



The Social Reintegration of Ex-Prisoners

in Council of Europe Member States

The Quaker Council for European Affairs

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This report was researched and written by Joe Casey and Ben Jarman, and edited by Ben Jarman and Liz Scurfield.

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Abbreviations

In some graphs in this report we have abbreviated country names as below.

ALB	Albania	AND	Andorra
ARM	Armenia	AUS	Austria
AZE	Azerbaijan	BEL	Belgium
B&H (Fed.)	Bosnia & Herzegovina (Federal level)	B&H (Srp)	Bosnia & Herzegovina (Republika Srpska)
BUL	Bulgaria	CRO	Croatia
CYP	Cyprus	CZE	Czech Republic
DEN	Denmark	EST	Estonia
FIN	Finland	FRA	France
GEO	Georgia	GER	Germany
GRE	Greece	HUN	Hungary
ICE	Iceland	IRE	Ireland
ITA	Italy	KOS	Kosovo
LAT	Latvia	LIE	Liechtenstein
LIT	Lithuania	LUX	Luxembourg
FYROM	Macedonia	MAL	Malta
MOL	Moldova	MCO	Monaco
MON	Montenegro	NED	Netherlands
NOR	Norway	POL	Poland
POR	Portugal	ROM	Romania
RUS	Russia	SAN	San Marino
SER	Serbia	SVK	Slovakia
SLO	Slovenia	SPA	Spain (excluding Catalonia)

CAT (SPA)	Catalonia (Spain)	SWE	Sweden
SWI	Switzerland	TUR	Turkey
UKR	Ukraine	E&W (UK)	England & Wales
NIR (UK)	Northern Ireland	SCO (UK)	Scotland

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1 Executive summary and recommendations

1.1 Executive summary

The Religious Society of Friends (Quakers) has a long history of campaigning for prison and criminal justice reform. Working within this 350-year tradition, the Quaker Council for European Affairs (QCEA) is actively involved in promoting respect for human rights in the way society deals with crime. QCEA carried out extensive research into the conditions of women in prison in member states of the Council of Europe (CoE), in partnership with the Quaker United Nations Office (QUNO) in Geneva, Quaker Peace and Social Witness (QPSW) in the UK and the Friends World Committee for Consultation (FWCC) representatives to the UN Crime Commission in Vienna. The subsequent 2007 QCEA report, *Women in Prison* concluded that whilst in many cases prison sentences do little to reduce the risks of reoffending, the social cost to both prisoners and their families is disproportionately high.¹

To support this recommendation, QCEA investigated the use of alternative sanctions to imprisonment in CoE member states. The resulting report, published in early 2010, presented a range of alternatives to prison, which 'when implemented and assessed effectively, are often more successful at providing society with a suitable and effective response to crime and more often than not significantly less expensive'.²

Nevertheless, QCEA recognises that imprisonment will remain a part of European criminal justice systems, as 'a last resort'³ to be used where there is a pressing case to control offenders so that they cannot harm others.

We argue in this report that whenever prison is used, it must be rehabilitative. Most offenders sent to prison will eventually be released. It is therefore incumbent on prison systems to invest adequately in rehabilitative programmes, so that prisoners have a better chance of reintegrating into the community after their sentence is finished. Such a policy respects the human rights and human dignity of those who break the law, but this is not the only reason to favour rehabilitation in prison management. An effective rehabilitative prison system can bring financial benefits too. Policing, investigating, and administering criminal justice systems are all expensive, as is imprisonment itself. This is not to mention the negative effects of crime on the community. Justice systems which can successfully rehabilitate offenders will save money and better meet the needs of society, since the alternative (longer and longer sentences) produces an unsustainable solution. These issues are explored in Chapter 3 followed by a short outline of how we have compiled the evidence used in this report in Chapter 4.

¹ Wetton, C. & Sprackett, J., *Women in Prison: A Review of the Conditions in Member States of the Council of Europe*, February 2007 [online], accessed 2 February 2011, available at <http://www.quaker.org/qcea/prison/Final%20Report%20Part1.pdf>

² Loffman, M. and Morten, F., *Investigating Alternatives to Imprisonment*, Quaker Council for European Affairs, January 2010 [online], accessed 2 February 2011, available at <http://www.quaker.org/qcea/prison/Alternatives%20to%20Imprisonment.pdf>, p. 98

³ Council of Europe, *Recommendation Rec(2006) 2 of the Committee of Ministers to member states on the European Prison Rules*, adopted 11 January 2006 [online], accessed on 1 March 2010, available at <https://wcd.coe.int/viewdoc.jsp?id=955747>

There are many challenges to meet in making a rehabilitative prison system work. Among them is prison overcrowding. This problem is analysed in Chapter 5. Overcrowded prisons strain the resources invested in them and achieve less success in rehabilitating prisoners, because they are reduced to 'coping' rather than fulfilling their primary, rehabilitative function.

Another challenge is ensuring that prisoners' transition after their sentence is properly managed. This involves a balance between managing ex-offenders and the crucially important goal of connecting them to services and opportunities (such as housing and employment) that will lend stability after the initial shock of leaving the regimented, structured life of prison. These need not be mutually exclusive goals. The role that probation services can play is explored in Chapter 6.

Prisons must also understand and address the factors that, in many cases, drive criminal behaviour. Rehabilitation programmes for alcohol and drug addiction are vital in this regard as are programmes that aim to help prisoners understand the motivations and reasons for their crimes. Policy and best practice in alcohol and drug rehabilitation, and in sex-offender rehabilitation, are surveyed in Chapters 7 and 8.

Yet the main challenge for prisoners remains how they will readapt to life in the community after their release. Preparation for this should begin immediately after their admission to prison. This is a huge adjustment for the prisoner and their families to make, especially after a longer sentence, and one where a number of factors come into play. Education (Chapter 9) is vital; if successfully completed it can have benefits both by offering prisoners employment skills they may not have had before and by allowing prisoners a different perspective on their lives. Preparation and support for prisoners to help them with the search for housing and employment are also important, as is the availability of training to improve their financial skills and thereby plan for the financial uncertainty and period of unemployment that may follow release. Current policies and best practice in these areas are explored in Chapter 10. Prisons should also try as far as possible to ensure that prisoners are able to stay in close touch with their families. Families provide the kind of motivation and support that official agencies simply cannot, and prison administrations must therefore make sure that they do not break family ties. This theme is explored in Chapter 11.

Chapter 12 argues for the inclusion of prisoners in society more generally by arguing for the ending of blanket bans on prisoner voting. Finally, Chapter 13 makes the case for greater use of Restorative justice practices within and alongside the existing criminal justice system. Restorative justice aims to deal with conflicts (in this case, those caused by crime) by helping those affected explore the harm done and how it might be repaired. Such interventions may not be suitable in all cases and must be done with the consent of the individuals concerned, but have been shown to powerfully affect both offenders' and victims' perspectives on crimes. They work because they address the individual needs and issues caused by crime.

At the core of all these issues and approaches is the fact that prisoners, for all that they may have committed acts that society disapproves of or even abhors, remain individual people, and they remain members of the wider community. If law-abiding behaviour arises out of respect or consideration for other members of our community, then dealing with crime solely by excluding its perpetrators from the same community that desires their future respect and consideration is unlikely to work. Continuing to exclude them after their release from prison merely exacerbates the problem, as does allowing prisons to become so overcrowded that prison staff cannot know or address the individual needs of prisoners. Proponents of an ever-more punitive prison policy must confront this uncomfortable truth.

There is no 'catch-all' solution to criminality and the policies and practices described in this report will not all apply to all offenders. However, exploration of best practice is worthwhile. Such practices, combined with a realistic policy on sentencing and prison population, may allow prisons to become genuinely rehabilitative. In so doing, prisons could be made to serve better the society that invests so heavily in them.

1.2 Chapter summaries and recommendations

Chapter 6: Probation services and reintegration

Probation, which historically has been focused primarily on rehabilitation, is increasingly having contradictory aims of control and supervision imposed on it by the confused priorities of criminal justice systems. Probation systems fulfil a wide range of functions in different states, but most systems combine some form of punitive/controlling supervision with some form of rehabilitative support. Recent best practice by probation services around Europe suggests that assistance, advice and services, especially those that link the prisoner to a wider support network and to employment, help prisoners reintegrate. Such advice and support has the potential to reduce reoffending. Probation supervision is being used with a wide range of offenders in CoE member states. Probation services have a good deal of freedom to decide how to supervise offenders.

Recommendations

1. Member states should ensure that:
 - a. they collect statistics cross-referencing the use of different supervision measures with reoffending rates, so that the success of particular interventions can be measured
 - b. probation supervision of ex-prisoners is planned so that rehabilitation is at least as important as their control and supervision
 - c. probation services (or those supervising prisoner release) have a legal duty to refer their clients to advice services covering practical matters such as housing, access to financial services, and finding employment
 - d. they consider applying more liberal conditions regarding parole and probation supervision in the case of women prisoners

- (especially mothers), in line with a gender-sensitive prison management policy
- e. probation services (or those supervising prisoner release) involve their clients' families in planning and decision-making relating to their release⁴
 - f. probation services review whether the reintegration services provided to women prisoners are sensitive to the specific health and other needs of women
 - g. all prisoners have an automatic right to request such input from probation services, regardless of whether their supervision by probation services is compulsory or not
 - h. they consider the use of ex-offenders (who have reintegrated) as counsellors, mentors or advisers for others who are newly released
 - i. options such as open prisons and halfway houses are used to the maximum possible extent for women prisoners.
2. Member states should take seriously the need to engage wider support in reintegrating prisoners into society. In particular:
- a. employers should be offered incentives to employ released prisoners, for example by waiving employers' social security payments for a period of time
 - b. greater involvement by the private sector and charities should be sought in providing work placements and work experience for prisoners nearing their release.

Chapter 7: Drug and alcohol rehabilitation

Drug dependence is a significant factor driving much criminality, both because of the expense of feeding a drug addiction and the difficulty of integrating in normal community life if that addiction reaches acute proportions. The relationship between alcohol misuse and criminality is less commented on, but alcohol is thought to be a factor in much violent crime. Harmful dependence on drugs and alcohol are therefore problems that prisons, if they are to be rehabilitative, should address. However, it must be remembered at all times that prison is an inappropriate environment in which to address drug dependence *per se*; non-custodial forms of treatment should be used except where it is absolutely necessary to imprison offenders. Prison must never be used merely to punish drug addiction, which should primarily be seen as a healthcare problem.

Where there is a compelling argument to imprison offenders who also happen to be dependent on drugs or alcohol, addiction programmes in prison must be available on the same basis as outside. Prisons in all member states that responded to our questionnaire offer prisoners drug addiction treatment. Most also offer alcohol addiction programmes, though provision in this area is less consistent. However, the success of both types of programme is often compromised by a range of factors, especially the discontinuities between treatment inside and outside prison.

⁴ This matter is dealt with in more detail in Chapter 11.

There are also healthcare implications concerning the use of drugs in prison. Drugs and alcohol are known to circulate in prisons, despite the best efforts of prison authorities to prevent this. It is probably impossible to completely control the trade in prison contraband; the high profit to be made on the prison black market can tempt visitors or corrupt staff to try and bring contraband into prisons. This means that efforts to treat addiction need to be balanced by pragmatism in confronting the reality that in some cases, prisoners will continue to use drugs. Prisoners who are dependent on drugs and alcohol should be rewarded if they take responsibility for their health and their addictions, but should not be put at risk if they do not. Drug and alcohol treatment in prison should be seen as a healthcare matter, and it should be recognised that prison may not in fact provide the best environment for such treatment.

Recommendations

3. Member states should ensure that they:
 - a. treat drug dependence as a health issue in the community, rather than in prison, except where criminal convictions other than for the drug dependence itself are judged to necessitate imprisonment
 - b. accurately and regularly monitor demand for drug and alcohol treatment programmes so that demand for them does not exceed supply
 - c. ensure that **both** drug **and** alcohol treatment programmes are available to all prisoners who wish to participate in them
 - d. **both** ensure that release plans are factored into prisoners' drug and alcohol treatment, so that early release or short sentences do not disrupt their treatment, **and** ensure that drug and alcohol treatment in prison are fully integrated with readily available programmes in the mainstream healthcare system, so that prisoners can make the transition after their release
 - e. offer incentives such as prison privileges or reductions in sentence for good behaviour to prisoners who successfully demonstrate that they have stopped using drugs
 - f. make measures such as needle exchanges available so that prisoners who are using drugs intravenously in prison do so with the minimum possible risk to their health.
4. Member states should ensure that for offenders whose drug or alcohol misuse has been a factor in their criminal behaviour, sentencing decisions should be taken so that:
 - a. non-custodial forms of treatment are prioritised except where there is a pressing public safety concern
 - b. in prison, foreign nationals and those who are serving short sentences are not discriminated against by being unable to access treatment programmes solely because they are shortly to be released or transferred, or to be deported at the end of their sentence.

Chapter 8: Sex offender rehabilitation

Recidivism by sex offenders is among the most controversial issues in criminal justice in Europe. Especially in the case of child sex offenders, the public response to such crimes is one of abhorrence, and the factors motivating them are often complex, personal, and different to many of those motivating other forms of crime. Criminal justice systems in the Council of Europe therefore usually treat sex offenders with intensive programmes such as those from the Czech Republic and Sweden outlined in Chapter 8. These programmes mostly operate in prisons or secure psychiatric units – a response that could be characterised as part-punitive, part-medicalised.

A holistic approach to rehabilitation is important. No single programme acts in isolation. Most sex offenders, like most other prisoners, will be released in the end; yet they face greater challenges in the sense that the nature of their crimes may make it harder to seek the support of others in coming to terms with what they have done. Assistance therefore needs to be imaginative and able to respond to this problem, and must continue after release, when the offender may be most in need of support, and most at risk of recidivism. The Circles of Support and Accountability (CoSA) projects offer a model for such interventions.

Recommendations

5. The Council of Europe should extend its investigation of good criminal justice practice to identify and share good practice in the reintegration of sex offenders, to complement work already in progress on their management and control.⁵ In particular:
 - a. information should be sought on the implementation of CoSA in Britain, Belgium, the Netherlands and elsewhere
 - b. information should be sought on other measures that successfully integrate sex offenders into the community
 - c. resolutions should be drafted on successes in this area with a view to sharing good practice among member states.
6. Member states should balance the management, supervision, monitoring and control of sex offenders with specific measures that seek to support their social reintegration. In particular, they should:
 - a. consider carefully whether voluntary schemes such as CoSA may complement the work of their probation services
 - b. investigate which existing civil society groups may be willing to publicise the scheme among their members
 - c. trial such schemes and monitor and evaluate their success
 - d. implement the programmes more widely if they reduce recidivism.

⁵ Council of Europe, *Reinforcing measures against sex offenders: Report to the Committee on Legal Affairs and Human Rights*, Doc. 12243, 4 May 2010 [online], accessed on 20 January 2011, available at <http://assembly.coe.int/main.asp?Link=/documents/workingdocs/doc10/edoc12243.htm>

Chapter 9: Education and prisoner rehabilitation

Education has the potential to be a major driver of rehabilitation. At best, it opens prisoners' minds to new possibilities and ways of understanding that can give them a way out of the cycle of reoffending. It can also have knock-on effects elsewhere, for example by raising prisoners' skills so that they are more likely to be able to access a stable job after release, which in itself will help with reintegration. Considered more broadly, courses that encourage prisoners to think in a different light about family and other personal relationships may lead to better communication within families and a more positive, stable home environment.

