) did not provide any data to the 2018 SPACE I project; therefore, all statistics regarding these countries are taken from World Prison Brief available at prisonstudies.org. Other sources of data are indicated in the corresponding tables and graphs. Due to the differences in data collection among countries, numbers might not coincide within the different datasets.

largest prison population. As a comparison, its number of inmates is a bit higher than in France, but it has a general population of almost half of its size.

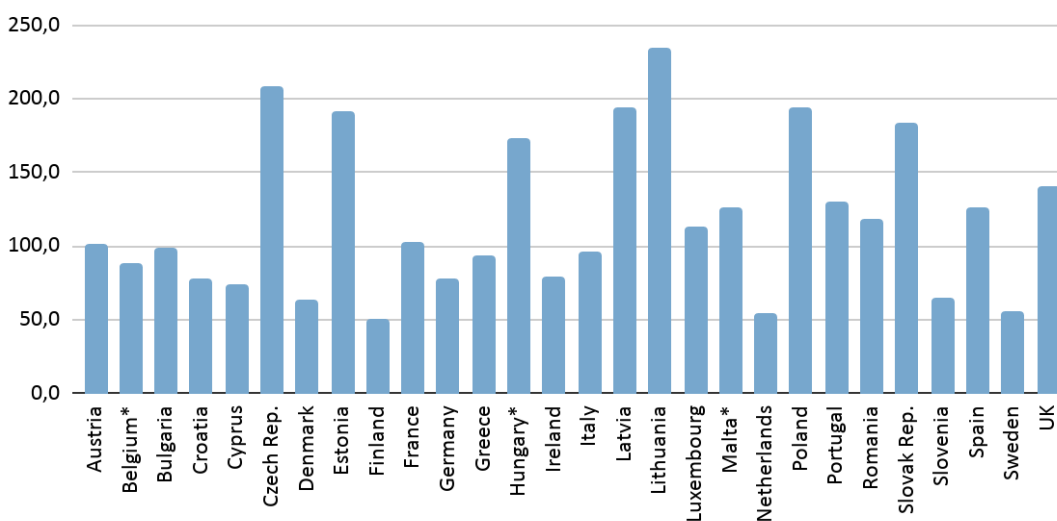
On the other hand, some of those countries that have lower numbers of detained people (that belong to eastern Europe), show a higher incarceration rate compared to the quite small general population. The most striking examples are Lithuania, Estonia, Latvia, and the Slovak Republic that present high incarceration rates between 173 and 234.9 detained people every 100,000.

Notwithstanding the current rate, the Latvian case is showing, in fact, a positive development since it is the first time in post-independence years (1991) that its prison population rate is falling below 200 prisoners per 100,000 persons. As a comparison, in 1995 there were 385 detained people per 100,000 inhabitants, and in 1985, 659, the highest ever recorded in this country.

Another interesting case is represented by the Czech Republic that has the same general population as Portugal but has almost twice as many detainees, and therefore, almost twice the rate.

Seventeen countries score beneath the average rate of 118.5, four of them immediately above and seven of them present a rate that is well above or almost double the average. The Fachhochschule Dortmund, one of the partners of the EPO project, highlighted that the number of detainees does not include people accommodated in forensic psychiatric hospitals or drug and alcohol rehabilitation centers. Their confinement is very prisonlike and can even count as part of the prison term if a person has been convicted to serve a simultaneous prison sentence. Therefore, if people detained in these institutes were to be added to the total amount of inmates, the incarceration rate would be approximately 100.

Prison population rate on 1st January 2018

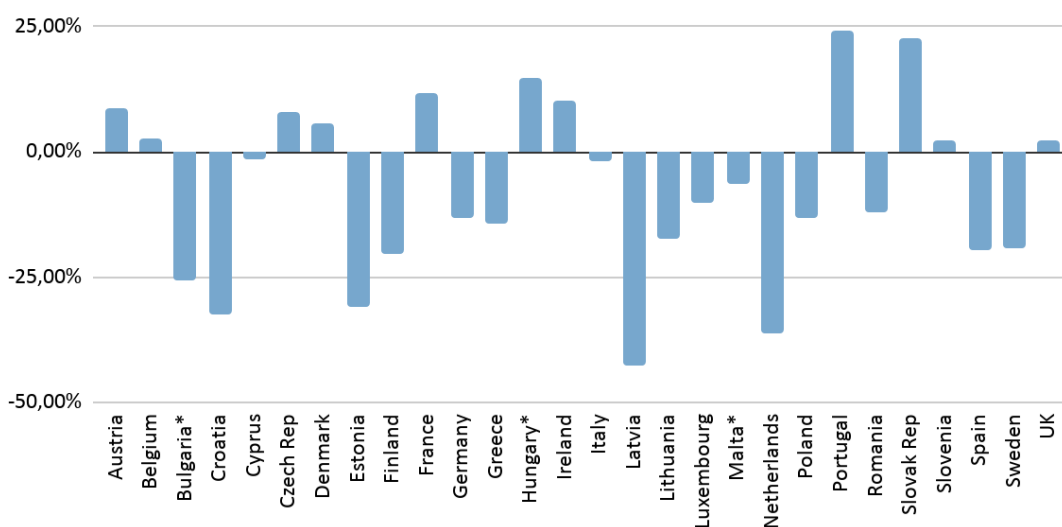


Data source: COE. * data from World Prison Brief

Over the last ten years, [according to Eurostat](#), **crimes** reported to the police have diminished, and so has the European prison population. Nevertheless, some EU States show different tendencies. In particular, among

the countries with a larger prison population, France showed a steady increase in the number of detainees and Italy, after significantly diminished its prison population, is now manifesting a new rise in the numbers. Romania shows an increase of prisoners peaking in 2013 and then a decrease to levels lower than ten years ago. The Czech Republic, on the other hand, shows an opposite trend with a low peak in 2013 and a later return to previous numbers. Hungary, Portugal, and the Slovak Republic show a small increase compared to 2008. Among the countries with less than 10,000 detainees, only Austria, Ireland, and Denmark showed slight rises while, in other countries, prison populations either dropped or remained essentially flat.

Prison population variation. 2008-2018



Data source: 2008 data Eurostat. 2018 data COE. * 2018 data from World Prison Brief

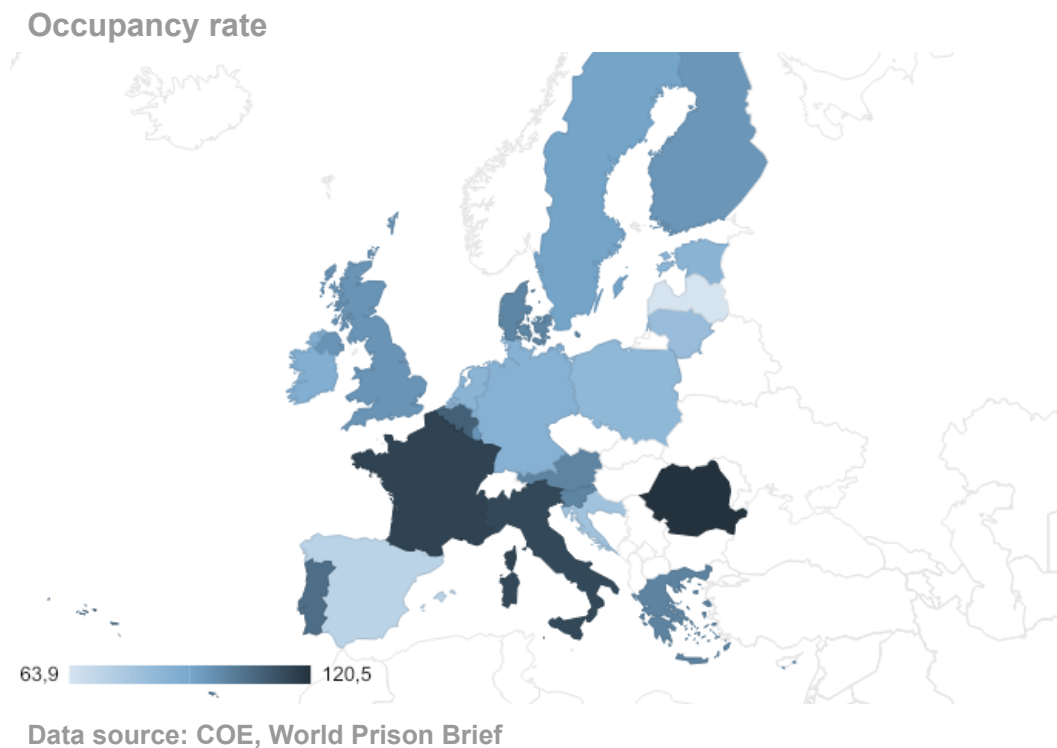
Prison capacity and overcrowding

The European Union region as a whole hosts fewer detainees than the official capacity of its prison systems, but when the region is broken down to the single States, the differences in prison population densities are very pronounced. To discuss this issue, it is important to point out that the minimum required space per detainee varies from country to country; therefore, prison capacities in Europe are not calculated in the same way. This means that there are countries where the official occupancy rate is lower than others, but that in fact accommodate detainees in less space.

The most **overcrowded** prison systems are those of France, Italy, Hungary, and Romania, with occupancy rates ranging between 115% and 120%. Denmark, Austria, Greece, the Czech Republic, Portugal, Slovenia,

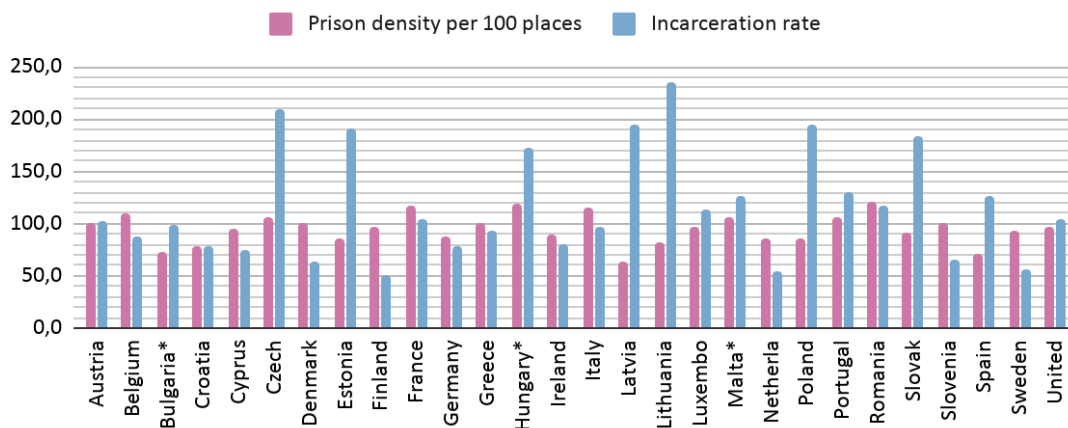
Malta, and Belgium show occupancy rates between 100,5 and 109,3 while the remanent sixteen countries have fewer prisoners than available places.

It is interesting to note that among the countries with the largest prison populations, only Italy and France are overcrowded.



A further comparison between prison densities and incarceration rates shows that the already-mentioned eastern European countries characterized by high incarceration rates and small general populations (Latvia, Lithuania, Estonia, and the Slovak Republic) present occupancy rates lower than 100%. Hence, their prison systems could host way more detainees than they do now. Poland, with an incarceration rate of 194.4 and an occupancy rate of 85%, in this circumstance, is not an exception as it was in the previous case. The Czech Republic is in a similar situation, notwithstanding being slightly overcrowded. The explanation behind this phenomenon could lay in the legacy of infrastructures of the previous regimes and in the way the prison capacity is calculated: each detainee could be allocated by law in less square meters compared to other countries.

Occupancy rate per 100 places and incarceration rate per 100,000

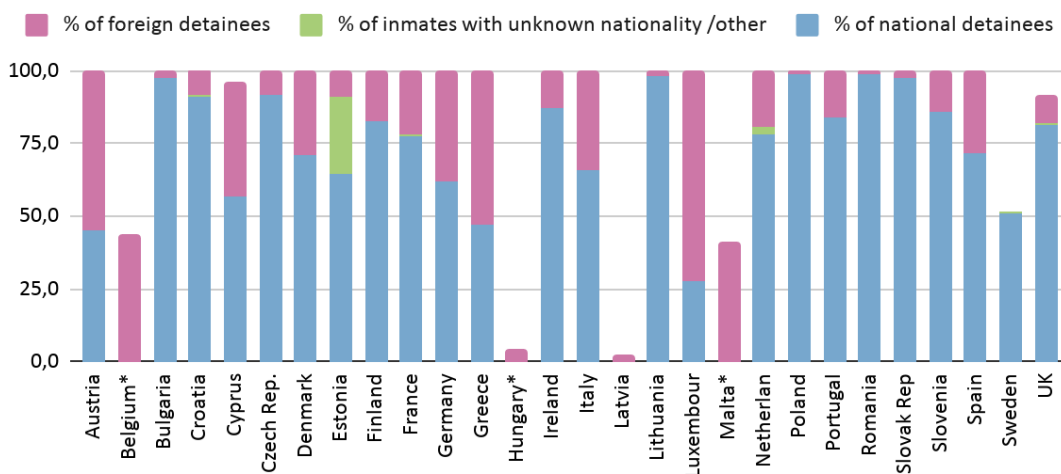


Data source: COE. * data from World Prison Brief

Foreign inmates

On average, one-fifth of detainees in Europe is a non-national; however, within the EU countries, there are significant differences. The countries where the percentages are above average are generally those of northern, central and southern Europe, while eastern European countries rank at the bottom of the list with exceedingly low percentages. Luxembourg (72.1%), Austria (54.7%), and Greece (52.7%) are the countries presenting the highest percentages of non-nationals. On the other hand, Bulgaria, Croatia, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, and the Slovak Republic host less than 10% of foreign prisoners each. Some exceptions within the first group are represented by the United Kingdom, Portugal, Finland, Ireland, France, and the Netherlands that show lower percentages than either the average or their neighboring countries. The majority of non-nationals (over 70%) is not a citizen of an EU country.