Yet the level of educational achievement among prisoners in the CoE member states is low, and alarmingly few prisoners are accessing education and gaining qualifications. Most member states' governments identify short sentences and prisoners' lack of motivation as major causes. Rather under half say that oversubscription and the unavailability of courses cause low enrolment, but less than a fifth of those surveyed believe that childcare commitments or prisoner transfers prevent enrolment, though there is some evidence to the contrary. Most member states allow prisoners to make use of distance learning courses, and most make at least some level of computer access possible for prisoners. However, under a third allow prisoners to use the internet, and even these do so with restrictions. In most CoE states, prisoners can begin a course in prison for completion after release, and they are encouraged to do so. However, ex-prisoners face a range of problems in completing such courses, including course availability, cost, and work and family commitments. Provision of education to ex-prisoners after their release relies largely on the work of NGOs, but the state's education services and private companies play a part as well.

Recommendations

7. Member states should ensure that education is placed at the centre of efforts to rehabilitate prisoners. In particular, they should:
 - a. listen to prisoners' own ideas about what their individual educational priorities are
 - b. encourage greater participation in prison education, for example by exploring incentives that can be offered to prisoners for such participation
 - c. adequately fund education provision within prisons, recognising the long-term saving associated with lower reoffending rates
 - d. collect and collate better records about prisoners' educational background before their imprisonment, and their educational attainment while in prison, and use such records as a central measure of the effectiveness of their prison services
 - e. make the identification of educational needs and the planning of education a central part of planning each prisoner's release.
8. Member states should, as far as possible, reduce the practical difficulties that prevent prisoners from accessing potentially rehabilitative education services. In particular, they should:

- a. reduce the negative impact of short prison terms by exploring alternatives sanctions to replace them
- b. prevent women prisoners who have a child with them in prison from being excluded from prison education, by ensuring that the prison provides childcare
- c. explore ways to provide prisoners with greater access to educational materials and courses using computers and the internet
- d. explore ways to enable more prisoners to complete educational or vocational training programmes in the community
- e. link prison education services more closely to those outside the prison walls, so that prisoners are not prevented from completing courses started in prison by their local non-availability after release
- f. explore the standardisation of prison education provision to avoid situations in which prisoners' transfer disrupts their education plans
- g. explore ways in which basic prison qualifications can be accredited as the equivalent of basic school qualifications, so that prisoners can enter other courses in mainstream education after their release
- h. ensure that there is proper recognition and accreditation of **all** courses completed in prison, with resulting qualifications integrated to the country's qualification regime
- i. for courses for which a provider cannot be found outside prison, to allow prisoners to return on a voluntary basis to prison after the completion of their sentence, to finish courses they would otherwise be unable to finish
- j. provide support and advice to prisoners whose family or work commitments might lead them to drop a course they started in prison before completion.

Chapter 10: Housing, employment and financial management

Making sure that ex-prisoners have a chance to access housing and employment is of paramount importance to the prevention of reoffending. Neither is likely to achieve their full benefit unless prisoners can successfully manage their own finances after their release.

Many interventions can be offered in prison that will help maximise the chances of successful rehabilitation. Prisoners are often without a stable home when they enter prison, and many return to society with no or substandard housing. In some cases the fact of their imprisonment may be used as a spurious justification for their being denied access to accommodation after release. 'Halfway houses' provided by prison and probation authorities provide only a short-term solution but do so positively in numerous member states. Different authorities are responsible for housing in different member states, and they are rarely the same as those responsible for ex-prisoners. But collaboration and communication between

these different authorities is clearly important, and could take their cue from the well-defined Norwegian 'return guarantee', which defines the responsibilities of both sides so that they cooperate to ensure that ex-prisoners have the best possible chance of reintegrating with law-abiding society.

Prisons can do even more to resolve the problem of prisoner unemployment after release; the provision of education and work programmes can and do have great benefits. However, opportunities to integrate this work into life outside the prison walls are being missed. Prisoners' ties with family and friends (which can in turn help with areas like housing) can be made more positive if they are able to contribute financially while in prison. Prison administrations are missing a rehabilitative opportunity if prison programmes do not both cover effective financial management skills and provide the opportunity to put them into practice by allowing serving prisoners to plan for their release and save a proportion of their earnings whilst in prison. The provision of such opportunities in Council of Europe member states appears to be inconsistent, as does the relationship between prison wages and national minimum wages.

Recommendations

9. Member states should give active consideration to the role that can be played in prisoner reintegration by meaningful and fairly paid work **accessible throughout the whole of a prison sentence**. In particular, they should:
 - a. consider allowing social enterprises to be set up in prison
 - b. consider clarifying and defining the terms on which prisoners can conclude contracts with employers in prisons
 - c. strive to resolve ambiguities over prisoners' tax status, after due debate and consultation on the desirability of prisoners' tax payments
 - d. clarify the relationship and balance between security and rehabilitation, as applied to the question of prison work, lest those ambiguities lead to destructive conflict between prisons and prison employers
 - e. find ways to reconcile the legitimate security concerns of prison and the legitimate business concerns of employers, so that it is possible (initially at least) to resolve disciplinary issues within the framework of the employment contract
 - f. engage in open public debate and consultations about the means and ends of prison work and their impact on the desired results of imprisonment
 - g. consult the public to find a socially acceptable means of accommodating the fact that prisoners have few living costs, for example by ensuring a proportion of prisoners' wages are set aside for charitable donations
 - h. support the aims of long-term rehabilitation by ensuring that prison enterprises are not expected to take on an unsustainable burden of employing short-sentence prisoners in menial, unskilled work.

10. Member states should prepare prisoners for reintegration by:
 - a. monitoring the unemployment rate of prisoners before and after their incarceration, and making this an explicit measure of the success of imprisonment
 - b. ensuring that prisoners have, and know they have, access to education in effective personal financial management
 - c. ensuring that prisoners are able to reinforce their financial skills by allowing them to save for their families, or for the period after their release
 - d. working with banks and other private or third-sector organisations to help remove practical obstacles to prisoners' management of their finances after release, for example by helping prisoners to open bank accounts outside prison.
11. Member states should ensure that prisoners are able to access housing after release by:
 - a. keeping accurate records of prisoners' housing situation before prison, updating this during the sentence, and using it to identify housing needs after release
 - b. ensuring good communication between prison authorities and those responsible for housing, and defining clearly institutions' responsibilities towards prisoners
 - c. ensuring that prisoners' own needs and wishes are taken into account, for example making housing authorities aware of prisoners' own wishes as to where they feel they need to be housed in the interests of their rehabilitation.

Chapter 11: The role of family and friends in reintegration

Prisoners' family relationships are among the most important factors in their rehabilitation. A stable home environment can be a base of strength while a prisoner faces the challenges of finding a new job, adapting to a different lifestyle 'on the outside'. This is especially true when the prisoner in question has served a long sentence. Family contact is so important because it has the capacity to reinforce most or all other potentially rehabilitative interventions. Families do this by offering practical support and reinforcement, but perhaps more importantly because they reinforce prisoners' motivation and tenacity in pursuing goals.

Prisons must therefore facilitate contact between prisoners and their families, so that the socially isolating effects of prison are mitigated. Unnecessary practical restrictions on family contact should be removed. Most CoE member states we surveyed do not centrally monitor or track the average distance of prisoners from their families, though some countries have the explicit aim of keeping prisoners close to their homes where possible. A majority in our sample allow prisoners to receive visitors once a week or more, but a significant minority allow visits as infrequently as once a month, and one country (Lithuania) unacceptably cuts off visits altogether as a disciplinary measure. Prisoners' communication with family and friends is relatively unrestricted if using letters or making telephone calls, but a significant number of countries do not allow daily telephone calls, and

prisoners rarely have access to email or other electronic means of communication. This reliance on pre-internet media is apparent also in the means by which prisoners are allowed to keep up with events and developments in the outside world. Print media and television are dominant, and very few prisoners are able, as a matter of course, to keep up with news and developments using the internet. Good practice in resettlement planning suggests that quality family contact can have a great impact even on serial reoffending. If prisons facilitate an honest and full exchange of views, taking into account the needs of both sides, families can help to make reintegration work.

Recommendations

12. Member states should ensure that prisons recognise the strain placed on prisoners and their families by imprisonment and release, and provide support as appropriate. In particular, prisons should:
 - a. aim to appraise themselves of a prisoner's family and social networks, and their rehabilitative potential, from the beginning of the prisoner's sentence
 - b. when receiving a new prisoner (either at the start of a sentence or after a transfer), immediately and directly inform the prisoner's family about how they can stay in contact, what the regulations are regarding visits, and who to contact with questions or worries
 - c. facilitate communication between prisoners and their families about the problems that have been caused by their imprisonment and the worries that arise from the prospect of their release
 - d. involve prisoners and their families in the prisoner's release planning well before the release date
 - e. link needs identified by the prisoner and their family to courses, counselling or other interventions that will assist their reintegration
 - f. recognise the potential that families have to reinforce and build on the prison's own work
 - g. allow prisoners home on conditional release before the end of their sentence so as to acclimatise them to life outside prison gradually.
13. Member states should facilitate continued contact between prisoners and their families during the period of a prisoner's incarceration. In particular, they should:
 - a. collect and compile information on how far prisoners are kept from their families, aiming to reduce this distance wherever possible
 - b. remove restrictions on prisoners' communication with their families, including those that arise from the cost of such communication being beyond prisoners' means
 - c. recognise that the rights of prisoners' children to parental contact are independent from judgements about whether the prisoner has a right to see their children

- d. make it easier for prisoners to use appropriately controlled and restricted internet access to communicate with members of their family and keep abreast of developments in the outside world
 - e. collect feedback from families and prisoners about the quality of prison visits and, as far as possible, act on this feedback to mitigate the stresses of visits
 - f. expand the availability of longer visits, conjugal visits and conditional release for family contact.
14. Member states should recognise the individuality of prisoners and the fact that their rehabilitation may not be served by the same measures in all cases. In particular, they should:
- a. be flexible in allowing prisoners who have no family ties, or feel that their family is not the appropriate environment to live in post-release, to nominate and involve others such as extended family members or trusted friends in their reintegration
 - b. publicise befriending schemes to prisoners
 - c. mitigate the isolation of foreign prisoners whose families are unable to visit them in person by making available additional opportunities for contact by other means and being flexible by allowing greater flexibility in the prison regime (for example by allowing them to make and receive calls outside the usual hours where necessary).

Chapter 12: Prisoners and voting

Several CoE member states exercise a blanket ban on prisoner voting, and numerous others a variety of bans that apply to individual categories of prisoners. In some cases, the ban extends after the prisoner's release. The recent *Hirst vs. United Kingdom* case is one of a range of judgments from the European Court of Human Rights (ECtHR) in which it is made clear that a blanket ban based solely on the fact of imprisonment is not acceptable. At best, disenfranchising prisoners fails to protect the public or reform the offender. At worst, it undermines democracy and the legitimacy of the government, and contributes to the continued exclusion of the prisoner.

Recommendations

15. The Council of Europe should consider:
- a. clarifying in which cases it considers it acceptable for member states to remove the franchise from prisoners.
16. Member states should:
- a. remove all blanket bans on prisoners voting
 - b. define clearly the basis on which prisoners may receive bans and issue sentencing guidelines
 - c. remove any restrictions that are judged to be necessary as soon as the prisoner's sentence is over.

Chapter 13: Restorative justice and prisoner reintegration

Procedures based on restorative justice (RJ) provide a structure within which those directly affected by a crime can decide how to deal with its aftermath. This kind of decision is often left to chance in more traditional sanctions, and both victims and offenders can struggle to overcome the impact of the crime on their lives as a result. RJ can have different applications. It has the potential to turn offenders away from crime when their activities first bring them into contact with the justice system: hitherto the use of RJ has mostly aimed to provide an alternative to incarcerating those who have committed minor offences, in the hope that real understanding of the consequences of their actions may prove a more persuasive deterrent than a prison term.

But the enormous, life-changing effects of more serious crimes, especially those involving violence, mean that RJ practices **also** have enormous potential as a tool to mitigate the isolating effects of imprisonment. In facilitating contact between the prisoner and those affected by their actions, RJ provides the forum for a genuine admission of guilt and remorse. It can thereby facilitate the reintegration of serious offenders who have been imprisoned. RJ can also involve the community in the rehabilitation of offenders. As such, it returns power to those whose lives have been affected and can assist prisoners' reintegration. In particular, many people in prison feel remorse, yet prison systems offer few opportunities that enable prisoners voluntarily to make amends. The neglect of the human need to put things right frustrates prisoners' legitimate desires to become contributing members of society.

Recommendations

17. The Council of Europe should consider further investigation of the contribution that can be made by RJ practices to offender rehabilitation. In particular:
 - a. further research into the implementation of RJ in prisons should be carried out with a view to sharing good practice and preparing guidelines on its use.
18. Member states should implement RJ programmes for prisoners, alongside other programmes aimed at the rehabilitation and reintegration of offenders. In particular:
 - a. consideration should be given to the use of RJ (particularly victim-offender mediation) for prisoners who have committed serious crimes
 - b. preparations for release should be guided by restorative principles, with the parties involved open to acknowledging harms, and taking responsibility for repairing the harm done
 - c. the release of prisoners at the end of their sentence should be guided by the principle that their full citizenship rights be restored to them
 - d. prison administrations should consider carefully whether a prison itself is the appropriate environment for RJ meetings to take place

- e. if they decide it is, all necessary steps should be taken to provide a suitable environment within the prison in which RJ meetings can take place, and to mitigate the impact of security measures on victims visiting prisons.

2 Introduction

The Religious Society of Friends (Quakers) has a long history of campaigning for prison and criminal justice reform. Working in the context of this 350-year tradition, the Quaker Council for European Affairs is actively involved in promoting equality and reparation of harm in the way society deals with crime. QCEA carried out extensive research into the conditions of women in prison in member states of the Council of Europe (Council of Europe), in partnership with the Quaker United Nations Office (QUNO), Quaker Peace and Social Witness (QPSW) in the UK and the Friends World Committee for Consultation (FWCC) representatives to the UN Crime Commission in Vienna. The subsequent 2007 QCEA report, *Women in Prison* concluded that whilst in many cases prison sentences do little to reduce the risks of re-offending, the social cost to both prisoners and their families is disproportionately high.⁶

Quaker Council for European Affairs - Women in Prison (2007)

Recommendation 15:

In all cases, prison should be used as a last resort only if no other options are available and alternative forms of sentencing, including community service orders or similar and Restorative justice approaches should be considered first.

To support this conclusion, QCEA investigated the use of alternative sanctions to imprisonment in CoE member states. The resulting report, published in early 2010, presented a range of alternatives to prison, which 'when implemented and assessed effectively, are often more successful at providing society with a suitable and effective response to crime and more often than not significantly less expensive'.⁷

Quaker Council for European Affairs - Investigating Alternatives to Imprisonment (2010)

Recommendation:

The different institutions and agencies of member states' criminal justice systems need to work with the public, through education, providing information, consultation and discussion, to show the benefits of appropriately rehabilitative response.

We argue throughout this report for the greater use of restorative and rehabilitative principles in criminal justice. Society should move away from retributive and punitive models of justice, because they are inhumane, ineffective and expensive.

We also restate our previous conclusions on the gender elements of a just, humane prison policy. The relatively small number of women compared to men in the prison system has resulted in disregard for women prisoners' gender-specific needs, and the inaccessibility of many rehabilitative services to women prisoners that are available to men. This has meant that prison

⁶ Wetton, C. & Sprackett, J., *Women in Prison: A Review of the Conditions in Member States of the Council of Europe*, February 2007 [online], accessed 2 February 2011, available at <http://www.quaker.org/qcea/prison/Final%20Report%20Part1.pdf>

⁷ Loffman M. and Morten, F., *Investigating Alternatives to Imprisonment*, Quaker Council for European Affairs (2010), p. 98

has not addressed some of the underlying factors behind offending behaviour by women. The needs of women prisoners include:

- Disproportionate mental healthcare needs, often as a result of domestic violence and sexual abuse;
- Disproportionate levels of drug and alcohol misuse;
- Disproportionate likelihood of being responsible for the care of children or other family members outside prison, and resultant stress caused by the disruption caused to these relationships by imprisonment;
- Gender-specific healthcare needs not met in all prisons, and
- Stigmatisation, victimisation and abandonment by family members after their release.⁸

This report does not primarily focus on these issues. Instead it discusses prisoner resettlement policy more broadly. It is important, however, that prison administrations do not lose this focus on gender-specific needs. Gender-sensitive resettlement services must be available to all prisoners equally.

We recognise that prison will continue to play a part in European criminal justice systems. Where prison is used, it should be as a last resort, should always be rehabilitative, and should be run on restorative lines. Most offenders sent to prison will eventually be released. It is therefore incumbent on criminal justice systems to repair harm: by enabling offenders to take responsibility for their actions and repair the harm they have done; by mitigating the harm done to prisoners and their families by imprisonment; and by restoring offenders to society better able to participate positively than they were before imprisonment. Such a system can also bring financial benefits. Policing, investigating, and administering criminal justice systems are all expensive, as is imprisonment itself. This is not to mention the negative effects of crime on the community. Justice systems which can successfully rehabilitate offenders will save money and better meet the needs of society. The alternative (ever-harsher punitive and retributive sentences) is unsustainable.

This report highlights innovative schemes and best practice across Council of Europe member states, making a number of recommendations to share with policy-makers and practitioners to facilitate the successful reintegration of ex-prisoners back into society.

Considering the primary focus on 'social reintegration', the following analysis is underpinned by the firmly held belief that society itself has a crucial role to play in reintegration. It is not a one-way process, or something to be left to the state. Particularly important in this connection are the roles of crime victims and prisoners' immediate social networks. However, the business of rehabilitation also means that prison must not be a

⁸ WHO Europe, *Women's Health in Prison: Correcting Gender Inequality in Prison Health* (World Health Organisation: Copenhagen, 2009) [online], accessed 22 February 2011, available at http://www.unodc.org/documents/commissions/CND-Session51/Declaration_Kyiv_Women_60s_health_in_Prison.pdf

place of isolation from institutions such as health and education services. This report explores all of these aspects of reintegration in turn.

3 Prison and rehabilitation

The experiences of prisoners, the (stated) purpose of their confinement and the conditions in which they are held vary greatly across the Council of Europe. This is true even within some member states, where multiple jurisdictions - the federal *Länder* of Germany, for example, or the autonomous region of Catalonia as compared to the rest of Spain - can take very different approaches to incarceration. Nevertheless, whilst recognising the huge variation between prisons even within a single jurisdiction, it is possible to draw some broad conclusions with respect to imprisonment and its rehabilitative purpose.

3.1 The purpose of imprisonment and social reintegration

The overwhelming majority of people sentenced to prison will be released back into society, more often than not into the communities in which their offending behaviour took place.⁹ The rehabilitative responses of the criminal justice system recognise this fact. There is an inherent tension between rehabilitation and several other distinct criminal justice objectives - some legitimate, such as deterrence and social defence, and others not, such as retribution. Often this tension exists not only within the same prison system, but also within the same prison.¹⁰

3.1.1 What is social reintegration?

The social reintegration of ex-prisoners is the support provided to them before, during and after their release. The preparation of prisoners for a return to society is something that should be envisaged and worked towards from the very beginning of a term of incarceration.

Quakers envisage a justice system that aims to reintegrate many offenders without recourse to formal judicial proceedings, using alternative measures (including restorative justice).¹¹ QCEA has explored the benefits of such alternative sentencing options in our 2010 report *Investigating Alternatives to Imprisonment*. It would be possible to adopt a definition of 'social reintegration' that included such extra-judicial 'diversionary' measures, but we will not do so here because this report is concerned with how ex-prisoners (i.e. those who have been sentenced to imprisonment and then released) can be better reintegrated.

In prison, social reintegration means assisting prisoners by offering access to educational, cultural and recreational activities, underpinned by conditions of incarceration that respect each individual's human dignity and help them

⁹ In 2009, 35 of the 83,001 people in prison in England & Wales (UK) had 'whole life tariffs' that determined they would never be released, according to details obtained by the Daily Mirror newspaper, 20 July 2010 available at <http://www.mirror.co.uk/news/top-stories/2009/02/15/britain-s-35-serial-killers-who-will-never-be-released-from-jail-115875-21124422/>

¹⁰ Edgar, K. & Newell, T., *Restorative justice in Prisons: a Guide to Making it Happen* (Winchester: Waterside Press, 2006), pp. 19-20

¹¹ UNODC, *Custodial and Non-Custodial Measures: Social Reintegration*, 2006 [online], accessed 5 October 2010, available at http://www.unodc.org/documents/justice-and-prison-reform/cjat_eng/4_Social_Reintegration.pdf

to achieve better standards of health, for example by treating substance misuse problems. A high proportion of prisoners come from excluded and disadvantaged sections of society. Prison is (sadly) often a unique opportunity to address their infrequently-met needs, and if these needs are not met, can in fact leave them less integrated into society and more likely to reoffend. Programmes addressing prisoners' substance misuse, mental or emotional-behavioural disorders, or education and skills gaps, may all remove key drivers of persistent criminal activity. Reintegration is also facilitated by assisting prisoners to maintain positive relationships with family and friends on the outside, perform the civic duty of voting, and prepare for release through gradual re-entry programmes.¹²

After release, social reintegration is affected by how successfully programmes which were started in prison - such as education and professional qualifications, or drug and alcohol rehabilitation programmes - can be accessed, continued, practised, or completed in the community. In the UK, this has been known as the question of making rehabilitation count 'through the gate' - outside as well as inside the prison walls. Release from prison can be a daunting prospect, and social reintegration (a term that assumes offenders were well-integrated to the community in the first place) includes how effectively the community supports a prisoner's readjustment to living in free society.

The challenge of social reintegration compels us to reconsider the very meaning of justice. A formal, institutionalised criminal justice system relying on incarceration has developed since the early nineteenth century. Too often, it controls offenders during their sentence without preparing them for the radical changes to their lifestyle expected by society after their release. Reintegration should consider how the administration of justice addresses its social dimension - how a justice system might identify and address the social harm that can be both a contributing cause and an effect of crime. These questions will be especially relevant in our discussion of restorative justice in Chapter 13.

3.2 Existing international standards

International cooperation on appropriate responses to crime and punishment has a long history. The First International Congress on the Prevention and Repression of Crime, convened in London in 1872, brought together experts and practitioners from various countries to consider, among other things, the proper administration of prisons, alternatives to imprisonment and opportunities for rehabilitation. In 1955, the international community adopted the Standard Minimum Rules for the Treatment of Prisoners at the First United Nations Crime Congress held in Geneva.¹³ Since then numerous international instruments have been adopted at international and regional levels, reflecting the development of policy on crime prevention and criminal justice.

¹² *ibid.*

¹³ UNODC, *Previous Congresses on the Prevention of Crime and the Treatment of Offenders* [online], accessed 5 October 2010, available at <http://www.unodc.org/unodc/en/crime-congress/crime-congresses-previous.html>

3.2.1 United Nations

The United Nations' Millennium Declaration, adopted by 189 governments, reaffirmed Member States' commitment to the United Nations (UN) fundamental values, including that 'men and women have the right to live their lives and raise their children in dignity, free from hunger and from the fear of violence, oppression or injustice'.¹⁴ These fundamental rights are often protected by an effective criminal justice system that works to reduce the risk of crimes being committed; this includes prison and post-release services designed actively to decrease the likelihood of reoffending after release from prison.¹⁵

International Covenant on Civil and Political Rights, adopted 16 December 1966

Part III, Article 10

3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.

The United Nations Office on Drugs and Crime (UNODC) is mandated to assist countries in meeting their international treaty obligations in areas including crime prevention and criminal justice. The UN Economic and Social Council's resolution 2005/22 requested that this assistance be based upon a 'balanced approach between crime prevention and criminal justice responses'.¹⁶

As part of its work, UNODC provides countries with a criminal justice 'toolkit' - a standardised, cross-referenced, dynamic set of documents - designed to assist criminal justice reform in developing nations, as well as provide practical guides to assist organisations and individuals in assessing the nature of the criminal justice system in their own countries, developing or otherwise. The tools have been grouped within criminal justice sectors - Policing; Access to Justice; Custodial and Non-Custodial Measures; and Cross-Cutting Issues - and include an in-depth discussion on social reintegration.¹⁷

The toolkit is based upon:

- UN Standard Minimum Rules for the Treatment of Prisoners (1955)
- UN Standard Minimum Rules for the Administration of Juvenile Justice (the 'Beijing Rules') (1985)
- UN Standard Minimum Rules for Non-Custodial Measures (the 'Tokyo Rules') (1990)
- UN Standard Minimum Rules on the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the 'Bangkok Rules') (2010)¹⁸

¹⁴ UNODC, *UNODC and Crime Prevention* [online], accessed 5 October 2010, available at

<http://www.unodc.org/unodc/en/justice-and-prison-reform/CrimePrevention.html?ref=menuside>

¹⁵ UNHCHR, *International Covenant on Civil and Political Rights*, adopted 16 December 1966 [online], accessed 5 October 2010, available at <http://www2.ohchr.org/english/law/pdf/ccpr.pdf>. All Council of Europe member states are parties to this document.

¹⁶ UNECOSOC, *Resolution 2005/22: Action to promote effective crime prevention*, 22 July 2005 [online], accessed 5 October 2010, available at <http://www.un.org/en/ecosoc/docs/2005/resolution%202005-22.pdf>

¹⁷ UNODC, *Criminal Justice Assessment Toolkit*, 2006 [online], accessed 5 October 2010, available at

http://www.unodc.org/documents/justice-and-prison-reform/cjat_eng/CJAT_Toolkit_full_version23Mar10all.pdf

¹⁸ At the time of writing (11 May 2011), these rules have not yet been added to the resources on the UNODC website, where the other Rules in this series are stored. We have therefore linked to the draft version from the

The Standard Minimum Rules for the Treatment of Prisoners clearly state that the use of prison to protect society against crime can only be successful 'if the period of imprisonment is used to ensure, so far as possible, that upon his [or her] return to society the offender is not only willing but able to lead a law-abiding and self-supporting life'.¹⁹ The rehabilitative use of prison is vital to achieving this ambition.

3.2.2 Council of Europe

Recommendation Rec (2006)2 of the Committee of Ministers to member states on the European Prison Rules

Part I.6: *All detention shall be managed so as to facilitate the reintegration into free society of persons who have been deprived of their liberty.*

Part VIII.107.4: *Prison authorities shall work closely with services and agencies that supervise and assist released prisoners to enable all sentenced prisoners to re-establish themselves in the community.*

Since its formation in 1949, the Council of Europe has worked towards 'the promotion and protection of Human Rights in Europe'. Through the European Convention on Human Rights (1950), the CoE 'is permanently seeking to strengthen and develop these rights through various legal and political instruments which are adopted in the framework of intergovernmental co-operation'.²⁰ This includes the human rights of anyone who comes into contact with the criminal justice system, including those prisoners who are nationals of states that are not members of the Council of Europe. Significant attention has been paid both to the conditions in which prisoners are held and the place and purpose of incarceration in CoE member states.

The principle that imprisonment is to be seen as a measure of last resort is now well established.²¹ Should the 'deprivation of liberty' be necessary, a number of recommendations apply:

Recommendations and Resolutions

- No. R (82) 17 on the custody and treatment of dangerous prisoners;
- No. R (99) 22 concerning prison overcrowding and prison population inflation;
- Rec(2003) 22 on conditional release (parole);
- Rec(2003) 23 on the management by prison administrations of life sentence and other long-term prisoners;
- Rec(2006) 2 on the European Prison Rules;
- Res 1663 (2009) of the Parliamentary Assembly on Women in Prison.

agenda website of the UN General Assembly, which was adopted in full on 21 December 2010. The Rules at this location are exactly as adopted, but the link may not remain active. UN, *UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)*, 6 October 2010 [online], accessed 2 February 2011, available at <http://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/C.3/65/L.5&Lang=E>

¹⁹ UNHCHR, *Standard Minimum Rules for the Treatment of Prisoners*, adopted 1955 [online], accessed 9 January 2011, available at <http://www2.ohchr.org/english/law/treatmentprisoners.htm>

²⁰ Council of Europe, *Law, Policy and Intergovernmental Cooperation in the Field of Human Rights* [online], accessed on 20 July 2010, available at http://www.coe.int/T/E/Human_rights/cddh/

²¹ Council of Europe (2006), *European Prison Rules*

Rules on the treatment of foreign national prisoners are currently also under consideration. As well as the conditions of detention, the CoE has become increasingly concerned with the purpose of imprisonment and its outcomes, namely the social reintegration of ex-prisoners. This commitment is clearly articulated in the most recent (2006) revision of the European Prison Rules.

The Prison Rules make explicit reference to the need for prison authorities to 'work closely with services and agencies that supervise and assist released prisoners'. This recommendation recognises the broader scope and social aims of the criminal justice system - a move beyond considering merely the humane conditions of imprisonment. CoE recommendations relating to criminal justice sanctions increasingly recognise the need for a holistic, dynamic and multi-agency approach to the 'reintegration into free society of persons who have been deprived of their liberty'. Particularly relevant here are the following recommendations:

- No. R (99) 19 concerning mediation in penal matters;
- Rec(2006) 8 on assistance to crime victims; and
- Rec/CM (2010) 1 on the CoE Probation Rules.

Specifically, it is increasingly recognised that the state's involvement in a prisoner's rehabilitation should extend beyond the term of imprisonment.