Prison populations by nationality and legal status on 31st January 2018

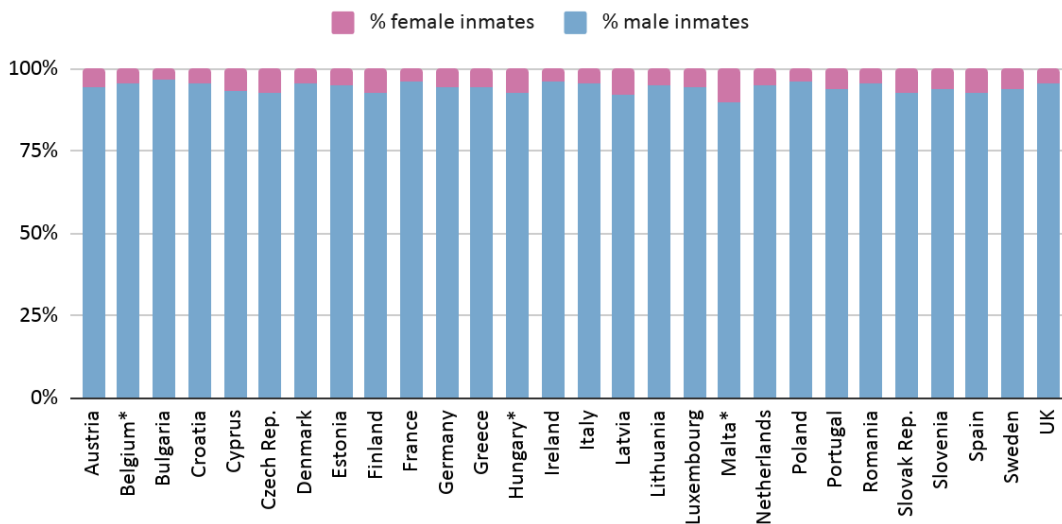


Data source COE. * data from World Prison Brief

Women in detention

Currently, in European prisons, there are around 30,000 detained women. The absolute number appears quite high; however, upon comparison with the male detained population, women represent a mere 5.1% of the overall detained population. The average calculated on the single countries is 5.7 and values vary between 3.1% of Bulgaria and 10.4% of Malta. On the other hand, when it comes to foreign detained women, percentages calculated on the total number of non-nationals are way higher and can even reach 30%.

Prison populations by gender on 31st January 2018



Data source: COE. * data from World Prison Brief

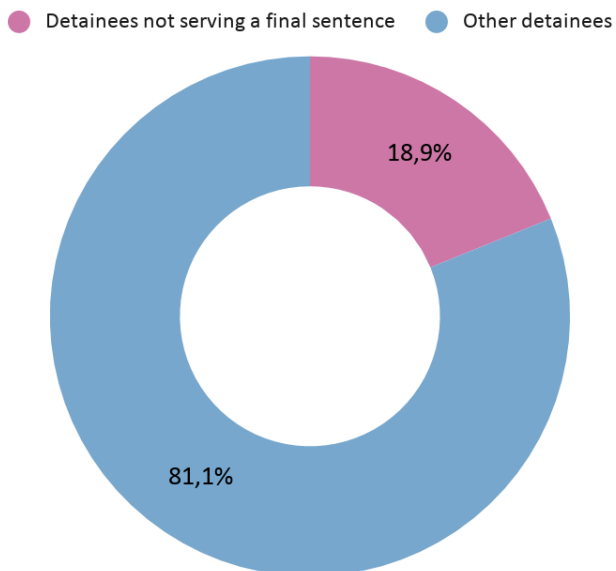
Juveniles in detention

The numbers of juvenile detention are very different from those of adults for several reasons. First of all, there are almost no minor females detained while males are 4,873. Poland hosts 1,421 of them, the United Kingdom almost 900, and France and Germany almost 800. Romania, Italy, and Austria range from 315 to 122 while all other countries report numbers lower than 100. The age of criminal responsibility is generally 14. Seven countries set a higher age (15 or 16) and five a lower one, either 12 or 13, except for the United Kingdom, where the criminal responsibility is set at 10 years for England, Wales and Northern Ireland, while Scotland indicated two different ages: 8 and 12.

Pre-trial detention and sentenced detainees

One-fifth of the prison population in Europe is held in prison without a **final judgment** (i.e., awaiting the first judgment and on remand).

Detainees not serving a final sentence



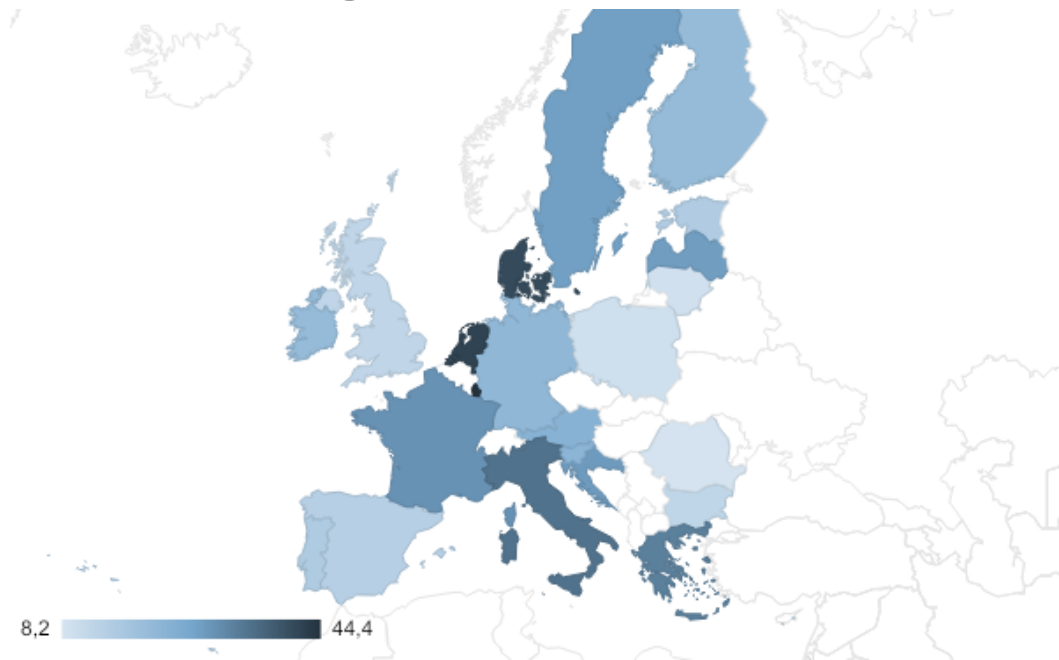
Data source: COE, World Prison Brief

On average, among EU countries, detainees not serving a final sentence are 23% of the total. Countries with percentages higher than 40% are Luxembourg, the Netherlands, and Denmark, followed by Belgium, Italy, and Greece, whose percentages range between 35.6% and 32.4%. Below 30% but above average it is possible to find Sweden, France, Latvia, and Croatia. Eastern European countries seem to perform generally better than the rest of Europe presenting percentages well below average.

In its report on Greece, the European Public Law Organization pointed out that one of the causes of prison overcrowding is the high number of pre-trial detainees, especially foreigners and/or immigrants, who due to lack of a certain residence are more eligible for pre-trial detention.

In some countries, it was found that pre-trial detainees have less access to educational, work, and recreational activities. This could even result in pre-trial detainees to be held in a harsher regime than detainees with a final sentence.

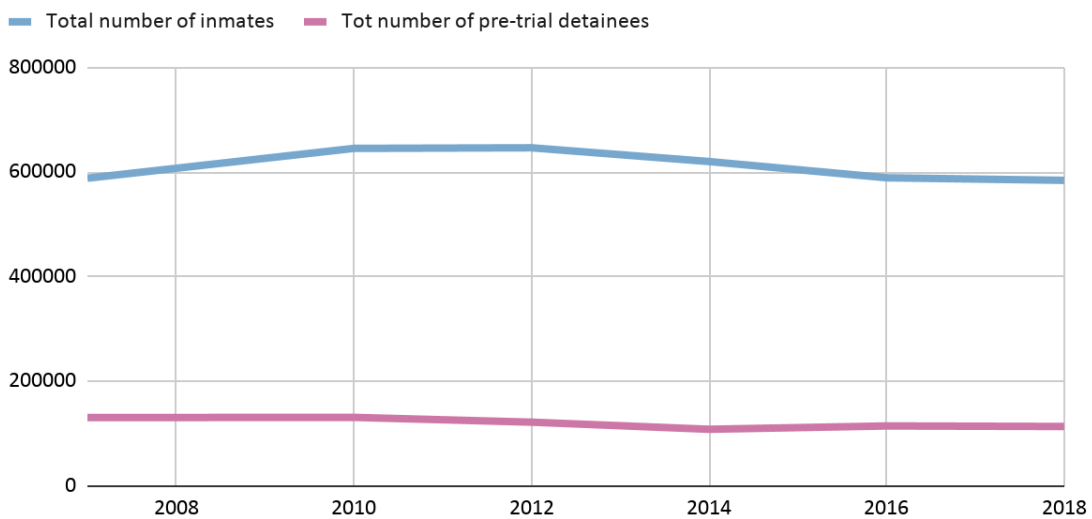
Detainees not serving a final sentence



Data source: COE, World Prison Brief

Between 2007 and 2018, the number of detainees not serving a final sentence has decreased by around 20 thousand people and does not appear to follow the curve of the trend of the total number of detainees.

Number of inmates and total number of pre-trial detainees

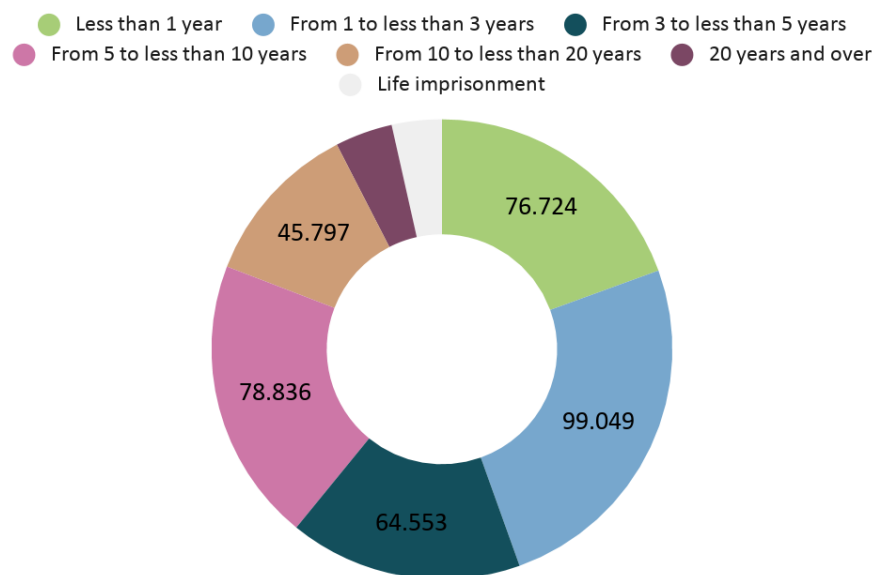


Data source: COE; World Prison Brief

Lengths of sentences is another relevant feature of prison systems. In Europe at the moment, 19.4% of convicted detainees are serving less than one year of detention. Such short prison sentences could have been given for small or petty crimes that are generally better counteracted with alternatives to detention rather than a prison sentence, that could, in reality, cause the opposite effect: teaching petty offenders to commit more serious crimes. Concerning this specific group of prisoners, there are two countries with extremely high rates that come dangerously close to 50%: Germany with 45.9% and the Netherlands with 40.5%. As a reference point to better understand this data, it is possible to consider the European average: 16.3%. In contrast, Greece, Italy, Romania, Portugal, Latvia, the United Kingdom, and Spain, display percentages lower than 10%.

Inmates sentenced from one to less than three years represent a quarter of convicts in Europe. Indeed, also the European average percentage is the highest compared to the average percentages of prisoners serving all other periods of detention: 24.1%.

Distribution of sentenced detainees by length of sentence

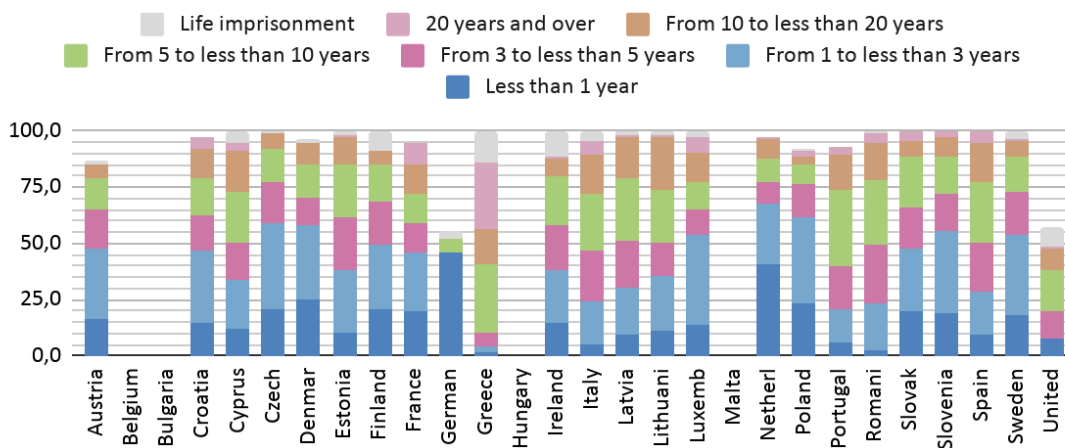


Data source: COE; World Prison Brief

Prisoners serving sentences from three to less than five years represent another 16.4% of all convicts, those convicted to five to less than ten years are 20%, and detainees serving sentences from ten to less than twenty years are 11.6%. A residual percentage is composed of lifers (3.5%) and detainees with sentences of over 20 years of imprisonment (4%).

One interesting case is represented by Greece, which shows very low rates of convicts serving up to five years and very high percentages of detainees sentenced to five to less than ten years (30.3%) and twenty years and over (29.9%).