Recommendation CM/REC (2010)1 of the Committee of Ministers to member states on the Council of Europe Probation Rules

Basic principles

12. *Probation agencies shall work in partnership with other public or private organisations and local communities to promote the social inclusion of offenders. Co-ordinated and complementary inter-agency and inter-disciplinary work is necessary to meet the often complex needs of offenders and to enhance community safety.*

3.2.3 European Union

The Treaty of Amsterdam, which came into force on 1 May 1999, established the creation of 'a common area of freedom, security and justice' as an explicit aim of the European Union (EU). The progressive elimination of border controls within the EU has made law enforcement and criminal justice - largely national competencies within the Union's framework - a transnational concern. Specific action in Justice and Home Affairs has been outlined in the EU's Tampere, Hague and Stockholm Programmes, and has mostly been limited to funding for schemes that share best practice among criminal justice professionals, agreement on the approximate definition of offences and the level of sanctions, and mutual recognition of decisions taken by national judges and the development of specific tools required to implement such recognition - such as the European arrest warrant.²² There have been occasional initiatives by the European Parliament, such as a 2004 Recommendation to the European Council on the rights of prisoners in the European Union, but these have not led to action by the European Council or

²² European Commission, *Prosecuting criminals and guaranteeing individual's rights more effectively in free movement Europe* [online], accessed 5 October 2010, available at http://ec.europa.eu/justice/policies/criminal/policies_criminal_intro_en.htm

the European Commission.²³ Work under the Justice and Home Affairs programmes has tended to focus on border security and the EU's response to the challenges posed by terrorism.

The EU has been far less prolific on issues concerning transnational standards of imprisonment and its rehabilitative function, though this is gradually changing since the implementation of the Lisbon Treaty has extended the EU's competence in criminal justice matters. The challenges involved in reintegrating prisoners to society can often be great: to the individual, to communities, and to systems. International instruments increasingly recognise this complexity. The difficulty is shaping appropriate, flexible and fair responses to the problem that recognise the competing (and sometimes complementary) needs of victims, offenders and society. The EU provides an often invaluable platform for networks of academics, practitioners, government agencies and departments to share best practice and what works in reducing reoffending, as well as facilitating bilateral partnerships that have enabled, for example, the transfer of probation services to new Member States.

²³ European Parliament, *Recommendation to the Council on the rights of prisoners in the European Union* [online], accessed 19 January 2011, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2004:102E:0154:0159:EN:PDF>

4 Methodology

In April 2010, QCEA designed and disseminated a questionnaire to the ministries of justice of the 47 member states of the CoE,²⁴ and to the Ministry of Justice of the Republic of Kosovo.²⁵ It was intended that the questionnaire responses would provide the bedrock of this report.

The report provides a detailed, illustrative, but not exhaustive, account of social reintegration policy in a wide variety of states in the CoE.

QCEA received completed questionnaires from 22 jurisdictions, representing 20 member states.²⁶ Germany responded both at the federal and regional level (Berlin, one of the 16 federal *Länder*, returned the questionnaire), and Kosovo (a non-member state) returned the questionnaire. In addition, Austria and Bosnia-Herzegovina provided some general information but did not complete the questionnaire, meaning that most of the information they provided was not easily comparable with other countries. The responses to the questionnaire varied in length and detail. Some member states completed the questionnaire only partially whilst other member states provided detailed additional information to supplement the questionnaire responses. Throughout the report, we have indicated in footnotes which countries answered which questions, where this is not already clear from our graphs and tables. When relevant, further information is provided in the appendices.

In addition to the statistical information provided by responding member states, the report also utilises information collected by the Council of Europe Space I Annual Penal Statistics programme, published each spring. The programme's most recent publication relates to information collected for 1 September 2008. Where possible statistical information provided by the ministries of justice has been verified using this source and other information sources, including King College London's International Centre for Prison Studies' World Prison Brief.

Further information has been collected from a variety of non-governmental sources, both at the national and supranational levels. One constraint on the report's methodology has been that its two main authors are from the UK, with English as their first language. This means that the bulk of the contextual reading that has fed into the report has been done from English-language publications, some of which relate to the UK context. Many of the

²⁴ The Council of Europe member states (as of December 2010): Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia & Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Montenegro, the Netherlands, Norway, Poland, Portugal, Romania, the Russian Federation, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the Former Yugoslav Republic of Macedonia, Turkey, Ukraine and the United Kingdom. The United Nations Interim Administration Mission in Kosovo (UNMIK) responded to QCEA's two previous reports concerning criminal justice, *Women in Prison* (2007) and *Alternatives to Imprisonment* (2010) on behalf of Kosovo.

²⁵ Kosovo is not a full member state of the Council of Europe. However, in the interests of simplicity, references to 'member states of the Council of Europe' throughout this report are intended to include Kosovo.

²⁶ QCEA received a completed questionnaire from the following jurisdictions: Belgium, Czech Republic, Denmark, Estonia, Finland, Germany (federal administration), Berlin (Germany), Iceland, Ireland, Italy, Kosovo, Latvia, Lithuania, Luxembourg, Moldova, Monaco, the Netherlands, Norway, Slovakia, Slovenia, Spain, Sweden.

issues that confront criminal justice systems around Europe are common to numerous jurisdictions, and we have tried, as far as possible, to widen the context of the report, but it is probably inevitable that our understanding of criminal justice issues is to some extent informed by the debate and situation in the UK.

5 Prison in Europe

Imprisoning offenders is not the most effective way of dealing with offending behaviour in many instances. The alternatives to imprisonment we have highlighted, when implemented and assessed effectively, are often more successful at providing society with a suitable and effective response to crime, and more often than not significantly less expensive.²⁷

This was the conclusion of QCEA's 2010 report *Investigating Alternatives to Imprisonment*. Quakers have a tradition of arguing for unpopular causes, for ideas against the grain of popular opinion and ahead of their time. However, the idea that prison is not working is now shared by a great many people across Europe: former inmates, practitioners, professionals, academics, campaigners, and increasingly, politicians and members of the public. Yet the idea that prison should be the primary response of society to criminality, and punishment or retribution the core function of the criminal justice system, is pervasive amongst many sections of society. In many circumstances, the current expansion of alternative sentences is not providing an alternative to imprisonment, but rather widening the net: bringing ever greater numbers of people into the formal criminal justice system, without significantly affecting the number eventually sent to prison. This situation may be changing as the financial crisis that began in 2007 has impelled governments to cut the costs of what have become bloated prison systems. Austerity measures have increased their sensitivity to cost-effectiveness, and governments hitherto wedded to punitive systems of justice are noting with more interest the growing body of evidence suggesting that prison alone does not work. It may be financial imperatives, rather than genuine debate over the philosophy and practice of justice, that has led to reform, and there remains opposition to such moves: a political battle which at the time of writing has yet to be resolved.²⁸ This is the time, therefore, to be making the case for reducing the prison population.

5.1 Prison population

5.1.1 The growth and shrinkage of prison populations

There are 52 prison administrations in the 47 CoE member states.²⁹ The size of, and trends within, these prison systems present a complex picture (see Figure 1).³⁰ Unsurprisingly, there is no single pattern. Nevertheless, it can be clearly stated that a majority of member states are increasing, not

²⁷ Loffman & Morten (2010), *Investigating Alternatives to Imprisonment*, p. 98

²⁸ Moves to this effect are taking place in England & Wales at the time of writing. See Travis, A., 'Will Ken Clarke's prison green paper stop sentence inflation?', *The Guardian*, 14 December 2010 [online], accessed 19 January 2011, available at <http://www.guardian.co.uk/society/joepublic/2010/dec/14/ken-clarke-prison-reform-green-paper>

²⁹ The 16 German *Länder* are counted as one prison administration, although they have significant administrative functions in criminal justice matters.

³⁰ Nineteen member states provided information relating to the total number of people in prison and the size of the most recent annual budget for the prison service. This information is supplemented by previous QCEA research, official national figures provided to the Council of Europe's 'Space I Annual Penal Statistics', and information collected by the International Centre for Prison Studies' 'World Prison Brief'.

decreasing their reliance on imprisonment. From 2000³¹ to 2009,³² the total prison population (on a given day) of 27 member states (30 jurisdictions) increased by 10 per cent or more during the ten-year period. The pattern within this group of member states can be broadly summarised. Four jurisdictions experienced year-on-year prison population growth without fail.³³ Four further member states experienced a rise in prison population, followed by a smaller (but sustained) decrease.³⁴ One state experienced an initial decline followed by a significant increase.³⁵ The remaining 22 jurisdictions (see Figure 1) experienced sustained rates of prison population growth with only minor fluctuations, with the sole exception of Italy, which experienced a one-off substantial drop of 34 per cent between 2005 and 2006 as a result of a prisoner amnesty signed into law there in July 2006.³⁶

Nine member states' prison populations decreased by 10 per cent or more over the ten-year time span (see Figure 1), ranging from the Russian Federation (minus 10 per cent) to Monaco (minus 58 per cent). The Russian Federation currently has by far the largest prison population among CoE members (862,300 in 2009). Its total number of inmates fell from a high of 1,009,863 in 1998 to a low of 763,054 in 2005 (after which the population began to increase again).

Eight member states' prison populations remained more or less stable, experiencing less than ± 10 per cent change by 2009 from the total prison population in 2000, including Germany, which has reduced the total prison population from a high of 80,610 in 1999 to the current level (2009) of 72,043.³⁷

Figure 1 presents these data on overall prison population growth. Each nation's 2009 prison population figure has been expressed as a percentage of the respective 2000 prison population; this allows a ready comparison to be made between large and small states, as well as making clear the extent of growth.³⁸

³¹ Data for the year 2000 is not available for Albania, Cyprus, France, Georgia, Greece, Macedonia, Northern Ireland (UK) and Scotland (UK). Data for 2001 is used instead.

³² Data for the year 2009 is not available for Albania, Federal level of Bosnia & Herzegovina, Croatia, Cyprus, France, Greece, Macedonia, and the Netherlands. Data for 2008 is used instead.

³³ Greece, Spain, Catalonia and England & Wales. Both of the latter two have devolved justice systems.

³⁴ Austria, the Netherlands, Poland and Sweden

³⁵ This was Turkey - whose prison population increased by 66 per cent between 2000 and 2009 (and 94 per cent between 2001 and 2009).

³⁶ It is instructive that this amnesty, intended as an emergency measure to relieve short-term pressure on Italy's prison system, failed to check the longer-term trend of rising prison populations. 'Napolitano signs prisoner pardon into law', *Italy Magazine*, 1 August 2006 [online], accessed 15 February 2011, available at <http://www.italymag.co.uk/italy/napolitano-signs-prisoner-pardon-law>

³⁷ It was not possible to gather enough information on three member states to comment on any possible trends. These member states are Andorra, Liechtenstein and Montenegro. Furthermore, San Marino's prison population was too small (ranging from zero to four people) to justify comment.

³⁸ The graph is assembled using: data from QCEA's questionnaires; data from Aebi, M. & Delgrande N., *Council of Europe Annual Penal Statistics: Space I Survey 2008* (Strasbourg: 22 March 2010) [online], accessed on 2 February 2011, available at http://www.coe.int/t/DGHL/STANDARDSETTING/PRISONS/SPACEI/PC-CP%282010%2907_E%20SPACE%20Report%20I.pdf; and data from King's College London International Centre for Prison Studies, *World Prison Brief Online* [online], accessed 20 March 2010, available at http://www.kcl.ac.uk/depsta/law/research/icps/worldbrief/wpb_about.php

5.1.2 Prison population compared to national population

The total number of people held in prison within each member state only gives a partial picture of governments' reliance on the use of prison as a criminal sanction. The CoE member states differ vastly in size: the Russian Federation holds nearly 141 million people, whilst San Marino is the smallest of the Council's clutch of microstates, containing slightly fewer than 30,000.

The prison population rate per 100,000 inhabitants gives a much clearer indication of the extent to which nations' criminal justice systems rely on imprisonment (see Appendix II). Figure 1 below shows the 24 member states (25 jurisdictions) above the median average (109.2) rate of imprisonment per 100,000.

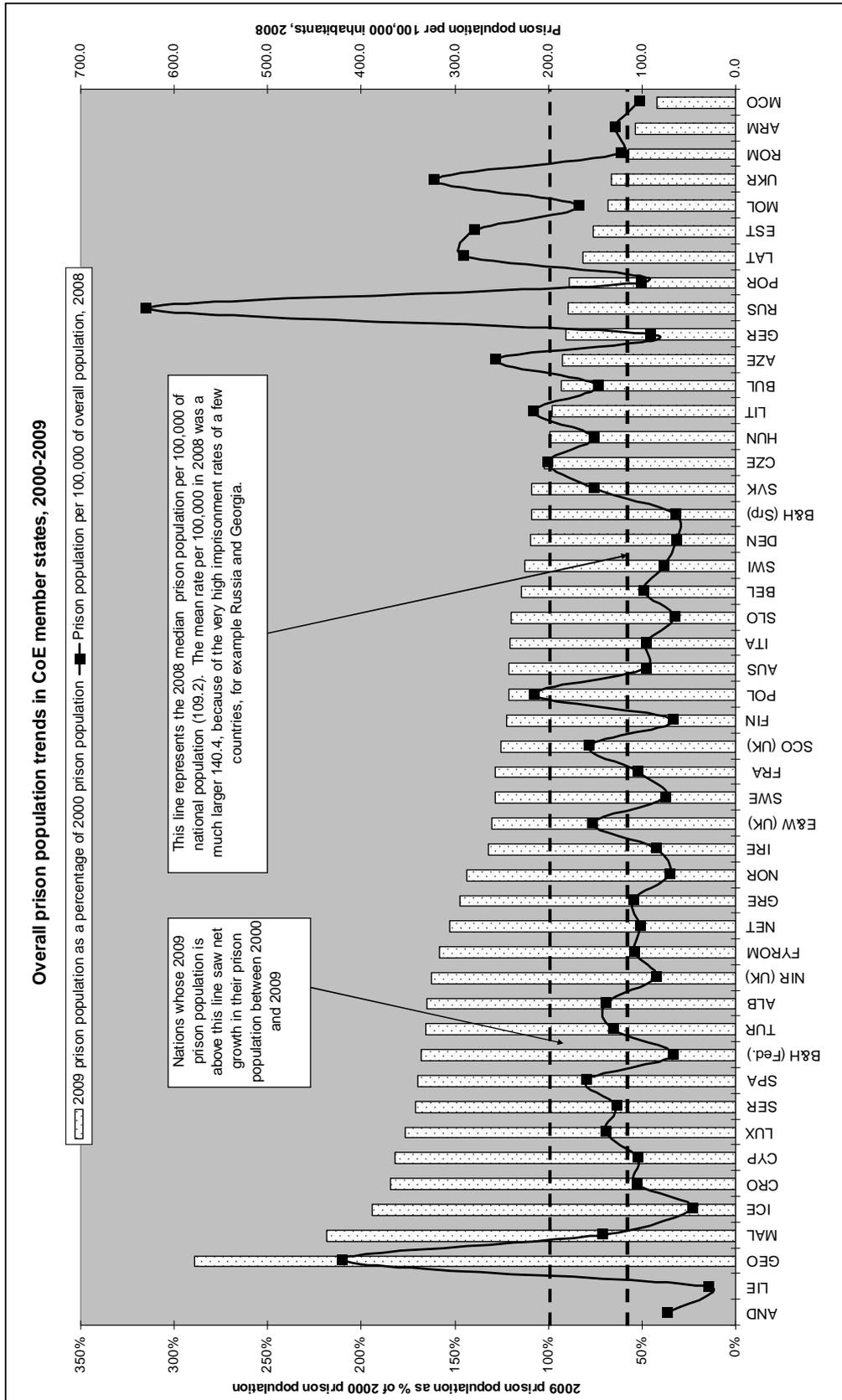
The mean average value is much higher than the median: 140.4 per 100,000. Only 17 member states have an imprisonment rate greater than the mean. This reflects the greater use of imprisonment in a number of the larger member states, and particularly the significantly higher rate of imprisonment in the Russian Federation, Georgia, and Ukraine at 630.9, 421.2 and 322.5 per 100,000 respectively. The median average is utilised here as a baseline for comparison as it allows a fairer comparison between large and small states.

It is not the case, however, that overall population size is an automatic indicator of incarceration rates. Though many jurisdictions below the median have very small populations - Liechtenstein and Iceland have among the lowest incarceration rates for example - some are larger, such as the Scandinavian countries, Germany and Italy. The latter two imprison at a much lower rate - 90.7 and 96.0 per 100,000 inhabitants respectively - than the similarly sized England & Wales (UK) and Spain: 152.8 and 159.7 per 100,000 inhabitants respectively. The influences on imprisonment rates are extremely complex.

Sixteen jurisdictions experienced a reduction in the rate of imprisonment per 100,000 inhabitants in 2008 compared with 2007 (the last two years in which comparable figures are available). Of these sixteen, six are amongst the 25 states with the highest incarceration rates: Bulgaria, Latvia, Lithuania, Luxembourg, Moldova and Poland. The ten in the lower half of imprisonment rates are: Andorra, Austria, Bosnia & Herzegovina (Republika Srpska), Croatia, Denmark, Germany, Monaco, the Netherlands, Norway, and Portugal.³⁹

³⁹ Aebi and Delgrande (2010), *SPACE I Penal Statistics*. No information was provided for this section by Montenegro.

Figure 1: Overall prison population trends in CoE member states, 2000-2009



5.1.3 Prison population compared to prison capacity

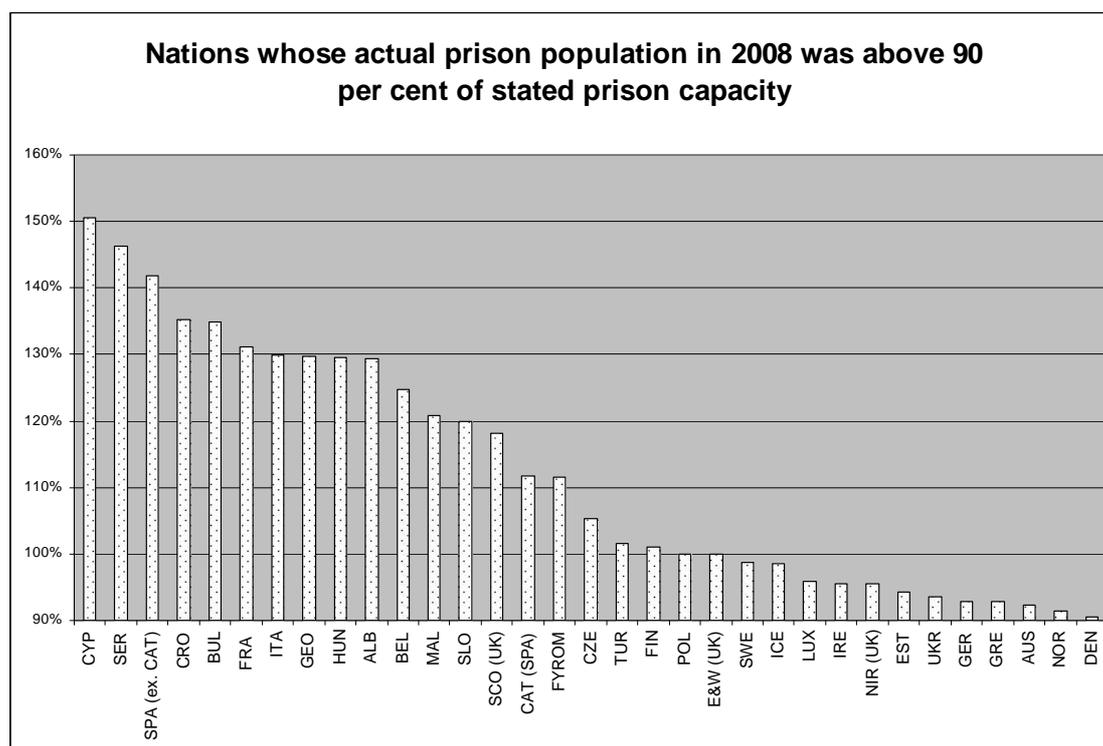


Figure 2: Nations with 90 per cent or more prison occupancy

Prison overcrowding remains a pervasive problem across Europe. Figure 2 shows the nineteen member states whose actual prison capacity in 2009 exceeded the capacity of their prison system. All but three of these nineteen countries have experienced prison population growth of greater than ten per cent between 2000 and 2009.⁴⁰ Just less than half of these nations with overcrowded prison systems also had rates of imprisonment in 2008 that lay above the median of 109.2 per 100,000 inhabitants.⁴¹

A further 14 prison administrations (13 member states) are at between 90 and 100 per cent of official capacity, six of which are less than 5 per cent below maximum capacity.⁴²

In other words, numerous countries are faced with prison populations growing so quickly that they are struggling to cope.

5.1.4 The consequences of prison overcrowding

In jurisdictions with overcrowded prisons, the prison system and related services become stretched. Prison management becomes a question of crisis management, and 'coping' overrides the proper objectives of the prison

⁴⁰ Bulgaria (whose prison population shrunk by 7 per cent), Hungary (shrunk by 1 per cent) and the Czech Republic (2 per cent growth) are the exceptions.

⁴¹ Albania (139.3), Bulgaria (135.4), Czech Republic (193.2), Georgia (483.0), Hungary (159.9), Malta (143.0), Scotland (156.8), Serbia (128.3), Spain (159.7) and Turkey (131.2)

⁴² These fourteen member states are Poland (100.0), England & Wales (99.9), Sweden (98.7), Iceland (98.6), Luxembourg (95.9), Northern Ireland (95.5), Estonia (94.2), Ukraine (93.5), Germany (92.8), Greece (92.8), Austria (92.4), Norway (91.4), Denmark (90.6).

service. Addressing prisoners' problems becomes a secondary priority. The figures above show that prison overcrowding remains a serious problem within the CoE. This is in spite of a persistent focus upon the problems that overcrowding poses for successful prisoner rehabilitation and social reintegration. The CoE has long recognised prison overcrowding as 'a major challenge to prison administrations and the criminal justice system as a whole, both in terms of human rights and of the efficient management of penal institutions'. Recommendation No. R (99) 22 advises member states that 'the extension of the prison estate should [...] be an exceptional measure, as it is generally unlikely to offer a lasting solution to the problem of overcrowding'.⁴³

In 2008, the Scottish Prisons Commission highlighted the impact of operating close to or above capacity: 'overcrowding of prisons ... necessarily strains prison resources and draws attention, and space, away from dealing with the issues presented by the most serious offenders'. Preparation for release, a crucial component of social reintegration, is hampered, increasing the likelihood of reoffending after release. Open prisons are employed to ease overcrowding, rather than for the training and preparation for freedom of prisoners nearing the end of their sentence.⁴⁴ This report's authors described themselves as taking 'an overwhelmingly "demand-side" approach to the problem' of overcrowding, recommending that prison should be targeted at those 'whose offences are so serious that no other form of punishment will do and for those who pose a threat of serious harm to the public'.⁴⁵ The alternative is an ever-increasing drain on the public purse: the cost of building each new prison place is estimated to be as much as €200,000.⁴⁶

5.2 Rates of reoffending

Comparing reoffending rates across the CoE member states is far from simple. Currently, the international comparison of national recidivism rates is under-developed. The CoE's Pompidou Group (a criminal justice platform) has identified 'a need for data collection and evidence on reoffending as an argument against imprisonment'.⁴⁷

There are good reasons why this is a difficult task. Member states use different measures, focusing on a range of outcomes. Differences in judicial systems, sentencing practices, registration of prisoners during and after release, the classification of offender groups and the period of observation

⁴³ Council of Europe, *Recommendation No. R (99) 22 of the Committee of Ministers concerning prison overcrowding and prison population inflation*, adopted 30 September 1999 [online], accessed 1 February 2011, available at <https://wcd.coe.int/wcd/ViewDoc.jsp?id=1041281&Site=CM>

⁴⁴ Scottish Prisons Commission, *Scotland's Choice*, (Edinburgh: July 2008) [online], accessed 3 December 2010, available at <http://www.scotland.gov.uk/Resource/Doc/230180/0062359.pdf>, pp. 13-15

⁴⁵ House of Commons Justice Committee, *Cutting Crime: the case for justice reinvestment*, (London: 2010) [online], accessed 14 December 2010, available at <http://www.publications.parliament.uk/pa/cm200910/cmselect/cmjust/94/94i.pdf>

⁴⁶ Prison Reform Trust, *Bromley Briefings Prison Factfile*, July 2010 [online], accessed 4 September 2010, available at <http://www.prisonreformtrust.org.uk/uploads/documents/FactFileJuly2010.pdf>, p. 6

⁴⁷ Council of Europe, *The Criminal Justice Platform* [online], accessed 28 January 2010, available at http://www.coe.int/t/dg3/pompidou/Activities/justice_en.asp

all provide hurdles for the statistician to overcome.⁴⁸ Furthermore, as an indicator of the effectiveness of a prison system, the measure is a blunt instrument that fails to take account of environmental factors outside the prison system, as well as beyond the formal (and informal) criminal justice system. A two-year measure of returns to prison after release (for example) cannot accurately capture changes in the rate of reoffending: a single number cannot take account of the number of offences committed per person (whether greater or fewer) or the severity of the offences; there is also the problem, common to all criminal justice statistics, of unreported offences.

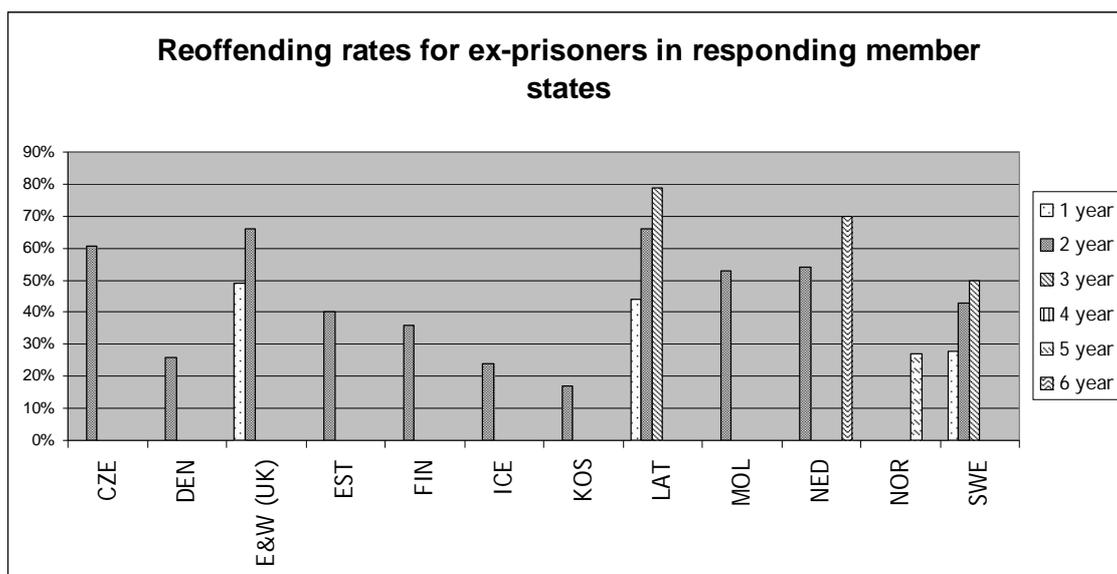


Figure 3: Comparison of reoffending rates in different countries

The social reintegration of ex-prisoners is a journey, and success and failure is multifaceted and difficult to define solely in terms of events within the justice system. A reduction in the number of offences or the severity of the offence committed will not influence the headline figure, but makes a considerable difference to the number of victims or the impact upon somebody's life. The reverse is also true. All of these factors mean that comparisons must be made with caution.

Nevertheless, whilst acknowledging and recognising the limitations of statistics in measuring the rate of reoffending, and the challenges of comparative analysis on a Europe-wide basis, it is interesting to compare the trends across CoE member states to provide a snapshot of member states' differing experiences.⁴⁹ Figure 3 above shows the reoffending rates that were provided to us by twelve member states as part of our questionnaire. The sample is not large enough to provide a full picture or

⁴⁸ Wartna, B., *Monitoring Recidivism: Making international comparisons*, presentation to the Council of Europe's Criminal Justice Platform (the Pompidou Group), 11 September 2009 [online], accessed 28 January 2010, available at www.coe.int/t/dg3/pompidou/Source/Activities/Justice/MonitoringRecidivism_en.ppt

⁴⁹ Ten member states responded to this section of the questionnaire. England & Wales has been included using data from the Prison Reform Trust's Bromley Briefing, July 2010. In the Netherlands, the general reoffending rate of ex-prisoners is 54.1 per cent within two years (2006), although the reoffending rate with re-detention is 33 per cent (2007). A study undertaken for the Dutch Ministry of Justice in 2002 found almost 70 per cent of ex-prisoners reoffended within six years.

judge whether this result is statistically significant, but it is interesting to note that of the five nations who reported their own two-year reoffending rate as being higher than 50 per cent, four (Moldova, Latvia, England & Wales, and the Czech Republic) had an imprisonment rate per 100,000 of population that was higher than the median of 109.2 in 2009. Yet the difficulty of comparisons is shown in the fact that of the same five, only two (England & Wales and the Czech Republic) had prison populations that were above their stated capacity in 2008.⁵⁰

In short, comparing justice systems and their results is a complex task. Statistical measures can struggle to overcome the unquantifiable social, legal, political and economic 'ecosystems' in which the justice systems of individual countries are rooted. The findings and analysis that follow should be understood in this light.

⁵⁰ See Figures 1 and 2.

6 Probation services and reintegration

6.1 What is meant by 'probation services'?⁵¹

Probation services have developed along different lines in different places, originating in religious and (initially) voluntary organisations that worked within prisons, mostly in Western European countries, from the early nineteenth century onwards. From the late nineteenth century, there arose a greater interest in the causes of reoffending, and correspondingly a shift towards a more consciously rehabilitative (as opposed to punitive) prison system. This shift was mirrored (and in some cases driven) by efforts to find more rehabilitative ways to deal with young offenders, and to develop separate and discrete processes for youth justice. Alternative sentences to imprisonment were developed for the first time, and some countries developed a system where supervisory boards (comprised either of volunteers or, increasingly with time, professionals) were tasked with maintaining contact with offenders.