Percentages of sentenced detainees by length of sentence



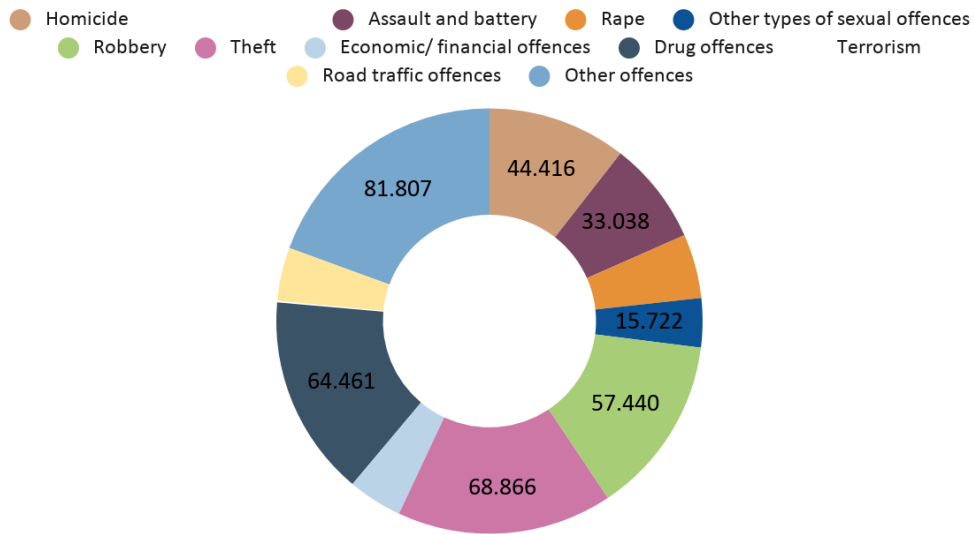
Data source: COE

In some of the countries, the breakdown of the length of sentences was not indicated for all sentenced detainees; therefore, the total of the percentages is not 100% in all cases.

Furthermore, almost all countries provided a breakdown of the **crimes committed by sentenced detainees**.

Of the 421,364 considered inmates, the majority of them (16.3%) are detained because of theft. The second-largest group (15.3%) is incarcerated due to drug-related offenses, showing the results of the ongoing European war on drugs. Robbery follows at a short distance with 13.6%. Crimes against the person (homicides, assaults and batteries, and sexual offenses) represent another 27% of the total while the lowest percentages concern economic and financial offenses (4.1%), road traffic offenses (4.1%), and terrorism (0.1%).

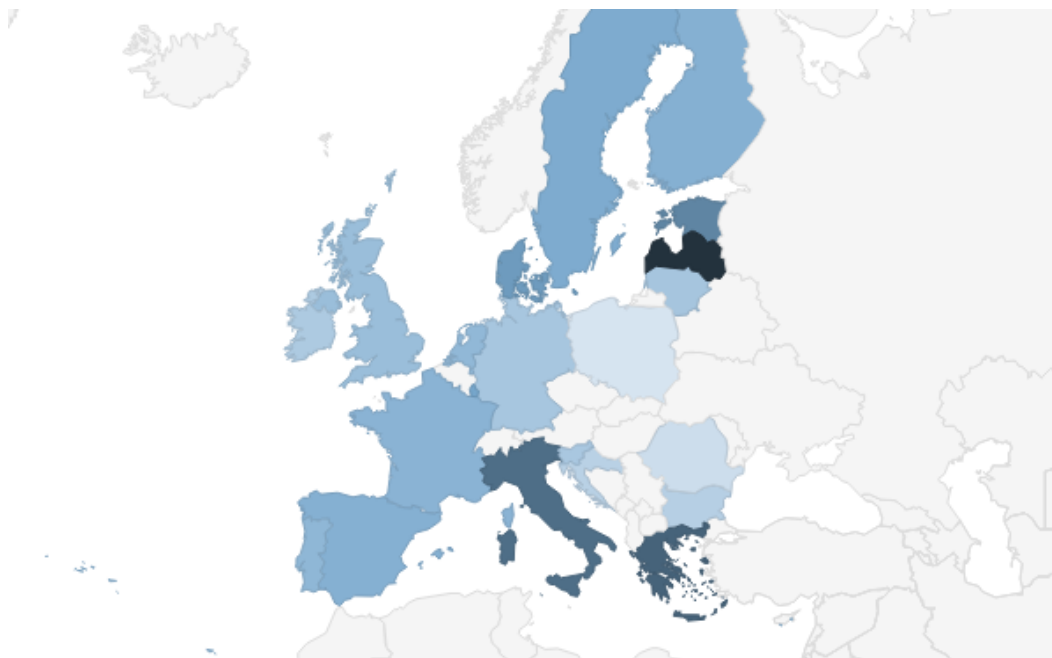
Number of sentenced detainees by offence



Data source: COE; World Prison Brief

The average percentage of inmates detained for drug-related crimes is 18.3%. Latvia, with its 40.7%, is the country with the highest percentage of inmates detained for drug-related crimes. Greece and Italy follow with 32.8% and 31.1% respectively: their numbers while being significantly lower, remain quite high compared to the average.

Percentage of drug-related offences



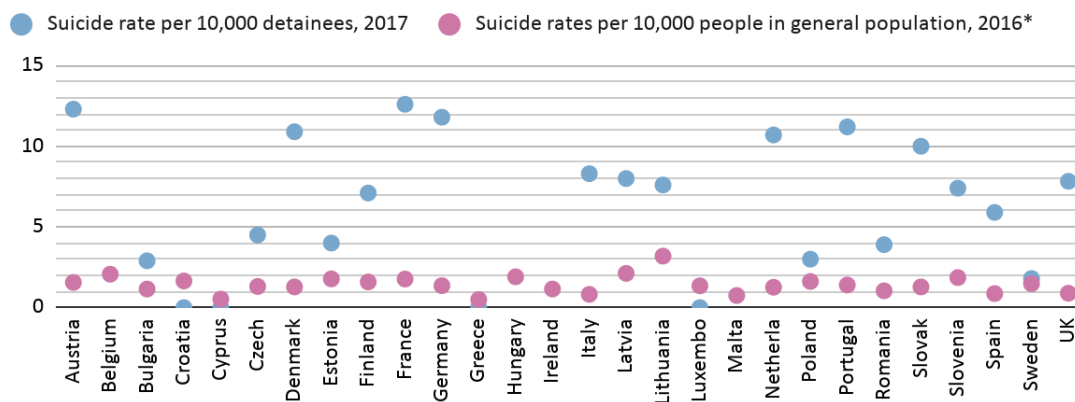
Data source: COE

On the other hand, the two countries that have exceptional low percentages are Poland and Romania with 3.3% and 5.3% respectively.

Suicide in detention

In 2017, 1,380 people died during their detention in a European prison. Almost one-third of them took their own lives while they were from their families and loved ones. The comparison between the suicide rates (per 10,000 people) among the general population (data refer to 2016 and are taken from the World Health Organization) and in prison is striking. The average of the former is, in fact, 1.41 while the latter is 6.32: detainees commit suicide 4.4 times more than the average. Four countries (Luxembourg, Greece, Cyprus, and Croatia) did not report any suicide. Seven of them show rates below the average, while the remaining ones score above the average. The highest rates are displaced by France (12.6), Austria (12.3), Germany (11.8), Portugal (11.2), Denmark (10.9), the Netherlands (10.7), and the Slovak Republic (10). 5.9% of the suicides were committed by women, which is consistent with the percentage of female detainees. As already mentioned, detainees not serving a final sentence are 19% of the total of the detained population, but they committed over 30% of the suicides, which suggests that they are more vulnerable than other detainees.

Suicide rates per 10,000 detainees and in the general population



Data source: COE; World Health Organization

Probation and alternatives to detention

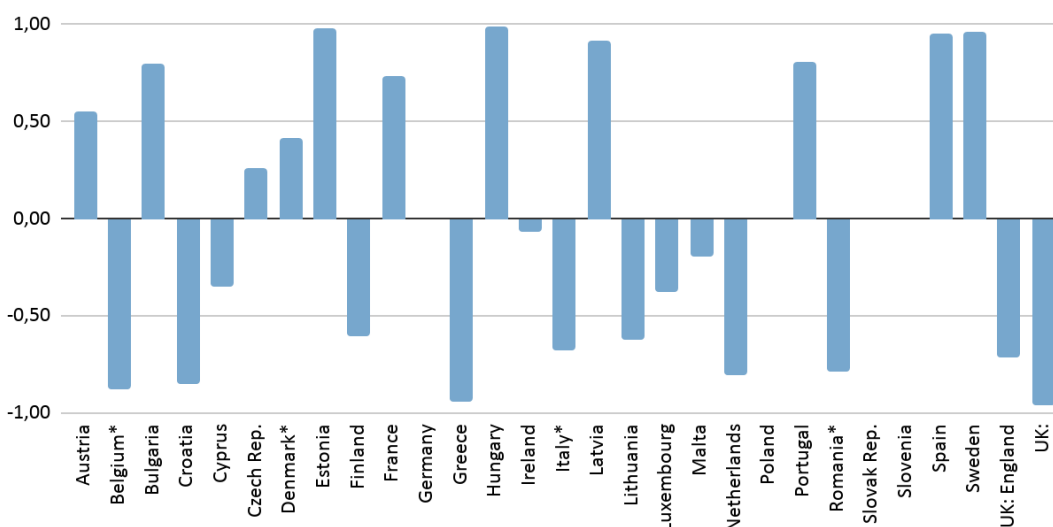
At the end of January 2018, in the EU over 800 thousand people were under the supervision of probation agencies. Data from SPACE II on this topic is not as comparable as data from SPACE I statistics because EU States have different ways to categorize alternatives to detention and pre-trial detention, forms of probation and other programs. Moreover, SPACE II data that was used in this section, only refers to people who are under the supervision of probation agency (or the cases that probation agencies are handling); however, other forms of alternatives to (pre-trial) detention might exist but, since they do not entail the supervision of a probation agency, they might not have been included in this dataset. Finally, another difficulty arises from the indicators and data collection methods, that might differ from country to country. Nonetheless, it is possible to draw attention to some interesting findings that can be inferred from data.

First of all, it is interesting to note that only around 10% of all people placed under the supervision of probation agencies with different measures such as the conditional suspension of the criminal proceeding, an alternative to pre-trial detention, or other measures of supervision are awaiting the first judgment. Also, five countries (Bulgaria, Denmark, Lithuania, Romania, and Sweden) indicated that the considered forms of alternatives to pre-trial detention under the supervision of probation agencies do not exist in their criminal justice systems.

An issue worth exploring is the **correlation between the trends measured between 2010 and 2018 of alternatives to detention and the number of detained people**. When a correlation is detected, it does not necessarily mean that one variable affects the other, it simply shows that the trend of the two variables is somehow connected. A statistical analysis of the total number of inmates and the total number of alternatives to detention is not possible because some data is missing and that available lacks homogeneity. Nevertheless, it was possible to analyze the situations of each country separately. Out of 28 EU countries, it was possible to take into account only 24 of them. Germany, Poland, the Slovak Republic, and Slovenia had insufficient data to calculate a reliable correlation; furthermore, almost all data refers to the number of people who were under the supervision of probation agencies with five exceptions: Belgium, Denmark, Italy, Romania, and Scotland, which collect data on number of cases, that can be higher than the number of people, who can be given more than a measure. Data on the United Kingdom, in this case, is disaggregated in light of the differences in the data collected: England and Wales collect the number of people undergoing alternatives to detention, Scotland collects the number of cases while Northern Ireland is not included because data on alternatives to detention was not available.

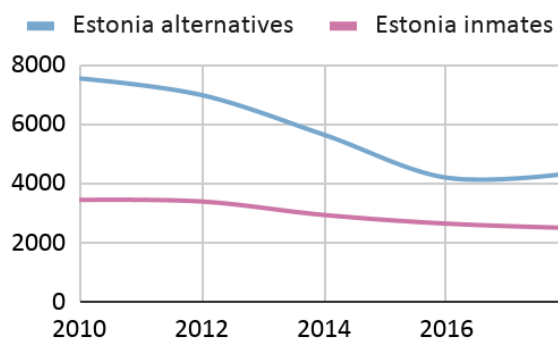
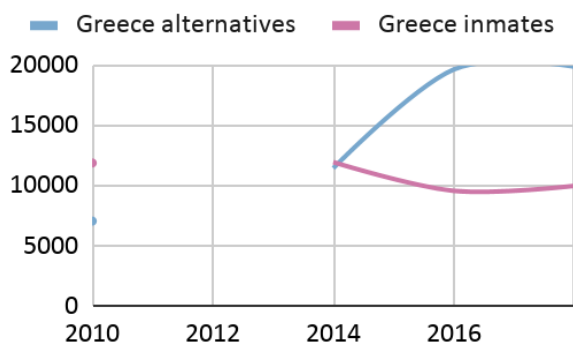
Thanks to a coefficient that varies between 1 and -1, it is possible to measure the correlation between any two sets of data. If the coefficient is closer to 1, the correlation is positive, if it is closer to -1, it is negative, and if it is 0, there is no correlation.

Correlation between the trends in prison population and those of people (or cases) under the supervision of probation agencies



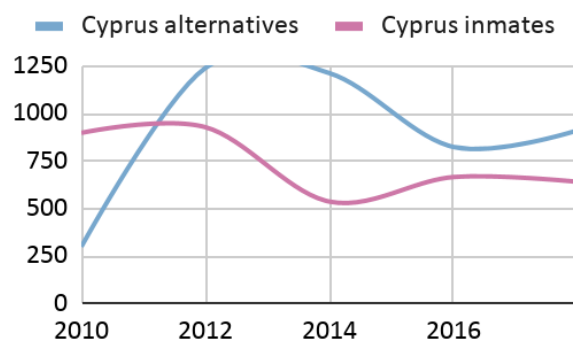
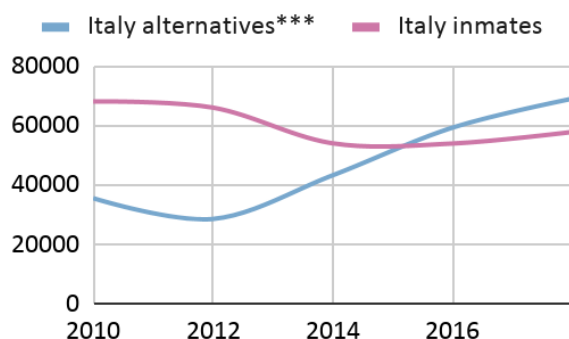
Data source: COE; World Prison Brief; *The data refers to the number of cases

As it is possible to notice from the graph, Scotland and Greece are the two countries with a coefficient closest to -1 and their graphs clearly show an increase in the numbers of people under the supervision of probation agencies and a simultaneous decrease in the number of inmates. In the case of Greece, the use of alternatives to detention has been increased precisely to tackle the chronic overcrowding of Greek prisons.