Where individual countries' developing probation services featured a large contribution by voluntary and private organisations, this was gradually taken over by the state as the twentieth century went on; another important change was that probation services, from their roots in working with offenders *inside* prisons, generally began to supervise clients *outside* prisons, either as parolees following release from incarceration, or as offenders sentenced to alternative punishments. The importance of such alternative punishments, and of the probation services in administering them, has become far greater in the last twenty years or so, driven in part by prison overcrowding and by concerns over reoffending rates. Probation services have also become responsible in some countries for the preparation of pre-sentencing reports on offenders' backgrounds, which are used to help determine the appropriate sanction to be enforced.

The historical trajectory outlined above does not apply to the former Communist states of Eastern Europe. In these nations, some of which had nascent probation systems before the Second World War, the advent of Communist government meant the total suspension of probation services: penal policy was based entirely on imprisonment. Most of these states set up probation services in a very short space of time following the revolutions of 1989-91, and now operate a centralised, coordinated national probation system. The exceptions are Slovenia and Croatia, where some of the tasks associated with centralised probation services in countries that have them are carried out on a local basis, primarily by municipal authorities.

Probation services are now a key player in the criminal justice systems of most European states. It is still possible to identify significant differences

⁵¹ Defining what is meant by 'probation', in a way that makes sense for the whole of Europe, is surprisingly difficult. A very broad outline of the development of probation in Europe will help to frame the discussion in this chapter. This section's historical overview of probation in Europe is indebted for its understanding of the issues involved to the Introduction from A.M. van Kalmthout and I. Durnescu (eds.) (2008), *Probation in Europe*, Wolf Legal Publishing: Nijmegen, 2008, pp. 3-11.

between the probation systems of different states (and even *within* some federal states): their legal footing, the categories of offenders they deal with, their budget relative to the prison system, the balance between supervision and control as against rehabilitation in their work, and so on. One area of difference is that some probation services are responsible **only** for pre-sentencing measures. In other words, they have no responsibility for offenders who have served a custodial sentence (the primary focus of this report), but instead only supervise clients who are serving alternative sentences to imprisonment. In other jurisdictions, the probation service deals both with offenders who are and were prisoners, and with offenders who have never been to prison.

The same tension as to aims exists in probation, just as it exists in prisons. Organisations whose roots lay in the impulse to befriend and support offenders *within* prison walls - an explicitly rehabilitative aim - are now increasingly also seen as being responsible for the control and supervision of offenders who are serving alternative sentences *outside* prison. Perhaps because the increasing use of alternatives such as community service is perceived to be the result of prison overcrowding, rather than of a coherent philosophy of justice, there is a lack of public agreement as to the aims of probation. Probation is seen by the public as primarily punitive; yet in the view of two academics who have compared probation in most European states, the main potential benefit of even the 'punitive' functions now carried out by probation services is, in fact, to rehabilitate offenders. The blurring of these aims may limit the effectiveness of probation:

The true value and meaning of CSMs [Community Sanctions and Measures] is that they contribute to reintegrating offenders into society. This is done by stimulating and improving their sense of responsibility and their social skills: by confronting them with the consequences of their behaviour, and by asking them to perform resocialising activities. Because CSMs put the emphasis on offenders' inclusion in society, rather than on their exclusion from society, the involvement and commitment of the community - in particular the local community - is of key importance.⁵²

The same may be said of the supervision of offenders who have been released from prison at the end of their sentences; in many cases, offenders have 'served their punishment' which would imply that once again, the function of probation should be to support their reintegration to society. Even so, public ambiguity over the aims of probation remains, and if probation is to play a meaningful part in the rehabilitation of prisoners, then public debate is needed to achieve clarity about what it is trying to achieve.

Though this is a report about the reintegration of ex-prisoners, many of the principles discussed overlap with work done by probation services with offenders not sentenced to incarceration. In the discussion that follows, there will inevitably be some overlap; however, the recommendations will focus solely on the reintegration of those who have served custodial sentences.

⁵² *ibid.*, p. 23

6.2 International frameworks of regulation

The UN has established standards for some of the *tasks* that are carried out by probation services, rather than rules governing probation services as such. The Standard Minimum Rules for Non-Custodial Measures (known as the 'Tokyo Rules') make clear that non-custodial measures must be aimed at reducing reoffending and promoting an individual's integration into society, and that any supervision of offenders has to be managed so that individual needs are taken into account in planning supervision or treatment.⁵³ Individuals 'should, when needed, be provided with psychological, social and material assistance and with opportunities to strengthen links with the community and facilitate their integration into society'.⁵⁴ There are some interesting comments about the role of the public. If offenders are to integrate with society, then society has a role to play. Public participation in non-custodial measures is 'a major resource and one of the most important factors in improving ties between offenders undergoing non-custodial measures and the family and community ... public participation should be regarded as an opportunity for members of the community to contribute to the protection of their society'.⁵⁵ Finally, 'every effort should be made to inform the public of the importance of its role in the implementation of non-custodial measures'.⁵⁶

The CoE has also developed normative rules about probation.⁵⁷ In the CoE's view, probation is defined as those activities 'which involve supervision, guidance and assistance aiming at the social inclusion of an offender'.⁵⁸ The rehabilitative focus is clear, and in fact 'control' of offenders is only to be used 'where necessary'.⁵⁹ Specific rules that relate to social reintegration of prisoners include the clear prescription that probation authorities must cooperate with other agencies, especially support agencies, so that they can better 'undertake their inherent responsibility to meet the needs of offenders as members of society'.⁶⁰ The Rules make clear that when it comes to resettlement of ex-prisoners, probation services should extend this cooperation to prison services, and should 'aim to meet offenders' ... needs such as employment, housing, [and] education'.⁶¹

6.3 Probation: control or support?

Calculating the total cost of reoffending in a large country is a complex task, but one rigorous attempt to do so in England & Wales, in 2002, estimated the figure as *at least* £10.8 billion annually (€17.2 billion at 2002

⁵³ UN General Assembly, *United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules)*, adopted by the General Assembly, 14 December 1990, A/RES/45/110, accessed 30 November 2010, available at <http://www.unhcr.org/refworld/docid/3b00f22117.html>, §§10.1 to 10.3

⁵⁴ *ibid.*, § 10.4

⁵⁵ *ibid.*, §§ 17.1 and 17.2

⁵⁶ *ibid.*, § 18.4

⁵⁷ Council of Europe, *Recommendation of the Council of Ministers to member states on the Council of Europe Probation Rules*, adopted 20 January 2010 [online], accessed 19 January 2011, available at <https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=CM/Rec%282010%291>

⁵⁸ *ibid.*, § 'Definitions'

⁵⁹ *ibid.*, §1

⁶⁰ *ibid.*, §§ 37-38

⁶¹ *ibid.*, § 61

prices).⁶² The cost of crime was estimated by taking into account 'costs incurred in anticipation of crime (for example insurance), costs as a consequence of crime (for example health services, repairing damage), and the costs of the criminal justice system', and can therefore be regarded as a comprehensive figure.⁶³ The same report estimated that 18 per cent of reported crime was committed by recently-released prisoners.⁶⁴ Effective rehabilitation reduces the cost of reoffending to the state; it has the potential to reduce demand for prison places, and to lower court and policing costs. It also allows a greater role for human dignity in the criminal justice process, if it assumes that offenders have the same potential to change as anyone else, and encourages and supports them in building a more positive relationship to society more generally by recognising, seeking to understand, and addressing the reasons for their reoffending. But rehabilitation is not simply a commodity that can be given by the state to the offender. Recent criminological thinking on the challenges facing probation services has focused on the concept of desistance: what makes offenders themselves leave their old lives and resolve to integrate into society more successfully?

One criminologist describes the challenge as one of engaging the offender and those around them to become the agents of their own rehabilitation:

[Desistance is] a complex process, as I said, not an event. It's characterised by ambivalence and vacillation. People can go back and forward in this process. Anyone who has given up smoking or has tried to diet or take more exercise understands this perfectly well [...] So we understand that change processes involve ambivalence and vacillation. Desistance requires social capital, access to opportunities, resources, the support of personal and local networks, as well as human capital. Skills acquisition is not enough. [...]

For those who have established identities that are part of the problem, this change process is not just about skills acquisition, thinking skills, it's about re-biography, about changing your identity, your narrative, your sense of self [...] Desistance can be solicited or sustained by someone believing in the offender [...] and there is very credible research evidence that hope is a critical aspect of desistance processes, and if you can't hold on to much hope for yourself, somebody has to hold on to it for you. [...] Next, it's an active process - an active process in which agency is discovered and exercised. Persistent offenders are quite fatalistic - psychologists would say low self-efficacy, external loss of control - life happens to them; they don't 'do life'. Well, desistance is different - desistance seems to involve acquiring the capacity to govern and control the direction of your own life. That's not consistent with having every decision made for you, either within a prison regime or within the context of a community sentence. The experience of intervention has to leave room for agency to grow and develop.⁶⁵

⁶² Social Exclusion Unit, *Reducing reoffending by ex-prisoners*, Office of the Deputy Prime Minister, London: July 2002, p. 125. Currency conversion made using the average sterling to euro exchange rate between 2 January 2002 and 3 January 2003 (1.5904 euros to the pound), taken from the European Central Bank website, accessed 15 February 2011, available at <http://www.ecb.int/stats/exchange/eurofxref/html/eurofxref-graph-gbp.en.html>

⁶³ *ibid.*

⁶⁴ *ibid.*

⁶⁵ F. MacNeill, speech at National Offenders Management Service conference, 18 March 2010, accessed 26 June 2010, available at <http://www.sccjr.ac.uk/documents/McNeill%20NOMS%20180310.pdf>

There are clear implications here for the 'tone' of probation work. Strengthening Transnational Approaches to Reducing Reoffending (STARR), a project to share best practice in probation among a variety of European countries, examined how these principles might apply in practice with probation services. This project reinforced the principles from the European Probation Rules, including that:

- probation should restrict liberty rather than isolating offenders from society;
- a gradual return to community life, planned in advance by integrated (or cooperating) prison and probation services along with the offender, was the most likely to succeed;
- there should be screening of prisoners' risk levels, and that those with the highest risk of reoffending should undergo compulsory and strict supervision.⁶⁶

In other words, control and supervision are not enough. Yet in many ways, the most interesting findings are also the least surprising. They point to the importance of involvement by other actors in the process of desistance. When offenders successfully desist from criminal behaviour, the most important factors in consolidating and sustaining these gains were steady employment and good relationships with their families. As well as their own benefits, these contribute to two other vital factors: financial stability and daily contact with 'normal', non-offending members of society.⁶⁷

The role that family and employment can play in reintegration is profound, and is discussed in more depth in Chapters 10 and 11. The challenge for prison and probation authorities is to facilitate this kind of opportunity for all released prisoners, while also supervising them where necessary. Since no jurisdiction has the resources to finance the supervision by probation services of all offenders after their release, this implies that a high degree of co-operation between prison and probation services is important, but more than anything else that prisoners' families and other organisations need to be brought into the picture; after all, one aim of reintegration is that prisoners are neither dependent on the state nor on crime for their immediate needs. In the case of families, it is especially important that they have access to information and advice services, in light of the problems they may experience on release.

In the German state of North Rhine-Westphalia, the MABIS⁶⁸ equal employment project gave vocational training to prisoners while they were imprisoned but, crucially, then involved the probation officer in finding prisoners work placements with other organisations after their release, rather than leaving them to make their own way. This step meant that the skills gains made in prison could be reinforced and built on after release,

⁶⁶ Taken from QCEA's own notes of presentations at the STARR conference, 'What works in reducing reoffending', held in Cambridge, 28-30 April 2010. Further information and copies of the presentations from the conference can be found at http://www.cep-probation.org/default.asp?page_id=116&news_item=188

⁶⁷ F. MacNeill, speech at National Offenders Management Service conference

⁶⁸ Marktorientierte Ausbildungs und Beschäftigungsintegration für Straftentlassene (Market-oriented training and employment integration for offenders). Further information in English on this programme can be found at http://ec.europa.eu/employment_social/equal/data/document/etg1-exa2-zubilis.pdf.

and it raised the proportion of participants who found employment from 48 per cent to 75 per cent. In Norway, the corrections service⁶⁹ is required by law to co-operate with local authorities and to guarantee prisoners a right to access advice about housing, work, education and family issues. This is supported by a programme of conditional release towards the end of prison sentences, supervised by the prison authorities, to give inmates time to readapt to life outside prison and to search for jobs that will keep them in employment.⁷⁰

A similar system operates in the Netherlands, where municipalities have a co-operation agreement with the Agency of Correctional Institutions to ensure that prisoners have access to advice about housing, health, identity documents, employment, and debt. This is available to all prisoners, who can also voluntarily sign up for probation meetings, though these are only compulsory for prisoners deemed to have a high risk of reoffending, whose supervision has been ordered by a judge.⁷¹

In Finland, a new sentencing option introduced in 2006, 'conditional probationary freedom', provides a means of strictly supervising prisoners at the end of their sentences, but does so outside the walls of the prison. This enables them to reintegrate into society gradually and to have time and advice, coordinated by the probation service, to (for example) seek employment, but also subjects them to strict supervision, such as regular drug tests, control visits to prison, and inspection visits by corrections officers to their homes and workplaces.⁷² These schemes show the effectiveness of using probation services to link offenders with other organisations whose involvement can provide the opportunities and the social capital needed for desistance, as well as to supervise clients.

Good practice in probation also comes about when the probation services are able to respond to clients' specific individual needs, especially where they are from an excluded group in society. In the Czech Republic Sdružení pro Probaci a Mediaci v Justici (SPJ), an NGO, has worked closely with the probation service to develop a scheme to train Roma ex-offenders as mentors. They receive about 100 hours of training and are then employed to provide advice and help to other Roma who are supervised by the probation service. Although the scheme started by working only with those who had been given non-custodial sentences, it has since been expanded to work with prisoners who are being resettled after incarceration. It involves non-governmental organisations and makes the most of the skills of the mentors it employs. Initial success has led to the scheme being trialled in Plovdiv, Bulgaria.⁷³

⁶⁹ This combines both probation and prison services in one agency.

⁷⁰ Taken from QCEA's own notes of presentations at the STARR conference, 'What works in reducing re-offending', held in Cambridge, 28-30 April 2010. Further information and copies of the presentations from the conference can be found at http://www.cep-probation.org/default.asp?page_id=116&news_item=188.