On the other hand, Estonia, Hungary, Latvia, Spain, and Sweden show a coefficient closer to 1, which indicates that both variables increase or decrease similarly. In nine countries, a coefficient below -0,51 indicates that where the number of probationers increases, generally the number of detainees decreases. In Italy, the coefficient is -0.68, and the reason lies in the various policies that have characterized the last few years: after the European Court of Human Rights (ECtHR) issued a pilot judgment in the case *Torreggiani*

and others v. Italy for the violation of article 3 of the Convention due to overcrowding, Italy undertook several reforms (including increasing the use of alternatives to detention) to reduce overcrowding. Between 2010 and 2015 the number of detainees decreased from 68,258 to 52,164; however, soon after that, the prison population started to rise again alongside the number of alternatives to detention.

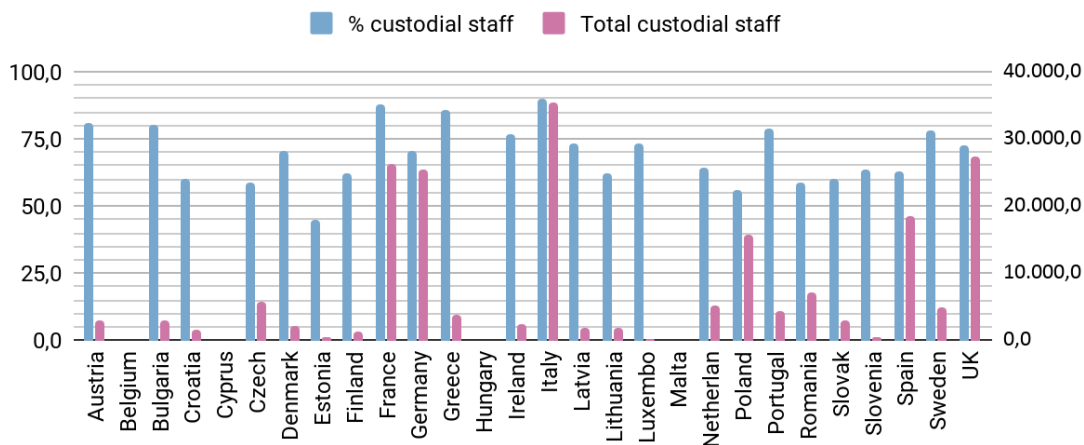


A coefficient above 0,51 was found in nine countries and it shows that the number of detainees and the number of people supervised by probation agencies increase or decrease roughly in parallel. Finally, six countries show a coefficient of correlation between -0,5 and 0,5, meaning that the two variables do not correlate with each other almost in any way.

Staff working in prisons and employed by probation agencies

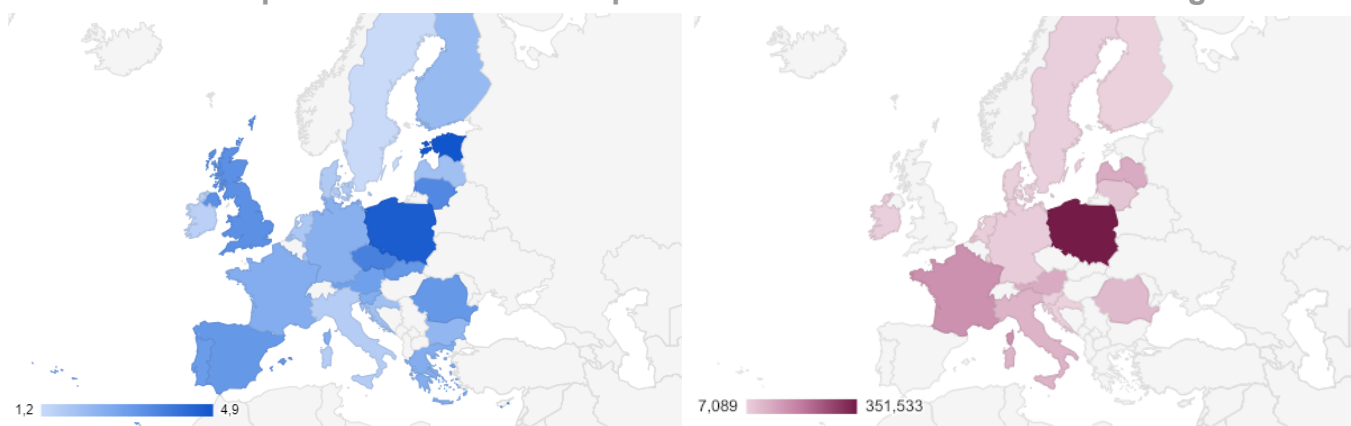
The **penitentiary staff** has a crucial role in the smooth management of a prison facility and the resocialization of the detainee as the final goal of the prison sentence. To achieve this objective, the staff needs to be specialized, well trained and of sufficient number. The duties performed by the penitentiary staff are numerous, hence their specializations also need to be diverse. Unfortunately, the main vocation of European prisons is still one of a place of custody rather than a place dedicated to resocialization. Indeed, around 70% of the State employees working inside prison facilities are dedicated to custodial duties, corresponding to an average of 2.7 inmates per prison guard. Eastern European countries generally show a higher number of detainees per prison guard. Poland and Estonia show the highest ratio with 4.7 and 4.9 respectively.

Numbers and percentages of the custodial staff



Data source: COE

Ratio of inmates per custodial staff and per educational and vocational training staff



Data source: COE

On the other hand, the average ratio between detainees and the staff responsible for educational activities and vocational training is 56.6. Similarly to earlier statistics, Poland shows the highest ratio with 351.5 detainees per staff followed by France (136), Latvia (82.7), and Austria (82.4).

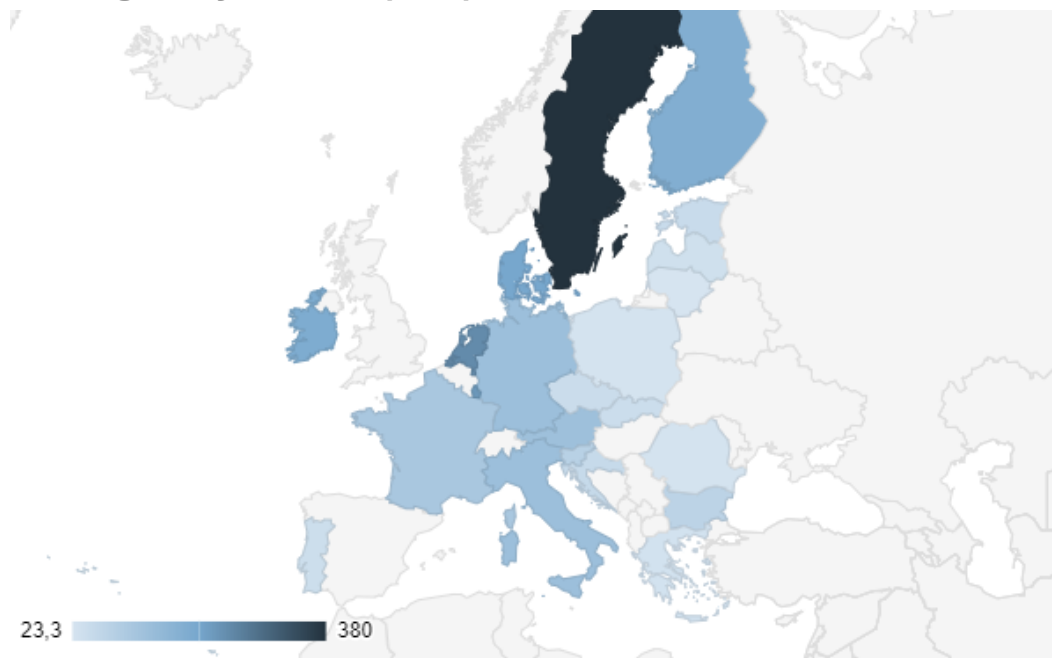
The number of **staff of probation agencies** is significantly lower than the staff dedicated to the penitentiary with an average of 49.5 probationers per staff.

Costs of detention

Expenditures for prison systems substantially vary. Generally, countries with the highest prison populations (i.e. Germany, France, Italy, and Spain) allocate a very large budget to penitentiary systems. One exception is represented by Poland, which has the second-highest number of detainees and a budget lower than the Netherlands, which hosts only 9,300 detainees. Its average amount spent per day per detainee is indeed one of the lowest. Unfortunately, there are no numbers on the budget of the United Kingdom, which would have been very interesting to compare with other countries. Furthermore, generally, eastern European countries spend fewer resources (most of them under 50,00€) per detainee per day while central European countries (Italy, France, Germany, and Austria) spend over 100,00€. Finally, northern European countries (Ireland, the Netherlands, Luxembourg, Denmark, Finland, and Sweden) spend between 180,00€ and 380,00€.

The austerity measures put in place to address the economic crisis considerably constrained the budget of penitentiary administrations in some countries. In Portugal, for example, budgetary cuts brought on shortages of available health care and hygiene products. At one prison the bread has been rationed because the last inmates to arrive at the prison canteen get nothing.

Average daily amount spent per detainee



Data source: COE

Prison conditions in the countries of the European Prison Observatory

A summary of the 2018 updated reports on prison conditions

The collection and organization of available data on the penitentiary systems of each country have been coordinated by the Università degli Studi di Padova, which developed and tested a comprehensive data collection grid to gather the information required to describe the different national penitentiary systems. The data collection grid has been developed keeping in mind as the main reference the European Prison Rules (Council of Europe. Recommendation Rec(2006)2. Adopted on 11 January 2006). The information collected in every country monitored by the Observatory and presented in these Reports on prison conditions, describes every national penitentiary system, focusing in particular on its compliance with the European Prison Rules. The research activities have been carried out by the project partners, that drafted a report on prison conditions in their country. The reports drafted in 2013 have been updated to the 2018 situation. In the next pages, short abstracts of the updated reports have been included prepared by Antigone. Further information and the full national reports can be found on the project website www.prisonobservatory.org.

Austria

Quantitative data refers to 1 October 2019 unless otherwise stated

Total prison population: 9,239²

Prison density (total number of prisoners compared to capacity): 103%

Prison population rate per 100,000 inhabitants (data at 11 September 2018): 33³

Percentage of foreign detainees (data at 31/03/2018): 54.39%

Percentage of female detainees: 5,68% People in juvenile detention: 107 Sentenced detainees: 6,043⁴

Total number of deaths (2018): 33 Of which suicides: 11

General description of the Austrian penitentiary system

The primary legal basis for the penal system in Austria is the 1969 Penal Services Act. The responsibility for the penitentiary system lies within the Ministry of Justice as the highest authority and is supported by Directorate General for the Administration of Custodial Sentences and Measures involving Deprivation of Liberty (Generaldirektion für den Strafvollzug und den Vollzugfreiheitsbeschränkender Maßnahmen). Currently there are 28 prisons (Justizanstalten) with 12 additional branches and an average of 8,800 prisoners in Austria. They are separated into seven prisons for men with sentences over 18 months, one juvenile prison, one women's prison, three institutions for forensic placement (Massnahmenvollzug) and 15 court prisons at the sites of regional courts which are in charge of criminal cases. The material and security conditions of the penal institutions overall fulfil modern standards. The two most recent prisons were built in 2015 and 2012 and older ones are continuously being renovated and extended. The Austrian legal system distinguishes between three types of imprisonment: pre-trial detention, penal service and preventive measures.

Observations on the prison population

For some prisons, the Ombudsman Board noted the inhumane and degrading situation due to overcrowding of the prisons that significantly influenced the living conditions of the prisoners.⁵

Minimum square meters per detainee

The minimum standards are 6m² for a single-occupancy cell, 4m² for a multi-occupancy cell.

² <https://www.justiz.gv.at/web2013/home/strafvollzug/statistik/verteilung-desinsassenstandes~2c94848542ec49810144457e2e6f3de9.de.html> (accessed 6 October 2019).

³ Stat Cube, <http://statcube.at/statistik.at/ext/statcube/jsf/tableView/tableView.xhtml#> (accessed 11. September 2018).

⁴ <https://www.justiz.gv.at/web2013/home/strafvollzug/statistik/verteilung-desinsassenstandes~2c94848542ec49810144457e2e6f3de9.de.html> (accessed 6 October 2019).

⁵ Stuefer, Alexia; Schöch, Johanna, Handbuch Strafvollzug, Fakten – Rechtsgrundlagen – Mustersammlung, (2018) NWV Verlag Österreich, Graz, p. 52; Volksanwaltschaft (2018) p. 109.

Allocation of detainees

In most prisons due to structural conditions and a functioning over capacities prisoners sleep in cells of two or four persons. Individual cells are rare, especially in pre-trial prisons and are sometimes kept for prisoners in higher need of care. Due to prison overcrowding, at some pre-trial prisons, e.g. Graz-Jakomini or Feldkirch, the separation between sentenced and **untried prisoners** is not upheld as special wings for pre-trial detainees do not exist. Prison management tries to separate untried and sentenced inmates at least during the night in the cells.

Male and **female prisoners** have to be either kept in separate prisons or be kept in separate units within one prison. No violations of this principle were reported. Women are accompanied through common areas when going to the medical department or the visitor area. Furthermore, in some prisons, common working areas exist, this can be evaluated positively. The provisions for hygiene standards in prisons include giving female inmates access to sanitary products and access to a daily shower during menstruation and menopause. This provision also seems to be respected.

An **infant** can stay up to the age of two years in the institution with the mother, if this would provide no harm for the child. If the child reaches an age of two and the mother has no more than one year of imprisonment left the child can stay until he or she reaches an age of three. At Schwarzau Prison, a prison for female prisoners and female juvenile prisoners, a kindergarten for up to 23 children is connected to the institution. There, the children of female prisoners are taken care of together with the children of the prison staff. Furthermore, court prisons may allocate a separate area to mothers and their children.

There is a specific establishment for long imprisonments of **juveniles** specially designed for that purpose. In addition, every court prison has designated departments. In the institutions visited, the majority of juveniles had the opportunity to attend general education classes or vocational training.

Young adults (between 18 and 21 years) above the age of 18 years are not separated from adult inmates, unless an exception has to be made because of their physical, mental or emotional state.

Conditions of detention

The Ombudsman Board described the hygiene conditions in some prisons in its report as unsatisfactory. Facilities were over-used and dirty with signs of a fungus infection and ten inmates shared a sanitary facility with four showers without a physical separation.⁶ The situation in another prison also violated the legal requirements at the time of inspection, as there was no structural separation between toilets in cells for more than one prisoner.⁷

Prison regime

Individual sentence plans need to include the type of imprisonment, work, educational and medical care, contact to the outside and surveillance. It is based on a resume by the prisoner and a classification system based on the individual case, the personal history, the personal circumstances, the type of crime and considerations on how to fulfil the purpose of the imprisonment. In addition to that, these plans must be

⁶ Volksanwaltschaft (2018) p. 109.