⁷¹ QCEA questionnaire response from the Netherlands Justice Ministry

⁷² *ibid.*, response from the Finnish Justice Ministry

⁷³ *ibid.*, response from the Czech Justice Ministry

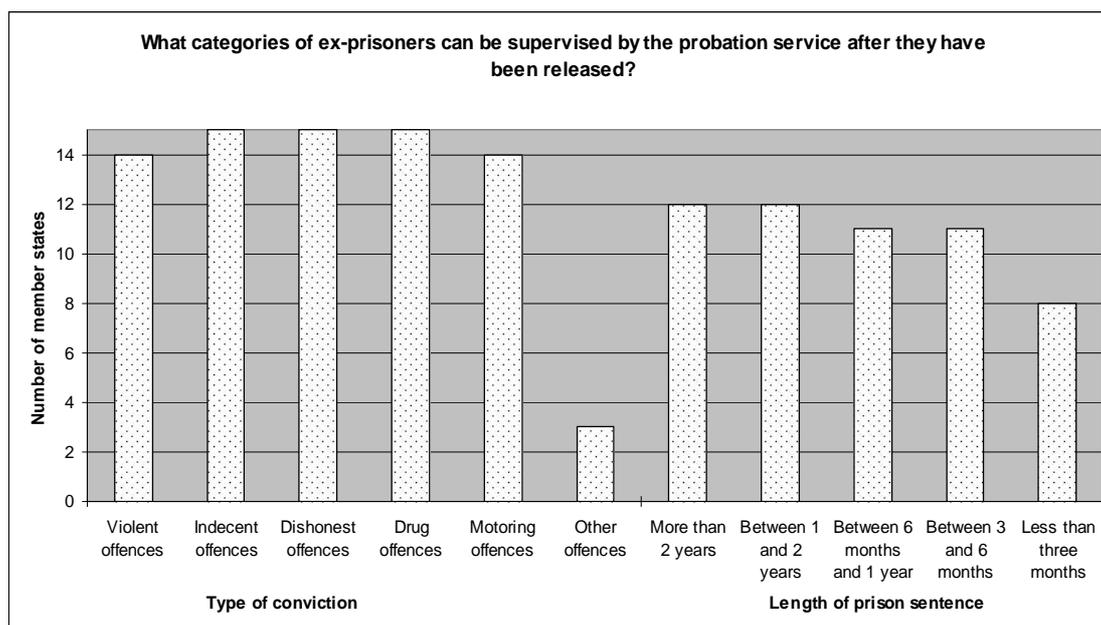
These and other examples illustrate the benefit of combining supervision with support, and of involving other organisations than simply the state's probation service in the process of reintegrating prisoners.

6.4 Probation services in Council of Europe member states

OCEA asked member states about the work done by their probation services. The sheer variety of probation services around Europe, and the multiplicity of different tasks they undertake in different places, makes comparison difficult.⁷⁴ Different accounting standards, along with the different organisational structures of different countries' probation services, mean that comparable financial data in particular are very hard to obtain.⁷⁵ In places, we have supplemented what we found from our questionnaires with data from a large comparative study of probation systems in Europe.⁷⁶

All the countries in our study had a centralised probation service except Spain⁷⁷ and Slovenia, where the functions of probation are carried out by a range of other agencies - municipal authorities, prison authorities, the police, and social workers. We also asked what categories of ex-prisoners were supervised by the probation services in each country (Figure 4). This question was answered by fifteen countries.

Figure 4: Who is supervised by probation services after release?



Very few countries make fixed rules in this area. Most countries determine who will be supervised on individual criteria. This does not mean that all prisoners can or will be supervised by probation services after release from prison; in the present overcrowded conditions in the UK, for example, only prisoners who have served sentences of more than a year are supervised as a

⁷⁴ A table summarising the variation in probation services' responsibilities can be found in Appendix III, where it is reproduced by kind permission of the publishers.

⁷⁵ van Kalmthout & Durnescu (eds.) (2008), *Probation in Europe*, p. 33

⁷⁶ *ibid.*

⁷⁷ The autonomous Spanish region of Catalonia does have its own centralised probation system.

matter of course, unless they are juveniles or their individual circumstances require closer supervision. Prisoners who are serving short sentences (whose access to rehabilitative services in prison are already limited), will be released into the community without the potential links to employment and other services that a probation supervision might provide. This argues for finding alternatives to all short prison sentences unless there is a compelling reason for incarceration.⁷⁸ A short sentence, without the proper help to reintegrate and desist from offending, is simply not worth the damage that it does in terms of destabilising offenders' and families' lives, and thereby putting society at continuing risk of reoffending behaviour.⁷⁹

Figure 5: How often do probation meetings take place?

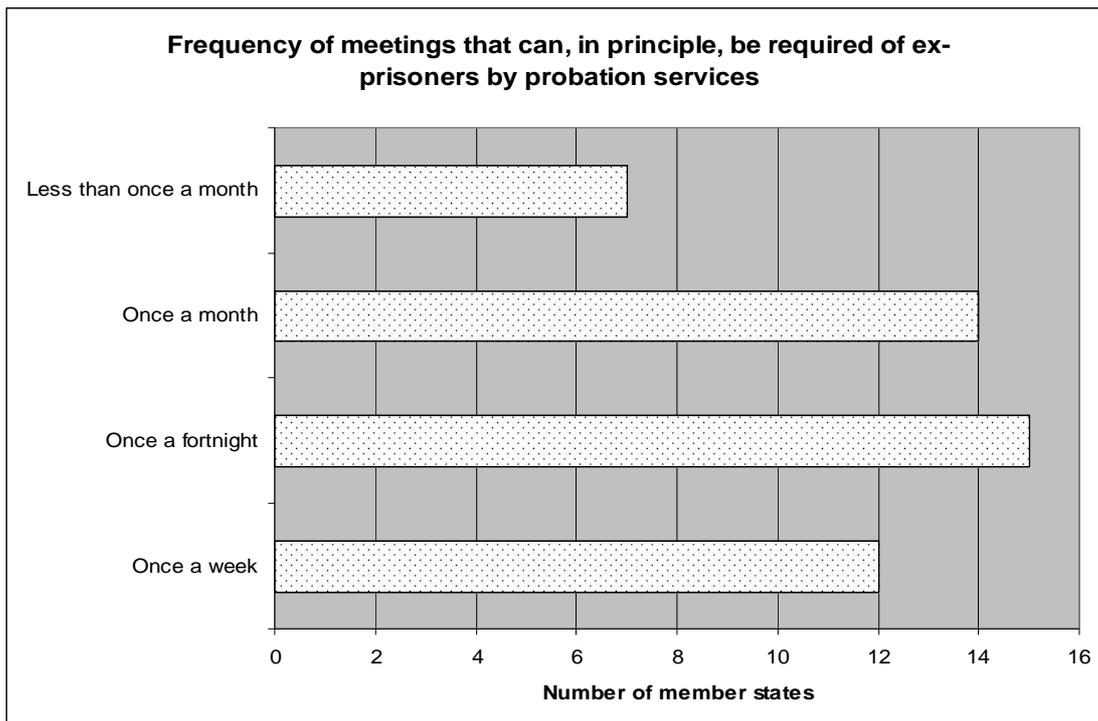


Figure 5 shows that countries impose similarly few hard and fast rules regarding the frequency of probation meetings.⁸⁰ Only Monaco indicated that prisoners on parole were seen less frequently than once a month as a matter of course, and probation officers in fifteen of the sixteen countries that responded to this question are able to see their parolees at least once a fortnight. Seven countries indicated that individual probation officers set the frequency of meetings according to their judgment of what was appropriate.⁸¹ Four countries said specifically that it was their standard rule

⁷⁸ This issue was covered in much greater depth in QCEA's previous report: Morten & Loffman, *Alternatives to Imprisonment*.

⁷⁹ The damage caused to families by short sentences is covered in more depth in Chapter 11.

⁸⁰ In this question, most countries replied by ticking more than one option, or ticked none and added a comment stating that probation services were free in principle to stipulate any frequency of meetings, according to their assessment of the prisoner's individual circumstances. In the interests of making comparisons, when we received answers such as these, we have displayed them here as if the country had answered 'yes' to all four options. This represents the fact that the probation services are mandated to respond to individual clients as they see fit.

⁸¹ Czech Republic, Estonia, Finland, Ireland, Lithuania, Luxembourg, Norway, Slovenia

for parole meetings to become less frequent over time following a prisoner's release.⁸²

Figure 6 shows the conditions that different countries said their probation services could impose on prisoners after their release.⁸³ This is an interesting area. The most common conditions, used in the largest number of countries, are those that relate to the controlling/supervising function of probation.

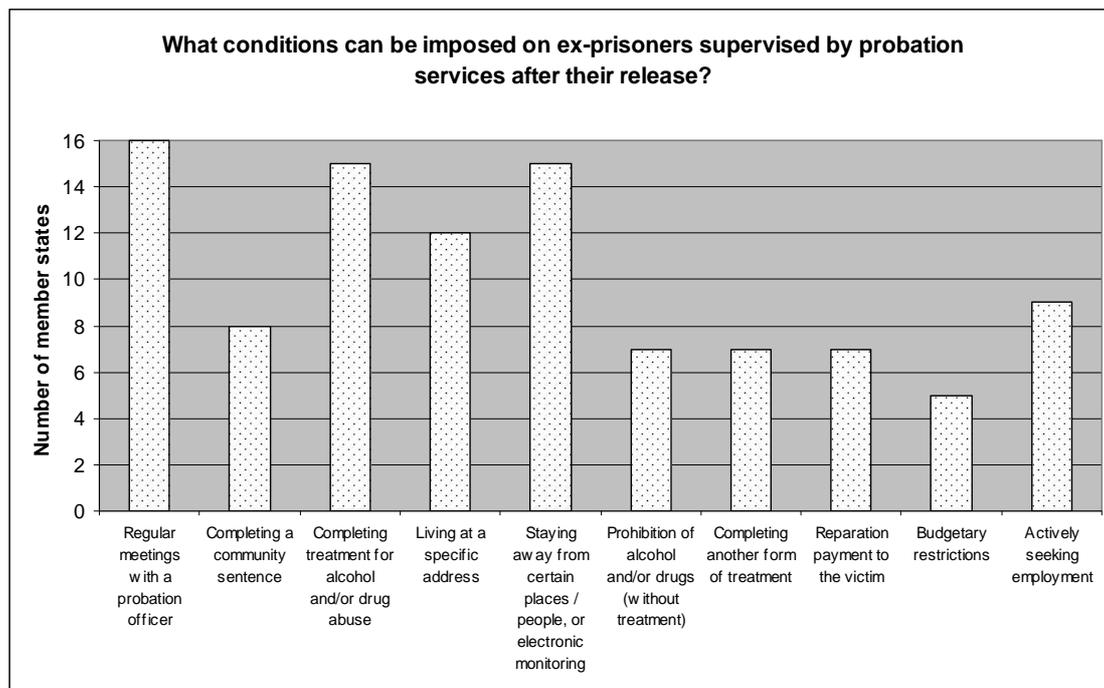


Figure 6: What conditions do probation services impose on ex-prisoners?

All sixteen countries⁸⁴ that answered this question can require ex-prisoners to meet regularly with a probation officer, and all but one said they can be required to submit to restrictions on their movement or association.⁸⁵ Twelve can require ex-prisoners to live in a particular place.⁸⁶ A few member states impose more rehabilitative conditions: all can require ex-prisoners to demonstrate that they have not used alcohol and/or drugs, and others can require ex-prisoners to complete community sentences (eight states),⁸⁷ or demonstrate that they have searched for employment (nine).⁸⁸ Put more simply, it appears from these data that the control function of probation is used more than its rehabilitative function.

⁸² Denmark, Finland, Lithuania, Sweden

⁸³ We gave five options in the questionnaire - the first five on Figure 6 - and a space for member states to add other conditions that could be imposed by their probation systems. Four countries (Belgium, Denmark, Ireland and Norway) did not specify 'other' conditions but stated that in principle any condition could be imposed if it was deemed appropriate by the supervising officer.

⁸⁴ Belgium, Berlin (Germany), Czech Republic, Denmark, Estonia, Finland, Iceland, Ireland, Italy, Lithuania, Luxembourg, Monaco, Netherlands, Norway, Slovenia, Sweden

⁸⁵ The exception was the Czech Republic.

⁸⁶ Belgium, Berlin (Germany), Denmark, Estonia, Finland, Iceland, Ireland, Italy, Lithuania, Luxembourg, Netherlands, Norway

⁸⁷ Berlin (Germany), Denmark, Estonia, Finland, Iceland, Italy, Luxembourg, Netherlands

⁸⁸ Belgium, Berlin (Germany), Denmark, Finland, Ireland, Lithuania, Monaco, Norway, Slovenia

As has been outlined above, probation services can profitably build close links with other authorities and organisations, to bring a wider range of potentially rehabilitative links into the picture. It would make sense for more countries to adopt a wider range of probation conditions; this would enable probation to be used as a way to cooperate with other organisations and monitor the extent to which they were taking up a range of other rehabilitative services.

6.5 Summary and recommendations

Summary

Probation, which historically has been focused primarily on rehabilitation, is increasingly having contradictory aims of control and supervision imposed on it by the confused priorities of criminal justice systems. Probation systems fulfil a wide range of functions in different states, but most systems combine some form of punitive/controlling supervision with some form of rehabilitative support. Recent best practice by probation services around Europe suggests that assistance, advice and services, especially those that link the prisoner to a wider support network and to employment, help prisoners reintegrate. Such advice and support has the potential to reduce reoffending. Probation supervision is being used with a wide range of offenders in CoE member states. Probation services have a good deal of freedom to decide how to supervise offenders.

Recommendations

1. Member states should ensure that:
 - a. they collect statistics cross-referencing the use of different supervision measures with reoffending rates, so that the success of particular interventions can be measured
 - b. probation supervision of ex-prisoners is planned so that rehabilitation is at least as important as their control and supervision
 - c. probation services (or those supervising prisoner release) have a legal duty to refer their clients to advice services covering practical matters such as housing, access to financial services, and finding employment
 - d. they consider applying more liberal conditions regarding parole and probation supervision in the case of women prisoners (especially mothers), in line with a gender-sensitive prison management policy
 - e. probation services (or those supervising prisoner release) involve their clients' families in planning and decision-making relating to their release
 - f. probation services review whether the reintegration services provided to women prisoners are sensitive to the specific health and other needs of women
 - g. all prisoners have an automatic right to request such input from probation services, regardless of whether their supervision by probation services is compulsory or not

- h. they consider the use of ex-offenders (who have reintegrated) as counsellors, mentors or advisers for others who are newly released
 - i. options such as open prisons and halfway houses are used to the maximum possible extent for women prisoners.
- 2. Member states should take seriously the need to engage wider support in reintegrating prisoners into society. In particular:
 - j. employers should be offered incentives to employ released prisoners, for example by waiving employers' social security payments for a period of time
 - k. greater involvement by the private sector and charities should be sought in providing work placements and work experience for prisoners nearing their release.

7 Drug and alcohol rehabilitation

Drug and alcohol rehabilitation programmes are essential tools to reduce reoffending. The success of addiction programmes will likely have a significant impact on the success of other reintegrative efforts, because drug and alcohol misuse is a driver of (continued) offending. This report does not attempt to fully cover a subject that spans countless books and entire careers: what follows is a brief introduction to models of treatment for drug and alcohol addictions, with signposts to further sources of information.