⁷ Volksanwaltschaft (2018) p. 145.

talked through with every prisoner individually and can be complemented with statements by medical or psychosocial practitioners.

Every prisoner, capable of **work** has to work, except those in pre-trial detention. This includes work that allows the functioning of the prison, for public administration, work of public benefit, the production of goods for sales, work for companies or other private contractors. The employment opportunities are, however, in some prisons scarce making it difficult to provide all inmates with opportunities who would like to work.

Prisoners without a completed **vocational training** or who cannot be employed in the area where they have completed a vocational training are entitled to a training that, if possible, should comply with their interest and needs and which they can finish within the prison term. Trainings that take place outside of the prison facilities are only allowed for prisoners where a misuse of this privilege is not expected.

The Austrian legal situation states that, if the size of the institution allows for it, **educational programmes** should be provided for prisoners who do not have the knowledge and skills of primary school level. The provided types of education include courses school leaving qualifications (secondary school, vocational school, polytechnic, Grammar school, higher educational institutes, university), vocational trainings for example as a baker, butcher, carpenter or metal processing, courses such as German as a foreign language, E-learning and First Aid. Comments by the Ombudsman Board centre particularly on the lack of educational programmes for women and discrimination of prisoners in harm reduction programmes.⁸

In their non-working time prisoners are allowed to do **recreational activities**, additional work, paint or draw, read and write and minimum once every 3 months an educational, artistic or entertaining event has to be provided. Prison staff is asked to motivate prisoners to use their free time in a useful way, including sports, listening to radio, reading and social games. The regime for remand prisoners in some prisons was described as extremely poor by the CPT.⁹

Contacts with the outside world

Phone calls during pre-trial detention are subjected to authorisation by a prosecutor or judge. Calls during imprisonment can be made if there are any specific grounds (e.g. illness, an issue that cannot be solved by writing letters or personal contact, if personal visits are not possible due to the distance, etc.). Calls with family or other third persons can be controlled. Calls with authorities or lawyers must be possible and must not be controlled.

The law states that prisoners are allowed to write and send letters, cards and telegrams without limitations and under protection of the secrecy of correspondence if the situation of security and order allows it. Adult remand prisoners are in principle allowed to receive two half-hour visits per week, but the visits as well as the phone calls are subjected to authorisation by a prosecutor or judge. According to law, prisoners can receive as many visits during the official visiting times as the processing of the visits allows. At least one visit per week with a duration of half an hour and at least one visit with a duration extension to one hour each six weeks need to be granted. If the prisoner receives few visits or the visitors have a long journey, this

⁸ Volksanwaltschaft (2019) p.133.

⁹ CPT (2015) p. 37.

needs to be taken into account. The maximum number of visitors at the same time is three. The visiting arrangements need to ensure the maintenance of family relationships. Official visiting times need to take place at least at four workdays each week, at least once in the evening or on the weekend. The CPT names Graz-Karlau Prison as a good practice in its 2014 visit in this regard. Nearly all prisoners could receive visits under open conditions and also be granted conjugal visits for up to 14 hours. The visiting facilities were found to be in a high quality state.¹⁰

Solitary confinement

Solitary confinement can be used as a punishment against prisoners who pose a risk of escape, pose a threat against people, property or themselves or who pose a serious threat for the security and order of the institution. If a prisoner is in solitary confinement for longer than four weeks against his or her will, this can only happen via an order by the Court of Enforcement. A prisoner can only be kept in solitary confinement for longer than six months if it is on his or her own demand and agreed on by the medical practitioner of the prison. It is recalled that the most severe disciplinary sanction is solitary confinement (in an ordinary or disciplinary cell) for up to four weeks for adult prisoners and for up to two weeks for juveniles.

Alternatives to detention

The law foresees a number of alternative measures to pre-trial detention. The national law calls them “milder measures”. There are also diversional means (compared to proceedings) foreseen as well as alternative “measures” (compared to sanctions) to prison. Some alternatives to PTD are: pledge not to leave the place of residence or not to impede the proceedings; compliance with certain orders (e.g. medical or other treatment) and confiscation of certain documents; preliminary probation or bail. If the criteria are met, diversional measures can be taken instead of pursuing the proceedings in order to avoid a judgement (e.g. financial compensation; community service; probation without additional orders; probation with additional orders and restitution). Electronic monitoring can be used as an alternative to imprisonment for the whole time or for parts of the sentence.

¹⁰ CPT (2015) p. 43.

Germany

Quantitative data refers to 31/08/2018 unless otherwise stated

Total prison population: 62,902

Prison density (total number of prisoners compared to capacity): 85.2%

Prison population rate per 100,000 inhabitants: 76. Unofficial¹¹: 100

Percentage of foreign detainees (data at 31/03/2018): 26.16%

Percentage of female detainees: 5.81% People in juvenile detention: 3,520 Sentenced detainees: 48,004

Total number of deaths (2016): 163 Of which suicides: 76

General description of the German penitentiary system

Germany is structured in a federal system. There are sixteen Länder (federal states), which administer their prison systems and, therefore, there are sixteen Ministries of Justice, responsible for the prison population. Also, sixteen Ministries of Public Health are accommodating over 10,000 persons in forensic institutions. An essential aspect of the German prison system is the "twin-track-system" of sanctions. On the one hand, imprisonment is considered first and foremost as punishment, on the other, there are other measures of betterment and security that can deprive a person of freedom based on the commission of a crime: treatment in psychiatric institutions (Art. 63 Penal Code), drug- and alcohol treatment (Art. 64 Penal Code), and preventive detention (Art. 66 etc. Penal Code).

Observations on the prison population

The prison population rate is 76. However, it does not include persons accommodated in forensic psychiatric hospitals or drug and alcohol rehabilitation centers, where people are confined in a very prisonlike environment. Therefore, if people detained in these institutes were to be added to the total number of inmates, the incarceration rate would be approximately 100. The total number of detainees related to the capacity of prison systems is 85.2%; however, recently prisons have been overcrowded after years during which this had not been the case.

Minimum square meters per detainee

There are no specifications regarding the size of the detention room or the **minimum square meters** per detainee. A decision of the Constitutional Court of the State of Berlin in 2009 ruled that the accommodation for three months in an individual room of 5.3 m² violates the human dignity of the complainant. In practice, prisoners can be urged to give a written explanation to the prison management that s/he agrees to a placement in a cell that is too small. Such a declaration is usually not made voluntarily by the prisoners and

¹¹ See General description.

may result in a complaint against this type of accommodation not being admitted to court. Besides, such a declaration is enforced as a requirement when prisoners apply for open detention or other improvements.

Allocation of detainees

Male and female prisoners are accommodated separately. They can be hosted in separate departments or separate prisons; however, joint activities are allowed. Detained **women** are usually transferred to an external hospital for the birth of the child. Childbirth in a maternity ward in prison can only be permitted in exceptional circumstances and for special reasons, such as the dangerous nature of the prisoner and the financial expenses of guarding her. In general, childbirth under special security measures is disproportionate, but there are known cases of restrained women giving birth in hospitals. **Children** up to three years of age can live with their mothers in a separate department from the general prison population, rooms should be designed in such a way that "a prisoning effect" can be avoided, and should be equipped to accommodate them.

Detainees in **juvenile** detention are usually held separated from adults, but if they are accommodated in prison for adults, they should be separated from the rest of the population. Juveniles, adolescents and young prisoners are accommodated separately. There is an obligation to enable prisoners who are still subject to compulsory education to be educated inside prisons.

Pre-trial detainees should be separated from other prisoners but can be accommodated with sentenced prisoners to allow them to participate in work or educational programs.

Conditions of detention

Every prisoner is entitled to individual accommodation during the rest period. Those who are accommodated in groups are also entitled to individual accommodation during the rest period. In practice, however, multiple occupancy rates are increasing. Toilets that are not separated from the rest of the cell are no longer permitted. Prisoners have no right to shower on certain days; they should have the opportunity to wash at least four times a week with warm water. However, it is not specified whether other standards could be applied to persons working physically and/or engaging in sports. Detainees should be allowed to stay outside for at least one hour a day. In some Länder this principle is restricted. The withdrawal of the outdoor period as a disciplinary measure is abolished everywhere, but it is still possible to apply it as a special security measure almost in all Länder.

Prison regime

The **individual sentencing plan** should be developed within the first eight weeks after imprisonment and reviewed every six months (at the latest every 12 months). It includes the possibility to work, to participate in therapeutic measures or work training as well as to work self-employed. Prisoners have to be actively involved in the planning process and may not become the object of planning. In practice, however, this requirement is still frequently violated.

In many Länder an obligation to **work** still exists, while a few Länder have abolished this obligation. Work placements are offered either by the administration or by private companies and can either take place in

the prisons' facilities or facilities of private companies. Although the minimum wage exists in Germany (from 2019: 9.19 Euro per hour), it is not applied to the case of prisoners and prisoners can earn between 1.45 and 2.42 Euro per hour.

The prison must also provide and promote **training opportunities**. Suitable prisoners should be able to attend schooling or vocational training (also offered by external organizations). Participation in vocational qualification measures and vocational training is available in the law of almost every Land, but in reality, restriction of resources can lead to a lack of adequate education. Not all prisons offer, for instance, courses on German as a second language, even when the demand for them is high.

Various other activities are offered both by the prison staff and by external organizations and volunteers. The offer covers a wide range from sports to board games.

Contacts with the outside world

The entitlement to telephone calls differs within Germany. In the majority of the Länder, the right to a discretionary error-free decision exists, while in some of the Federal States telephone calls are permitted only in specific cases. Prisoners have the right to send and receive letters and the prison management may allow the prisoners to use other forms of telecommunication at their own expense. Skype or restricted use of the internet is used in some prisons on an experimental basis.

According to Art. 26 LandesR prisoners are allowed to receive regular visits. The total length is at least two hours per month. If the prisoner is visited by children under the age of 14, the duration increases by two hours. In practice, often more than the minimum visits are allowed.

The administration can also allow several hours of unattended visits. These should contribute to the maintenance of family ties, partnerships, and other similar contacts. Besides, in each of the Länder, visits can be permitted for treatment/integration purposes.

Solitary confinement

Solitary confinement can be used as disciplinary measures and as special security measures. The former is applied because of serious or multiple misconducts and consists of uninterrupted solitary confinement, isolated from the other prisoners and the activities within the prison. In practice, normal cells are available for this purpose. Isolation as a special security measure can be applied in several cases, among others: if the prisoner, as a result of his/her behavior or state of mind, has an increased risk of flight or violence against persons or property or of suicide/self-injury. It can either take the form of a simple separation or a constant separation for more than 24 hours. The constant separation is applied throughout the working and training periods, leisure time and resting time. There are differences in the laws of the Länder.

The CPT has pointed out after its visits to Germany¹² that the one hour of daily outdoor exercise shall not be suspended. However, only three of the Länder brought themselves to abstain from the possibility of excluding prisoners who are subjected to security measures from outdoor exercise.

¹² e.g. CPT/Inf (2017) 13: Report to the German Government on the visit to Germany carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 25 November 2015 to 7 December 2015, margin 77.

Alternatives to detention

Alternative sanctions can be defined as measures applied either before or instead of a sanction decision or as a means of enforcing a sentence outside prison. Moreover, alternatives are often offered as an addition to a custodial sentence. Supervision of conduct is a good example, which is enforced after the release from prison to supervise and control the person. An alternative sanction can also increase the use of imprisonment because a violation of regulations can lead to a prison sentence.¹³

¹³ Graebisch, Christine M.; Burkhardt, Sven-U. 2014: Ambulant Sanctions as an Alternative to Imprisonment in the European Union. <http://www.csd.bg/artShow.php?id=17155> (14.02.2019): p. 14 et seq.

Greece

Quantitative data refers to January 2019 unless otherwise stated

Total prison population: 10,654

Prison density (total number of prisoners compared to capacity): 107.23

Prison population rate per 100,000 inhabitants: 99.2 Percentage of foreign detainees: 54.46%

Percentage of female detainees: 5.19% Juveniles in detention (aged 15-18): 14 Sentenced detainees: 7,337

General description of the Greek penitentiary system

Prisons serve as regional administrative units functioning at the level of direction under the control of the Hellenic Ministry of Justice, Transparency and Human Rights via the General Secretariat for Crime Policy assisted by the Directorate for Prisons Operational Capability and Crisis Management (established in 2015), and the General Directorate for Crime and Penitentiary Policy. The Ombudsperson, which is the Greek NPM according to the Optional Protocol to the UN Convention Against Torture (OPCAT), is designated to carry out independent monitoring and investigation of arbitrary incidents in prisons. Public prosecutors are usually assigned to penitentiary institutions as interim judges for matters such as the execution of sentences and the observance of prison rules and regulations.

Currently, all custodial institutions are classified in the following categories: general (25) therapeutic (3) and special (7). General institutions are further divided between type A (short-term sentences and inmates awaiting trial) and type B (long-term sentences). There are currently no maximum-security. Special prisons include rural units, the central open productive unit (bakery), juvenile institutions, and semi-liberty centers that are largely not functional. Therapeutic institutions consist of general and mental hospitals and drug detoxification centers.

In January 2019, the impact of the economic crisis on the Greek Penitentiary System is still evident. Its major chronic problems are overpopulation, understaffing and inadequate staff training, and lack of investment in modern infrastructure and resources. Another highlighted major problem is represented by the standards of prison medical services, that in some facilities have been causing concern, as noted by both CPT and decisions of the European Court of Human Rights.

Observations on the prison population

The problem of overcrowding has been acute for several years and as of January 1st, 2019, the prison density was 107,23%. However, it is to be taken into account that prison density may vary considerably from one facility to another and either exceed or follow below the aforementioned average. Alternatives to detention have been used to decrease the chronic problem of prison overcrowding. Reasons for overcrowding include the lack of investment in infrastructure, especially during the years of the Greek crisis, the occasional hardening of sentencing laws and practice, delayed reform of legislation that might be

considered outdated in some of its aspects, and the high number of pre-trial detainees, especially foreigners and/or immigrants who due to lack of a certain residence are more eligible for pre-trial detention.

Minimum square meters per detainee

The minimum space per detainee is 35 m³ for an individual cell, 40 m³ for the accommodation in a double cell and female inmates with their children up to three years old, 6 m² per inmate in wards – valid only for institutions functioning after January 2000. Pre-1999 legislation (the 1989 Code of Rules for the Treatment of Inmates) provided for 30 m³ in an individual cell and 6 m² per inmate in wards accommodating up to six inmates. Official data on the actual space available per detainee do not exist. Various monitoring bodies (CPT, Ombudsman, etc.) have reported that on many occasions cells can be overpopulated and, since some facilities are overpopulated while others are not, in the first case it is possible that the minimum space allocation requirements are not met. For example, approximately 1700 (which in the past used to be 2300) inmates in Korydallos (central judicial prison) live in cells of 9,5 m² with three or four cellmates.

Allocation of detainees

Due to overcrowding, in practice **pre-trial** and sentenced detainees are not separated. Only untried **women** are separated from the sentenced ones, being kept in two different prisons. Recently the Ministry of Justice ordered that the country's biggest facility, the Korydalos prison, would gradually be transformed into a facility dedicated to pre-trial detainees. Until now, this policy has not yet been fully implemented. All **juvenile inmates** (15-18 years old) are kept at the Korinthos facility. Other young adults (18-21 years old) and, exceptionally young men up to 25 years old, are kept in special youth institutions for educational reasons. Also, there is a special unit for young female prisoners in the Eleona, Thiva Facility for sentenced women, but there is no such unit for pretrial detainees. Primary (six years) and secondary (three years) school attendance is compulsory for juveniles and educational facilities are provided in Juvenile and young adult prisons. However, this in itself does not guarantee that all juvenile prisoners in practice attend an educational program.

Conditions of detention

As a result of chronic overcrowding, the conditions of detentions on some occasions had seriously deteriorated leading to declarations by both the European Court of Human Rights and the CPT that such conditions of custody are incompatible with human dignity. In such conditions, basic inmate rights, such as privacy and hygiene, can be seriously compromised: it is possible that some inmates would have to sleep on the floor. However, due to the decrease in the prison population, following the introduction of early release legislation, the situation with regards to issues caused by overpopulation has significantly improved, especially during the years 2016 and 2017.

Prison regime

There are several **work opportunities** for inmates of prisons, most of which relate to cleaning, maintenance and day to day operation of the prison facilities. There are opportunities for different types of work in the

rural/farm prisons and the bread production unit at Korydallos as well as the mattress production unit at Halkida prison. These opportunities can be both in the public and private sector and in principle a prisoner's work will result in a sentence reduction and not in payment. Only a number of the jobs available could be useful for the reintegration of prisoners after release and working while imprisoned mostly serves as motivation for a substantial reduction in sentence time and good behavior.

Adult inmates aspiring to complete the 9-year compulsory **education** can benefit from 11 Second Chance Schools. Moreover, twenty scholarships for studies at the Hellenic Open University (ΕΑΠ) are yearly available to inmates. Most educational programs are under the auspices of external institutions ranging from the Ministry of Education, Research and Religious Affairs, to the Hellenic Employment Organization (ΟΑΕΔ), the Hellenic Open University (ΕΑΠ) and NGOs.

There is also an increase in **vocational training programs** under the auspices of the Hellenic Employment Organization (ΟΑΕΔ). At least 7 such programs (cooking, air condition maintenance, building maintenance) were offered in at least 7 facilities in 2018 and the offering of more such programs is envisaged. Vocational training schools (ΙΕΚ) are operating in several facilities.

When it comes to other activities, in practice, not all facilities can offer sustainable and long-lasting programs of activities. Despite the legal obligations and the recent improvements, as noted by CPT and the Ombudsman¹⁴ reports, the lack of such activities remains one of the core issues that the prison facilities still face.

Contacts with the outside world

Each prisoner is entitled to at least one social visit per week while pre-trial detainees are entitled to two, lasting between 15-30 minutes. Visits with non-relatives are not allowed unless special permission is granted by the Ministry of Justice. Closed visits take place in a cubicle with a separating glass over a telephone. Open visits are rare and are permitted between husbands and wives with children. In some facilities, special places that are more child-friendly have been created for such visits. Foreign nationals may also receive an open visit by representatives of the Embassy of their country of origin.

Solitary confinement

According to existing legislation segregation should be used for disciplinary/order, alleviation/prevention of self-harm and health-related reasons. In prisons, there are segregation or/and isolation units which are used for inmates who: (a) are punished to stay in a special cell for a period up to 10 days for disciplinary reasons, (b) have made a written request to be placed in protection status, (c) suffer from contagious diseases. Some of them, located in the Korydallos Psychiatric facility (widely known as blue cells), and the disciplinary cells in the Prisons of Patras and Corfu were recently abolished following criticism from CPT. It is to be noted, however, that authorities do not frequently make use of Isolation as a disciplinary measure.

Alternatives to detention

¹⁴ Ombudsman report 2017: https://www.synigoros.gr/resources/opcat_2017_gr.pdf

The main alternatives to imprisonment are the suspension of the execution of sentence (potentially under probation/surveillance) and the conversion of the sentence to a pecuniary sentence. Sentencing to community service is not currently an independent option for judges but only an alternative to the conversion of the sentence to a pecuniary sentence. The most common alternative to imprisonment imposed on a convict while s/he is serving time in a penitentiary facility after the conviction is the early release on parole. Convicts may be put to house arrest under electronic surveillance. However, this measure, only recently legislated (2013) and still implemented on a pilot status, does come with limitations, due to the limited numbers of available tracking devices, used both for pre-trial detainees and convicts entitled to this alternative to detention measure. The Greek penitentiary code also provides for the alternative sanction of semi-liberty living, according to which inmates are allowed to work outside the prison environment. This measure has not yet been widely implemented due to the lack of available infrastructure.

Italy

Quantitative data refers to 30/09/2019 unless otherwise stated

Total prison population: 60,881

Prison density (total number of prisoners compared to capacity): 120.6%

Prison population rate per 100,000 inhabitants (as of 2018): 96.0

Percentage of foreign detainees: 33.2% Percentage of female detainees: 4.3%

Juveniles in detention (aged 14-17 as of 15/09/2019): 166 Sentenced detainees: 41,079

Total number of deaths (in 2018): 161 Of which suicides: 61. Unofficial: 67¹⁵

General description of the Italian penitentiary system

The Italian prison system is ruled by a law issued in 1975. In 2018, a general reform of the penitentiary law modified, among other things, some aspects of the health care, of the prison daily life, of the access to work for inmates. The law is based on the concept of penitentiary treatment aiming at reeducation and each prisoner should have his individual plan for his reintegration into society.

Professionals working in each prison are the following. The warden, a civilian, is at the top of the entire hierarchy. S/he is responsible for the security and treatment matters, as well as for the budget. The prison police are responsible for the inner security and the prisoner transfers outside the jail. Educators and social assistants are responsible for whatever concerns about social issues and reeducation. Social assistants work outside the prison and are in charge of the relationships between prisoners and their families as well as the whole territorial community. Psychologists are in some cases employed by the Ministry of Justice while in others by the National Health Service. Physicians and healthcare assistants are employed by the National Health Service. School teachers are employed by the Ministry of Education.

Observations on the prison population

After the European Court of Human Rights (ECtHR) issued a pilot judgment in the case *Torreggiani and others v. Italy* for the violation of article 3 of the Convention due to chronic overcrowding, Italy undertook several reforms (including increasing the use of alternatives to detention) to reduce overcrowding. Between 2010 and 2015 the number of detainees decreased from 68,258 to 52,164. However, soon after that, the prison population started to rise again (alongside the number of alternatives to detention) and currently Italian prisons host 60,348 people. Too often the life conditions in jail do not respect human dignity. The prison density is currently around 120%, but not all prisons have the same occupancy rate, and some are way more overcrowded than others.

Minimum square meters per detainee

¹⁵ The Ministry of Justice considers only people who died inside the prisons, while the NGO Ristretti Orizzonti considers also prisoners who died outside.

The law does not prescribe a minimum of square meters per detainee. The only law that is taken into account is a Department of Health rule (1975, July 5th) that establishes the space criteria for housing. It states that a single bedroom must have a minimum surface of 9 square meters, while a double bedroom must have a minimum surface of 14 square meters.

Allocation of detainees

The law states that **women** should be hosted in institutions or sections separated from men and the administration complies with this disposition. In a few institutions that are particularly careful to social reintegration, men and women can participate together in common activities such as theater, music, and learning. Facilities for women do not differ much from regular prisons for men, the law only provides women to be allocated in cells equipped with a bidet, which sometimes is lacking. Children aged less than three years can live in jail with their mothers.

The law states that **untried prisoners** should be kept separated from sentenced prisoners and hosted in specific sections or jails. Sometimes overcrowding makes it necessary for a less rigid separation between sentenced prisoners and untried prisoners.

There are special prisons destined to **minors and young adults** that commit a crime when they are between 14 and 18 years old. When they reach the age of 25, they are transferred to adult prisons. Justice administration for minors and young adults is separated from that of adults. It may happen that the shortness of the period spent in prison does not allow the child to be inserted in a school class. The law gives to juveniles also the possibility to attend an external educational course. Young adults, namely people having an age between 18 and 25, can even be found in prisons for adults if they committed a crime after they reached the age of majority. In this case, they should be kept separate from the rest of the prisoners; however, overcrowding makes that a very rare occurrence.

When it is possible, the direction of the institution prefers to keep together **foreign prisoners** who speak a common language, to avoid troubles. But ethnic sections are avoided as well. There is a high percentage of Roma in the juvenile prison system because they have hardly access to the alternative to detention. There is as well a high percentage of Roma in the woman prison system. Many mothers with child in prison are Roma.

Conditions of detention

The law states that pre-trial prisoners should be accommodated in individual cells. Due to overcrowding, this is a rare occurrence. The same holds for lifers, for whom it is more likely to find single cells. For the other prisoners, the law gives no specific provisions.

The law imposes a separate bathroom with a shower in the cells and natural light. In many places, these conditions are not met. In some prisons located in big cities, there are dormitories. In some prisons, there is no running water in the cells during the summer. Hot water is not always available. In some prisons, artificial light is always on because the meshes on the grating at the windows are very narrow to avoid objects been thrown out of the windows. In some jails, there are unheated sections. After the Torreggiani judgment, the prison administration has arranged for the detainees (except those in high-security circuits) to spend at least

8 hours per day outside their cells engaged in various activities. However, what concretely happened is that very often the activities are not organized and the inmates walk back and forth through the corridor without leaving their prison section.

Prison regime

According to the law, every **sentenced prisoner** should be 'scientifically observed' in his personality and should receive an individual penitentiary treatment. A team should program an individual plan for the prisoner's social reintegration. However, often reintegration programs consist only in indications telling if the prisoners have or not have enough merits to make access to some alternative measure.

In each jail, the quality and the quantity of the **organized activities** depend on various factors: there are jails where the activities are many and well organized, while there are jails where the prisoners have nothing to do and stay in their cells watching TV all day long or walk up and down the section corridor.

The law allows **working** for the penitentiary administration and working for private companies. The work outside the prison is allowed. However, less than one-third of prisoners work and in many cases only for a limited amount of hours. Most of them work for the penitentiary administration, often employed in unskilled jobs. The law provides that prisoners may request to be admitted to community service (unpaid work). By law, prisoners must be given a salary equal to the two-thirds of that stated for the same job by the national contract. Part of the salary is kept to pay for food and fees.

Almost everywhere **educational activities** are provided and vary from literacy courses for foreigners to primary and post-primary school courses. In almost all institutions for sentenced prisoners, there are high school courses and many technical institute courses. There are also some standing agreements between prisons and universities, that ensures tutoring and exams.

Contacts with the outside world

Most prisoners can make one ten-minute long telephone call per week. They can call their relatives or, only if there are reasonable grounds, someone else. In many institutes, a telephone card is given consenting detainees to make the allowed phone calls. In these cases, detainees can call whenever they like, with more chances of finding the person required. In many jails, however, it is still the policeman who decides when to give the prisoner the line, thus reducing considerably, particularly for foreign prisoners, the chances of success. Prisoners have no fax, e-mail or the internet.

Most prisoners can receive six visits per month of one hour each. They can see relatives, cohabitees, and friends if these have been authorized. When there are children, the visit may take place in gardens to make their experience less traumatic. For 41 bis prisoners, a dividing glass is prescribed. In many prisons visits can be booked in advance, so to avoid long queues. In many prisons, a few visits are allowed also during the afternoon and on Saturday or Sunday to facilitate children attending school and working people.

Solitary confinement

The law allows three types of solitary confinement: for disciplinary reasons (during the sanction of the 'exclusion from common activities') and cannot exceed 15 days; for health reasons (according to the

physician's decision); for judiciary reasons (as prescribed by the judge when the trial makes it necessary). Furthermore, the law prescribes daily confinement as an additional punishment for prisoners with more than one life sentence.

Alternatives to detention

Alternative measures in Italy are: to be involved in social service programs, semi-liberty, and house detention. Detainees gain access to alternatives to detention when they served a defined portion of the sentence if considered to be ready for an external reintegration program. Some prisoners that have committed a certain kind of crimes (e.g. mafia and terrorism) can have access to alternative measures only if they cooperate with justice.

Latvia

General description of the Latvian penitentiary system

The Latvian prison system is the legacy of the Soviet prison system, and consequently many problems as poor conditions, large dormitories, overcrowding of cells, strong internal prisoner hierarchies, and still - disrespect of human rights remain. Several prisons are located in buildings older than 115 years and have large dormitories accommodating up to 30 prisoners.

There are three regime types in Latvian prisons - closed (divided in lower, medium and higher level), semi-closed (divided in lower and higher level) and open prisons for adults, as well as institutions for juveniles. In closed prisons, as well as in remand prisons, prisoners are often kept in cells for 23 hours a day, only being allowed to leave the cell for a one hour exercise a day. In open prisons, prisoners may move freely around the territory of the prison and have the right to leave the prison for 2-5 days a month with the permission of the prison governor. A crucial element for the court in determining the regime of the prison where the prisoners start serving their sentence is the gravity of the crime.

In its 2016 report on a periodic visit to Latvia, the CPT expressed its reservations regarding the existing system of progressive sentence execution in Latvian prisons. All (adult) prisoners held in closed prisons serve their sentences in three consecutive regime levels; the law requires that such prisoners serve at least a quarter of their sentence on the low regime level (and demonstrate good behavior) in order to qualify for the medium level, followed by the high level, both of which notably involve an open-door regime within their respective living units during the day. The **CPT** again stressed that, although **it is for the judicial authority to determine the appropriate length of sentence for a given offense, prison authorities should be responsible for determining security and regime requirements**, based on professionally agreed criteria and individual assessments of prisoners.¹⁶

In 2018, the Ombudsman's Office received an increase of 10,8% in the annual budget to carry out the national preventive mechanism functions. As a result, a Prevention Unit was set up and an additional five persons were hired. Nevertheless, **Latvia**, along with Slovakia, is the only EU Member States which have **not ratified OPCAT**.

Observations on the prison population

The prison population has continued to **decrease** as has the **imprisonment rate**. For the first time in post-independence years, it fell below 200 prisoners per 100,000 persons - reaching **195 prisoners** per 100,000 persons, and down from 385 in 1995 and a record-high 659 in 1985.¹⁷ While Latvia is no longer among top 3 EU countries¹⁸ with highest imprisonment rates, it remains high (compared to Spain – 127,

¹⁶ Report on Latvia. CPT/Inf (2017) 16 <https://rm.coe.int/pdf/168072ce4f>

¹⁷ Latvia was occupied by the Soviet Union from 1945 until 1991.

¹⁸ Lithuania – 235, Czech Republic – 200, Poland – 196

https://www.prisonstudies.org/highest-to-lowest/prison_population_rate?field_region_taxonomy_tid=14

Portugal – 127, Italy – 100, Greece – 100, Austria – 98, Germany – 77 prisoners per 100,000 of national population).

Minimum square meters per detainee

Latvia's prisons have cell type accommodation (1-20 prisoners per cell), however, some retain dormitory type accommodation from the Soviet era (30-60 prisoners per dormitory). The norm for living space in prisons per person in dormitory/cell-type premises shall not be less than 4 square meters.

Allocation of detainees

During the night prisoners are either accommodated in cells (with occupancy 2-18 prisoners) or dormitory type rooms (20-40 prisoners). Individual cell occupancy is relatively rare. Dormitory type accommodation is a remnant of Soviet-era prisons.

Conditions of detention

Prison infrastructure remains dilapidated and many sections cannot be renovated.¹⁹ The majority of prisons are 115 years old and only two of nine were built as prisons.

Despite the decrease in the number of prisoners and reduction in occupancy rates in prison cells, **inter-prisoner violence** remains a problem, which is the result of insufficient staff presence in prisoner accommodation areas, the existence of informal prisoner hierarchies and the lack of purposeful activities for most inmates.

Access to health care in some prisons remains a concern as health-care teams in most of the prisons are under-resourced. The number of vacant posts is high, and the relatively low remuneration of staff does not attract medical professionals to work in prisons.

Prison regime

Although prisoner employment and educational opportunities have increased, **remand prisoners** and the **great majority of sentenced prisoners in the low regime** level are usually locked up **in their cells for up to 23 hours per day**.

Minors, on the other hand, are offered educational, recreational and sports activities.

¹⁹ Grīva Section of Daugavpils Prison

Portugal

Quantitative data refers to 31/12/2017 unless otherwise stated

Total prison population: 13,440

Prison density (total number of prisoners compared to capacity): 105.8%

Prison population rate per 100,000 inhabitants: 131 Percentage of foreign detainees: 16%

Percentage of female detainees: 6.4% People in juvenile detention: 147 Sentenced detainees: 11,335

Total number of deaths: 69 Of which suicides: 15

General description of the Portuguese penitentiary system

Portugal has 51 prisons of different types: 15 penitentiaries (“central prisons”, normally larger ones) for inmates condemned to serve more than 6 months; 31 penitentiaries (“regional prisons”) for inmates condemned to serve less than 6 months; and five penitentiaries (“special prisons”) for inmates who need special attention, such as women, youths, policeman, and the sick (hospital).

The first type of penitentiary has security wings to provide stricter isolation for problematic prisoners as a more rigid disciplinary regime. There are three types of general security regimes: medium, high and special. Monsanto Prison being the only special regime penitentiary – meaning a kind of North-American supermax regime.

Almost all prison buildings are old. A renewal program began in 2001 and included the concentration of facilities and population in just a few much larger high-tech buildings. However, due to the financial crisis, except for Caxias and Carregueira, which are new buildings, all the plans to build new prisons were halted. Instead of the previous program, there is now a renovation program of the old 19th- and the first half of the 20th-century buildings.

There are very serious allegations of inter-prisoner violence and the use of force is by prison guards is indiscriminate, without any sort of professionalism or respect for the physical integrity of the prisoners; force becomes legitimated whenever institutional order is arbitrarily declared to be at risk.

Observations on the prison population

After decreasing for six years, in 2009 the prison population has been growing steadily by 31%, to the point where today the system is 20% over its capacity.

Minimum square meters per detainee

The statute states only that the cubic space per detainee must respect human dignity.

Allocation of detainees

The law requires that prisoners be housed in individual cells, except in special cases, but the reality is that there is a serious overcrowding problem and individual cells are rare. The guards choose who stays in individual or common cells.

The law does not require that **pretrial detainees** be separated from sentenced detainees and in practice, there is no separation between the pre-trial detainees and condemned prisoners.

The law requires that **detained women** be housed in institutions or units separate from male prisoners and specifically set up to meet their needs. The separation of the sexes is always guaranteed, but the sanitary conditions are not adequate and women are not always supplied with the hygiene products they need. Children up to three years old (or up to five years old upon being granted special permission) can be hosted only in the women's prisons in Tires and Santa Cruz do Bispo. In other women's prisons, conditions are not suitable for children.

Juveniles between 12 and 16 years of age accused of a criminal offense can be committed by a special court to an Education Centre of the Justice Ministry, under the jurisdiction of the General-Directorate of Social Reinsertion. Once they turn 16, children suspected of having committed a crime are tried through the adult criminal justice system and can be condemned to be incarcerated in an adult penitentiary. This is true even though, as a legal concept, adulthood in Portugal is reached at 18 years of age. There is one "school-Prison" at Leiria housing prisoners from 16 to 21 years of age, who often end up staying there up to their 25th birthday. There are several complaints of brutality received from this facility, such as dogs being used to intimidate children forced to line up naked, and a program that keeps them, for the first few months, locked in their cells 22 hours a day without any activities. In the other penitentiaries, there can also be youths as young as 16, who are typically treated even more severely than the adult prisoners with whom they are housed. Educational activities are not available for all juveniles.

Conditions of detention

The statutes layout guidelines and minimum requirements concerning all that is necessary for the conditions of detention to meet the basic standards of human dignity. Prisons suffer from poor hygiene and health conditions, as well as being overcrowded with cells designed for a single occupancy hosting two or three prisoners. The facilities are dilapidated and uncared for. Prisons are humid and windows are broken during the summer to ventilate but are not replaced for the winter in spite of the cold that comes through them. Inmates have to clean their cells with their cleaning products purchased from the prison store (when they can afford them). Also, there are sanitary facilities where privacy and accessibility are respected, but in many other cases, they are not, namely where the sanitation facilities are collective, or not separated by the rest of a cell occupied by multiple detainees.

Prison regime

The statutes layout two different types of plans for sentenced detainees to be designed and adapted around each individual's specific needs after a rigorous evaluation process. The first is a treatment plan and the second is a rehabilitation program. In practice, some inmates have an individual rehabilitation plan drawn

up on paper, as stipulated by law, but there are no known cases of that document having any practical effect.

The statute foresees the possibility of the directors determining **activities programs**. The statute also sets forth a rather impressive set of such activities to be prescribed and provided for each inmate (either in a group activity or individually) as part of her/his rehabilitation program. In practice, there are routines of the gymnasium, yard, and television, without any organized activity. Occasionally there may be isolated activities programs, namely those offered by volunteers from outside of the prison system.

Pre-trial detainees are excluded from any **work opportunities**. As to sentenced prisoners, the statutes layout an extensive employment program to occupy prisoners in areas of their particular interests as well as meet their treatment plan and economic needs. The reality is that most of the work available is in institutional housekeeping, and those who do it are viewed as collaborators (informers) because the method of selection for employment is arbitrary and can be used as punishment. There is also recruitment of prisoners by private companies that organize work both inside and outside of the prison facilities; but, even with these, employment opportunities are insufficient.

The statutes layout a broad **vocational training program** designed to meet all types of needs and rehabilitation goals, but what vocational training does exist is independent of any available work, very limited as to areas of training, and only offered at a few facilities. Such vocational training programs are not appreciated by the guards – perhaps because they are seen as a workload increase – and there are methods of obstructing enrolment or of boycotting participation, such as alleging disciplinary misconducts to force prisoners to drop out. Student withdrawals from such training programs are very high.

Pre-trial detainees do not have access to **educational programs**. For all other prisoners the legislation requires it, and there are elementary, preparatory and secondary school programs, as well as technical and adult formation courses that are equivalent to the ninth grade. The teachers come from outside of the institution. Prisoners can also apply to universities offering remote studies programs. Nevertheless, there seems to be a lack of interest on the part of many inmates. They would be much more interested in vocational training, but the security services regularly use their authority to boycott such study efforts.

Contacts with the outside world

The law specifies one five-minute call per day. Some prisoners have calling cards and others who cannot afford to purchase them. Those who cannot afford to pay can request phone calls paid by the state, but this depends on their being able to get in contact with their respective institutional counselors and then convincing them to grant each phone call. There are periods of a few minutes (in the morning and the afternoon) to use the few public phones available. There is pressure to hurry from those queuing on those making the phone calls (that rarely exceed five minutes), as a consequence of which disputes between the prisoners often arise. There are prisons where access to contraband cell phones resolves these problems. There is no limit on how many letters may be sent or received. The law stipulates visits twice per week, of one hour each time, which in practice can be reduced to 15 minutes because of the entry and screening procedures through which the visitors must first pass. The process of entry into the prison can be intentionally humiliating. There are complaints of abuses during the physical searches of the visitors, which

may arise to complete denuding, in clear violation of the law which strictly prohibits even partial denuding of visitors during the screening process. These violations continue without any kind of corrective measure on the part of the competent authorities, who limit themselves to allege such as the need to control the passing of drugs.

Solitary confinement

The most common of the sanctioned punishments is for the prisoner to be locked in his/her cell 23 hours per day for various days. Corporal punishment (beatings) by the guards often happens on the way to solitary confinement. Placement in Solitary/High-Security Unit is also a process often disguised as something other than punishment, where detainees can be also hosted for months. For protection, prisoners can be locked in their normal cells. In some cases, when there are open cells, prisoners commit themselves to isolation regime citing the need for protection and arguing a lack of alternatives.

Alternatives to detention

The law stipulates various alternatives to detention, broadly defined as measures not depriving of liberty, which can be imposed as a substitute to pre-trial detention and/or as a substitute to sentences of incarceration for crimes of lesser magnitude, these being granted by judicial decision at the request of the accused or condemned. They are mainly used to moderate pre-trial detention, or, from another point of view, to augment the options of coercive measures available to the state, and, secondly, to cope with the new problem (for the institutions) of dealing with domestic violence offenses. The main alternative measure is electronic monitoring.

Spain-Catalonia

Quantitative data refers to September 2019 unless otherwise stated

Total prison population: Spain State Administration: 50,434; Catalonia: 8,472

Prison density (total number of prisoners compared to capacity) (September 2015²⁰): Spain State Administration: 83.9%; Catalonia: 73.7%

Prison population rate per 100,000 inhabitants: Spain State Administration: 128.9; Catalonia: 112.3

Percentage of foreign detainees: Spain State Administration (July 2019): 24.72%; Catalonia, September 2019: 46.6%

Percentage of female detainees: Spain State Administration (July 2019): 7.65%; Catalonia (September 2019): 6.87%

People in juvenile detention (September 2019): Catalonia: 207

Sentenced detainees: Spain State Administration (July 2019): 43,396; Catalonia: 8,293

Total number of deaths: Spain State Administration (2014²¹): 107; Catalonia (September 2019): 14

Of which suicides: Spain State Administration (2014²²): 24; Catalonia (September 2019, inside prison): 4

General description of the Spanish penitentiary system

The Spanish prison system is ruled by a 1979 law, the first Law after the Constitution and this Law is developed with a Decree from 1981. The law and the Decree are based on the concept of penitentiary treatment directed to re-education so that the observation of the personality of each prisoner should take place to identify the best individual path to be reintegrated into the society. The Spanish prison system has two different penitentiary administrations: Catalan administration (which depends on Department of Justice) and Spanish administration, from the rest of the country, which depends on the Ministry of Home Affairs since 1992. So, just one penitentiary code but two different and independent administrations (own personnel, own budget...). There are 68 Spanish prisons and 11 Catalan prisons, actually in Catalonia there are two prisons built that cannot be opened for lack of funds. Some of these prisons are so old that they suffer from a lack of minimum conditions to be inhabited with dignity. The penitentiary system is divided into 4 penitentiary degrees which correspond with different life regimes: closed regime (first degree), half-open (second degree: prisoners can start to get penitentiary benefits), third-degree (open regime: detainees only sleep in prison) and probation. Finally, the Organic Law on the Protection of Citizen Security, effective as of 2015, introduces the revisable prison sentence.

The economic crisis is greatly impacting the Spanish penitentiary system. Thus, it is noted: the completion of the assistance service and legal defense of prisoners in some autonomous communities; the end of different health care services; cuts of treatment programs in different prisons in Catalonia.

²⁰ Space

²¹ Space

²² Space

Observations on the prison population

In the worst years of the economic crisis, the number of inmates fell by 10%, which gave rise to different interpretations: a significant number of foreign prisoners expelled from Spain (Brandariz 2013); a legal change in the crime of drug trafficking that has reduced some sentences prior to this type of criminal offence (Forero and Jimenez 2013); the importance of so-called "back door strategies" which are causing prison leaks, such as suspension of the execution of the penalty, more conditional and similar liberties awards. (Larrauri and Rodriguez 2012).

Minimum square meters per detainee

The law does not prescribe a minimum requirement of square meters per detainee. Currently, in all the new prisons in Spain, the surface is between 9 or 10 m² per cell. Generally, there are two inmates per cell.

Allocation of detainees

According to the Law, every inmate should be accommodated an individual cell, except in the case where dimensions and conditions of habitability and intimacy allow to stay more than one person. Temporarily, when the penitentiary population overcomes the number of individual available places, it will be possible to stay more than one inmate per cell. In fact, in the special establishments and the prisons with the opened regime, collective bedrooms are present, a previous selection of suitable inmates to occupy them is made. The reality of the situation at this point is that in the prisons of new construction the cells are designed with two beds directly, but there are many examples of prisons where the cells are occupied by more than two people.

The Penitentiary Law establishes that **untried prisoners** have to be separated from sentenced detainees. In practice, this isn't true in all cases.

Male prisoners are separated from **female prisoners**. The assistance to women-specific services is groups of risk and early gynecological diagnosis detection of breast cancer; indication and follow-up of non-surgical contraceptive methods and advice on other methods of contraception and voluntary termination of pregnancy; care during pregnancy, maternal education, including the promotion of breastfeeding, prevention of urinary continence and birth preparation. In this matter, many complaints are filed by women lamenting the lack of specialized medical care to their needs as women. Spanish legislation contemplates the right of mothers to keep their children with them until they turn three. Inside the nurseries, there are specialists in early childhood education who are responsible for educational and recreational programming for children. In practice, conditions and services vary from prison to prison. Since the end of the 1980s, there are also different kinds of special accommodations for women with children either inside or outside prisons.

The Spanish penal code establishes that **children** under 18 years of age are not liable criminally and when they committed a criminal act will be judged by the law of criminal responsibility of the minor (Law 5/2000, 2 January 2000) and not by the penal code. This law applies to persons over 14 and under 18 and involves a separate juvenile justice system. The State Prison Administration has no competence concerning juvenile

offenders, which are managed by autonomous communities. Management can be public, private or mixed and in the majority of cases is attributed to non-lucrative natures that are responsible for implementing the measures. The management of the juvenile system is fully public only in Catalonia.

Conditions of detention

The Penitentiary Law sets that the cells used at night and those used for the daily common life will have to satisfy the necessities of hygiene and be in the condition so that the volume of space, ventilation, water, illumination system, and heating adjusts to the climatic conditions of the locality. Also, cells and collective bedrooms must have sufficient space, light, natural ventilation, hygienic services, and furniture to make them inhabitable. Inmates' complaints are generally related to the lack of window panes, hot water in winter. Recently there has also been rat extermination in the Valencia prison and the bedbug infestation suffered in jail Model in Barcelona recently.

Prison regime

The administration through the Board of treatment prepares the individualized program of treatment (PIT) for each inmate proposing certain activities. In principle, the refusal to participate in such activities does not entail disciplinary sanction because treatment is enshrined as a volunteer, but it is true too that non-participation may involve the delay or inability to access to certain prison benefits. Educational, training, cultural and sports activities are determined by the Board of Directors, taking into account the action plans of the Directing Centre, starting from the individual programs developed by the treatment Board. Foreign prisoners can fully access training and education. Pre-trial detainees cannot participate and prisoners are only entitled to participate in the different programs after having served half of the sentence.

Work opportunities are different depending on the administrative area.

In Catalonia: companies, for which the penitentiary administration works, will be given a place in buildings located in the same prison. The Department of Justice provides the workforce (prisoners) and space while companies contribute machinery and raw materials. Under this premise, the Department of Justice, through its Centre of public company for Reinsertion (CIRE), has developed a comprehensive plan of vocational training and productive work. Productive work that is developed: clothing industry, printing, and graphic arts, carpentry, locksmith and assembly, and handling.

In Spain: the Autonomous Organism Prison Work and Training for Employment (OATPFE) has the Plan of training and professional integration of the INEM budgets and with funding from the European Social Fund. The main problem is that, due to the number of prisoners per prison, not all prisoners can gain a place in the workshops.

In the field of vocational training, the offer is constituted by a wide variety of courses to become familiar with the inmates a trade or a profession, serving the needs and demands of the labor market.

Educational Programs are several. Priority is given to basic training to illiterate inmates, young and foreign persons and those who have specific problems to access to education, as well as the promotion and empowerment of any educational activity. Educational Programs offered in correctional institutions are Adult Literacy; Consolidation of knowledge; Adult secondary education; Literacy and Spanish for foreigners;

High school; Vocational training of medium and top grade; Official school of languages. It is also possible to get Formal University Education.

Contacts with the outside world

Prisoners can make 2 calls per week, and send and receive unlimited letters. The Law (art. 47) sets a maximum of 5 calls per week, but it cannot be implemented because of the large number of inmates. The main problem in Spanish prisons is the monopoly that the company Telefónica has over the phone blast on to be used by prisoners, there isn't any other company and the price of this blast is more expensive than outside prison. It is established by article 42.1 Penitentiary Law that there will be a minimum of 2 visits per week but this issue is not always easily solved, many prisoners in Spain have a very low economic level, so they cannot afford travel to prisons. All prisons will have premises suitable for family visits or relatives of those inmates who do not enjoy ordinary exit permits.

Solitary confinement

Isolation as a form of punishment may not exceed fourteen days. In all institutions, there are sections used for solitary confinement of the prisoners. The closed regime will be applied to those convicts that, initially or for a regression in the personality or conduct, are classified under the first degree because they are extremely dangerous or manifestly maladjusted to the ordinary and opened regime. The characteristics of these sections are individual cells, with a limitation of the common activities of the inmates and a higher control and vigilance. During this solitary confinement, inmates denounce the majority of cases of ill-treatment, abuses, and humiliations.

Alternatives to detention

In the current Penal Code, the possibilities referred to as alternatives to detention are, among others, the following: work in benefit of the community, suspension of sentence, and sentence substitutions. They are intended to avoid the desocializing effects of detention. The suspension is applied before entering prison.

Turkey

Quantitative data refers to November 2018 unless otherwise stated

Total prison population: 258,660

Prison density (total number of prisoners compared to capacity): 121%

Prison population rate per 100,000 inhabitants (01/01/2018): 288²³

Percentage of foreign detainees (data at 31/03/2018): 3%

Percentage of female detainees: 3.9% Juveniles in detention: 3,019 Sentenced detainees: 199,861

Total number of deaths (January -September 2016): 277 Of which suicides: 66

General description of the Turkish penitentiary system

The total prison capacity of Turkey is increasing while the number of penal institutions is decreasing. There are 338 prisons in Turkey and the total capacity is 213,186. According to the statement of the Ministry of Justice (MoJ), 171 prisons and 34 additional buildings were built between 2000-2017 while the number of prisons decreased from 559 to 361 within the same time frame and then increased to the current number. MoJ plans to build more prisons and it was stated that within this year 70 prisons will be built. Prisons of Turkey are mostly new and the system is going through a transformation since the 2000s. From district/city-based, small-capacity and ward-type prisons, penal architecture is shifting to campus-type, which constitutes of several prisons that are high in capacity and, in some cases, includes courtrooms, hospital, mosque, etc. They are established far away from city centers, families, lawyers and any other related individuals and are mainly built as high-security prisons with cell-type units made for 1 or 3 persons. In some cases, prison workers live in housings around the campus, which makes their life inseparable from prison.

Observations on the prison population

Between 2005 and 2015, the prison population increased from 55 to 176 thousand and now detainees are more than 259,000. In prior statements, MoJ considered this change as the result of new legislation enacted in 2005. The law has stipulated longer durations of imprisonment to be conditionally released. Further, the Criminal Code which was enacted in the same year regulated longer sentences for several crimes. The immediate and fast increase of the prison population can be evaluated as the result of the penal policy that prioritizes imprisonment. The prison population is significantly affected by the military coup attempt and following imprisonments. As a result, there is a severe problem with overcrowding. According to the statement of representatives of MoJ, the current capacity has "increased capacity" and this was achieved by transforming the existing conditions to hold more prisoners.

²³ World Prison Brief-ICPR Data. It increased to 316 by the updated prisoner data -2018 November- and the projection of the increase of the total population as of November 2018 by using the increase rates last 3 years.

Minimum square meters per detainee

The law does not set any minimum space per prisoner.

Allocation of detainees

Prisoners mostly share their units (cells) with others, except aggravated life prisoners who are solely confined, according to the law. There are several types of prisons in Turkey with units for 2, 3 or more prisoners' accommodation. In high security closed prisons, prisoners are accommodated in 1- or 3-person units. According to the law, doors opening to corridors are kept closed all the time.

According to the law, prisoners are grouped and accommodated together on several criteria including **pre-trial** or sentenced as well as the stage of the sentence. According to the information we receive, it is not often practiced. There are no special prisons for untried prisoners but they may be separated from sentenced prisoners within different wards. As far as we know from the information we receive from prisoners untried prisoners and sentenced prisoners are kept in the same wards, mostly due to overcrowding.

According to law, men and **women** must be accommodated separately. In practice, we have not received any information about any imposition that contradicts this regulation. Nevertheless, in case there isn't free space in women's prisons, women prisoners can stay in separate rooms in man prisons. Approximately half of the women prisoners in Turkey stay in men prisons in separate rooms which results in not fulfilling many of their needs. Further, men prisons do not have kindergarten which negatively affects children, who are staying with their mothers in men prisons. Children are allowed to stay with their mother until they are 3 years old, which can be lengthened to six years with a court decision.

According to law, **minors** shall be accommodated in institutions established for them. Nevertheless, the law also sets forth that in case there isn't enough capacity -or for other legitimate reasons-, minors may be accommodated in separate areas inside adult institutions. There are 1.265 minors accommodated in establishments which are specially designed for minors, according to the data dated October 2018.

According to this information, 1754 minors are in prisons for adults. There are two types of prisons for juveniles in Turkey. Education houses for sentenced prisoners and closed prisons for detained prisoners and sentenced prisoners who have a disciplinary penalty as returning to a closed prison. According to the law, both are based on education. Efficaciously, at education houses (as open prison), juveniles are subject to compulsory education. For juveniles in closed prisons, there is no encouragement or rules for compulsory education.

Conditions of detention

According to information received by CİSST/TCPS from prisoners, physical conditions often meet CPT and ECtHR criteria. Nevertheless, the standard of CPT as 3 square meters for floor space can be considered as insufficient since prisoners mostly spend their time in their cells or wards. CİSST/TCPS also receives complaints on non-functioning or insufficient radiators. Prisons are mostly built without considering climate. In very hot cities prisons do not have central ventilation and they are supposed to buy a fan with their own money. Prisoners are responsible for the cleaning of their cells or wards and purchase cleaning materials

which result in different complaints. Aggravated life prisoners who are accommodated in single rooms/cells frequently complain about space and lighting. With the fast escalation of the prison population, applications regarding access to health, hygiene, floor space, lack of beds, amount of food, cubic air space have severely increased due to overcapacity. Within the last years, CİSST/TCPS has been receiving applications regarding privacy that the range of camera systems inside wards includes toilets and beds. We have also been informed that non-smokers may be allocated in smoking wards which makes the quality of air even worse and dangerous especially for the prisoners who have asthma.

Due to overcrowding, applications regarding the lack of a sufficient number of showers increased from all prison types, with a high rank from open prisons. Further, many prisons provide hot water for one or two hours, once in two or three days. Prisoners use this time to wash their clothes as well. As a result, we received complaints regarding prisoners taking showers less than once a week due to overcrowding.

Prison regime

According to the law, prisoners can be employed in **workshops or workplaces** for a fee determined by the institution. Prisoners who are in open penitentiary institutions and who are allowed to leave closed penal execution institutions can be employed outside the institution. Prisoners in open penitentiary institutions shall be employed in the custody of penitentiary officers and those in the closed penitentiary institution shall be employed under internal and external security officers' supervision. In practice, close and high-security prisons have fewer work opportunities. In open prisons, prisoners have to accept to work that is designated by the administration. Rejecting to work is considered a disciplinary action and the prisoner is sent back to a closed prison. On the other hand, since working is mandatory in open prisons, if a prisoner is not able to work she/he is not sent to open prisons. Therefore, some disabled and elderly prisoners do not benefit from this right in case a suitable job for them is not found.

The law stipulates **educational programs** but it is commonly stated that they are not applied or insufficient and not updated. Only literacy courses are held in prisons. Prisoners in open penal institutions can participate in lessons and exams in their school or university. Prisoners in closed and high security closed prisons can participate in examinations with special permission of the school or university. If not, their only alternative is distance education.

Contacts with the outside world

According to the regulation, prisoners can have one phone call with their family members up to 3rd degree, once a week. This right is limited exclusively with 3 phone numbers. The length of the phone call cannot exceed 10 minutes. For aggravated life prisoners, it is one phone call every 15 days and it is limited to relatives up to 2nd degree. The conversation is listened to by the officers and can be cut if it constitutes a threat to the security of the prison. The law does not set forth any restriction on the number of letters but the prisoners have to pay the delivery charge. Besides, all received and sent letters are examined by a committee of officers, in every prison. Prisoners can also use a fax. According to the regulations, a prisoner can receive visitors once a week and the length of the interview cannot exceed 1 hour. Only relatives up to 3rd degree, three friends designated by the prisoner and legal guardian have the right to visit prisoners. For

aggravated life prisoners, it is once in every 15 days and limited to only relatives up to 2nd degree. While three of these visits occur behind a soundproof glass (close visit), once a month prisoners have the right to open visit where they can have slightly human contact. It is not enough neither for the visitors nor the prisoners especially considering that many family members, friends, and partners (unmarried) are not included. Besides, the right to family visits is often banned due to disciplinary punishments. The conversations in closed visits are listened to by the authorities. Conjugal visits are regulated as a reward for prisoners.

Solitary confinement

The law stipulates three types of solitary confinement: a) *cells* used for disciplinary punishment, observation, and evaluation process that may be applied after admission to the institution up to 60 days, b) *single room* used for aggravated life prisoners, and c) *padded cells* or *observation cells* used on the grounds to prevent prisoners hurting themselves or others. Aggravated life prisoners stay in *single rooms* which are mainly the same as *cells* that are 8 square meters, includes a toilet and rarely kitchen facilities. *Padded cells* are surveilled day and night with open toilets and nothing is allowed including water bottles.

Alternatives to detention

In November 2016, a Department of Alternative Measures has been established, which mainly focuses on prepay, reconciliation and postponement of public prosecution. There are other several alternative measures including judicial control during the trial (including international travel ban, giving signature at police station daily or weekly bases, bail etc.), addiction treatment, community service, alternatives to short date prison sentence as judicial fine, compensation for damage, deferment of the announcement of the verdict etc. They are applicable only for certain crimes.



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