7.1 Coercion in drug treatment

Recent research, collected in a discussion paper by the UN Office on Drugs and Crime (UNODC), points towards the effectiveness of a health-based approach to drug dependence, rather than one based on punitive criminal justice procedures. It is argued that drug dependence should be seen as a health disorder, based on evidence that drug addiction is dependent not only on drug use but also on pre-existing psychological and biological vulnerabilities. The negative impact of the prison environment on prisoners' mental and physiological health is such that prison can in fact exacerbate the background factors that are linked to drug addiction. Prison can also leave people worse off because incarceration can take them away from drug treatment programmes, either started in the community and discontinued, or substituted for lower-quality programmes in prison. The discussion paper calls for the abandonment of coercive drug treatment based on compulsion, and instead the provision of effective drug dependence treatment outside prison.⁸⁹

We support the broad aims of this paper, and agree that drug dependence *per se* must be treated as a health, rather than a criminal issue. Drug addiction itself does not justify the harm done by imprisonment. Fewer prisoners would need to be imprisoned if nations did not continue to fill their prisons with those incarcerated for relatively minor drug offences. However, the association of drugs and other types of crime makes it likely that, even if imprisonment rates fall, there will continue to be some prisoners whose rehabilitation is dependent on their ability to end their dependence on drugs or alcohol. The issue of drug misuse in prison is therefore an important one to document, despite our unease with the idea that there should be some offenders imprisoned solely as a result of their drug use.

7.2 Drug and alcohol misuse in and out of prison

Drug misuse is a significant driver of offending behaviour, and drug offences a major factor in filling Europe's prisons. Figure 7 overleaf shows the

⁸⁹ UNODC, *From Coercion to Cohesion: Treating drug dependence through health care, not punishment* (UNODC: Vienna, 2009) [online], accessed on 22 February 2011, available at http://www.unodc.org/docs/treatment/Coercion_Ebook.pdf

proportion of drug offenders as a proportion of the whole prison population in Council of Europe member states.⁹⁰

Despite the high-profile ‘war on drugs’ that drives up imprisonment rates in many societies, and an often zero-tolerance policy towards drug-taking in European prisons, drug use continues in prison (and society more widely) across the Council of Europe. The impact of drug dependence is much commented upon in popular media, academic publications and policy circles. Less well-recognised are the considerable problems caused by alcohol misuse before, during and after imprisonment and the important role of alcohol-specific rehabilitation in effecting positive change.



Figure 7: Drug offenders as a proportion of prison population

A multitude of studies support these points. In Scotland (UK), for example, 19 per cent of prisoners stated they committed their offence to finance a drug addiction, whilst 45 per cent of prisoners in total reported being under the influence of drugs at the time of the offence.⁹¹ Despite significant expenditure on attempts to eradicate drug use in prison, the problem remains. A Home Office study in England & Wales found that four out of ten prisoners said they had used drugs at least once while in their current prison, a quarter had used them in the last month, and sixteen per cent in the last week, with cannabis and opiates being the most-used substances.⁹² In fact, for many offenders misuse can become a **more** serious problem whilst in prison: one survey reported that 60 per cent of heroin users had used heroin whilst in prison, while 25 per cent of the whole group reported that prison was the first place they had used heroin.⁹³ Across the continent as a whole, the European Monitoring Centre for Drugs and Drug Addiction estimates that between 10 and 48 per cent of males and between 30 and 60 per cent of females are using drugs immediately prior to imprisonment. Approximately a third will have injected drugs. In a trans-national study of

⁹⁰ Council of Europe, *Space I Penal Statistics* (2010), p. 74. The figures show only convicted prisoners.

⁹¹ Prison Reform Trust, *Bromley Fact File July 2010*, p. 45

⁹² *ibid.*, p. 20

⁹³ QCEA's notes from presentation by Farrell, M., *Risk and Treatment Responses in Prison*, at the CONNECTIONS Conference, held in London, 23-25 June 2010

Cyprus, France, Germany, Slovakia and Sweden by the Centre, opiates (28 per cent) were found to be the most commonly used drug among prisoners, followed by stimulants (24 per cent), cannabis (17 per cent), and cocaine (7 per cent) with other substances making up the remaining 24 per cent.⁹⁴

Alcohol dependency, although less frequently commented on, is also prevalent amongst prisoners, and beginning to gain greater recognition in policy circles in some member states. A 2004 study carried out by the Prison Reform Trust in England & Wales (UK) found that 63 per cent of male and 39 per cent of female sentenced prisoners admit to hazardous drinking (which carries the risk of physical or mental harm). Furthermore, approximately half of the above reported a severe alcohol dependency. The UK prisons inspectorate (HM Inspectorate of Prisons) reports that 54 per cent of surveyed prisoners reporting an alcohol problem on admission, also had problems with drugs.⁹⁵

Specific problems exist in the provision of drug and alcohol rehabilitation for women offenders. Women are more likely than men to be imprisoned for reasons connected with their drug use.⁹⁶ They are more likely to have lower levels of education employment and income than men offenders; more likely to be living with a partner who is drug-dependent; more likely to take care of children; more likely to have severe health problems; and more likely to suffer from mental health problems and the trauma associated with rape and other forms of gender violence.⁹⁷ These make the care of drug-dependent women a specialist field, but gender-sensitive drug treatment programmes are often not available in prisons, and research indicates systemic barriers at institutional and clinical level to women accessing drug treatment.⁹⁸

7.3 Rehabilitation in and out of prison

We have argued throughout this report that prison should be used only as a 'last resort'. Drug use alone is no justification for prison, and where drug use is a major factor in a crime, priority must be given to non-custodial interventions that combine addiction treatment with education and employability training. However, we also recognise that some serious offences will continue to necessitate prison, and it is likely that drug addiction will continue to affect some prisoners. This means that while prison is not the best environment in which to treat drug addiction, prisons should be able to offer quality addiction treatment programmes on an equivalent basis to those available in the community. The principle of equivalence⁹⁹ was elucidated by the CoE more than twenty years ago:

⁹⁴ OCEA's notes from presentation by Hedrich, D., *Monitoring drug use in prison populations in Europe and drug-related service provision*, at the CONNECTIONS Project Conference

⁹⁵ Prison Reform Trust, *Bromley Fact File July 2010*, p. 47

⁹⁶ WHO Europe, *Women's Health in Prison*, pp. 25-26

⁹⁷ UNODC, *Substance abuse treatment and care for women* [online], accessed 1 April 2011, available at http://www.unodc.org/docs/treatment/04-58297_cu%20English%20short.pdf

⁹⁸ UNODC, *Substance abuse treatment and care for women: Case studies and lessons learned*, UN: New York, 2004 [online], accessed 1 April 2011, available at http://www.unodc.org/pdf/report_2004-08-30_1.pdf

⁹⁹ Restrictions of space and scope mean it is not possible to discuss the right of prisoners to equivalence in health provision. However, interested readers can access *Health in Prison* (WHO) at <http://www.euro.who.int/en/what-we-do/health-topics/health-determinants/prisons-and-health>, (accessed 13 September 2010), providing an in-

Council of Europe Committee of Ministers Recommendation R. (89) 14 of the Committee of Ministers to member states on Ethical issues of HIV infection in the healthcare and social settings

*Respect for the fundamental rights of prisoners, in particular the right to healthcare, entails the provision to prisoners of preventative treatment and healthcare equivalent to those provided to the community in general.*¹⁰⁰

It can be argued that healthcare provision is even more important in prison, as prison populations across the Council of Europe are often composed of members of society who are already socially excluded, not reached by healthcare systems and with poorer than average levels of health. A 2002 report by the Social Exclusion Unit of the UK Deputy Prime Minister's Office reported that at a prison in Manchester, four fifths of the approximately 70 per cent of offenders who were estimated to enter the prison with a drugs problem had not previously come into contact with drug treatment services.¹⁰¹ Helping prisoners improve their health – through better healthcare provision, health education and substance misuse rehabilitation programmes – is an important dynamic of any successful social reintegration. Good health provides a fundamental foundation for education, employment and stable family life, all of which help reduce reoffending.

Prison is in itself a health risk, and in a number of Eastern European states the prison system is or has been the key conduit for the transmission of HIV/AIDS (and other infectious diseases such as tuberculosis and hepatitis C) throughout wider society. Health programmes can mitigate this. Moldova, for example, has managed to achieve great success since 2005 in reducing the transmission rates of HIV/AIDS in its prisons through needle exchange programmes. According to the Moldovan NGO that first trialled the project, one fifth of prisoners had previous experience injecting drugs, with one in seven noting joint use of needles and syringes (shared between up to ten or twelve prisoners). The provision of needle exchange points in prisons, the distribution of condoms and disinfectants, training for prisoners on HIV and hepatitis prevention, as well as seminars for staff and advocacy for the rights of HIV-infected prisoners, have contributed to a recorded decrease in the number of new cases of HIV and Hepatitis C amongst injecting drug users, as well as noticeably less discrimination against HIV-infected and drug-dependent prisoners more generally.¹⁰² In spite of their benefits, the provision of such programmes in prisons in Europe is patchy: France, for

depth discussion of the need for better health provision to prisoners, including its consequent importance to social reintegration. For a shorter overview, readers can access the recent article in QCEA's newsletter *Around Europe*, No. 324, 'Defending the human rights of prisoners and the health of everyone' at <http://www.quaker.org/qcea/aroundeurope/2010/AE324%20-%20web%20version.pdf> (accessed 19 December 2010)

¹⁰⁰ Council of Europe, Rec R. (89)14 of the Committee of Ministers to member states on *Ethical issues of HIV infection in the healthcare and social settings*, adopted 24 October 1989, accessed 09 January 2010, available at http://www.coe.int/t/dg3/healthbioethic/texts_and_documents/Rec%2889%2914.pdf

¹⁰¹ Prison Reform Trust, *Bromley Fact File July 2010*, p. 45

¹⁰² QCEA's notes from presentation by Pintilei, L., *Examples of adequate influence over changes in national policy on Harm Reduction Programs in Moldovan prisons*, at the CONNECTIONS Conference, held in London, 23-25 June 2010. Also see www.soros.org/initiatives/health/focus/ihrd/articles_publications/publications/moldova_20090720 (accessed 2 February 2011).

example, has had needle exchange programmes in the wider community since 1995 (supported in legislation since 2004), yet in 2010 needle exchange was still not permitted in prisons.¹⁰³ Table 1 and Table 2 show the availability and types of drug and alcohol rehabilitation programmes available in prisons in different European states. The types of drug programme categorised by academics from the University of Kent (Table 2) were psychosocial, needle exchange, and opiate substitution:

Table 1: Availability of drug/alcohol rehabilitation¹⁰⁴

	YES	NO
Drug rehab. programmes in prison?	Belgium, Czech Republic, Denmark, Estonia, Finland, Berlin (Germany), Kosovo, Latvia, Lithuania, Luxembourg, Moldova, Norway, Slovakia, Slovenia, Spain, Sweden	
Alcohol rehab. programmes in prison?	Belgium, Czech Republic, Denmark, Estonia, Finland, Berlin (Germany), Latvia, Lithuania, Norway, Slovakia, Slovenia, Spain, Sweden	Kosovo, Luxembourg
Possible to complete drug rehab. after release?	Belgium, Czech Republic, Denmark, Estonia, Berlin (Germany), Kosovo, Lithuania, Luxembourg, Norway, Slovakia, Slovenia, Spain, Sweden	Finland, Latvia
Possible to complete alcohol rehab. after release?	Belgium, Czech Republic, Denmark, Estonia, Berlin (Germany), Lithuania, Luxembourg, Moldova, Norway, Slovakia, Slovenia, Spain, Sweden	Finland, Kosovo, Latvia

Table 2: Types of drug/alcohol intervention¹⁰⁵

Member state	Programme	Outcome
Denmark	Psychosocial: 24-bed unit in Østjylland high security prison. Programme includes detoxification, and uses motivational enhancement and cognitive reconstruction.	Achieves reduction in disciplinary incidents and improvements in physical health.

¹⁰³ QCEA's notes from a presentation by Dixneuf, M., *Towards needle exchange programmes in prisons: The French experience*, at the CONNECTIONS Conference, held in London, 23-25 June 2010

¹⁰⁴ A total of 16 member states responded to the drugs and alcohol rehabilitation section of the QCEA questionnaire: Belgium, Czech Republic, Denmark, Estonia, Finland, Berlin (Germany), Ireland, Latvia, Lithuania, Luxembourg, Moldova, Monaco, Norway, Slovenia, Spain and Sweden. Moldova responded to other parts of this section, but did not answer this particular question.

¹⁰⁵ QCEA's notes from a presentation by Stevens, A., Milne-Skillman, K., Brentari, C., *European good practices in the criminal justice system*, at the CONNECTIONS Conference, held in London, 23-25 June 2010

England & Wales (UK)	Psychosocial: 20-bed unit at HMP Send. Abstinence-based 12-Step programme, also using motivational enhancement and cognitive behavioural therapy.	Currently being evaluated by the University of Manchester.
Germany	Needle exchange: All new prisoners given harm reduction kit including 'dummy' syringes. Syringes are also dispensed through automatic exchange machines.	Syringe sharing among injecting drug users reduced from 71 to 11 per cent.
Spain	Needle exchange: Needle substitution introduced at Pereiro de Aguiar Prison in 1999.	93 per cent of staff consider there to have been no increase in violence in the prison. Syringe sharing reduced from 46 to 7 per cent.
Slovenia	Opiate substitution: Methadone replacement introduced 1999.	In 2008, opiate substitution covers 44 per cent of all recorded drug users in Slovenian prisons.

A multi-programme approach offers the chance to design treatment programmes that are most suitable to individual circumstances. The Integrated Drug Treatment System in England & Wales combines assessment, opiate substitution treatment and psychosocial treatment. Alcohol-specific interventions are also being piloted in some locations.¹⁰⁶

Overcoming drug and alcohol dependence can have a marked impact upon a person's likelihood of reoffending. In Sweden, a study carried out between 2003 and 2006 recorded an approximately 16 per cent reduction in the risk of reoffending after attendance on their 12-Step programme.¹⁰⁷ Patient choice must remain a fundamental consideration in any drug and alcohol rehabilitation programme, regardless of whether the patient is a prisoner or not.

It was noted above that new prisoners sometimes find themselves unable to complete rehabilitation programmes that they began in the community once they are incarcerated. In some countries this is because drug and alcohol rehabilitation treatment in prisons is only available to sentenced prisoners, meaning that those in pre-trial detention may go from drug treatment into a

¹⁰⁶ *ibid.*

¹⁰⁷ Response by Sweden's Ministry of Justice, QCEA Questionnaire. It should be noted that this figure was not quoted as a measure of the success of the programme in securing total abstinence from drugs.

remand prison where they cannot access any treatment at all. This clearly violates the principle of equivalence.

Where addiction treatment must be carried out in prison, it is also vitally important that programmes be planned so that they can either be completed in prison or continued seamlessly in the community. Academic surveys reveal that this aspect of prison drug treatment programmes is seldom planned effectively.¹⁰⁸ The difficulties faced, as perceived by institutions in responding member states, are summarised in Table 3:

Table 3: Factors preventing completion of prison drug/alcohol programmes

Problem	Member state
Local programmes unavailable	Belgium, Czech Republic, Estonia, Norway, Sweden
Lack of space on programmes	Belgium, Czech Republic, Lithuania, Luxembourg, Norway, Sweden
Cost of programmes	Latvia, Norway
Cost of travelling to programmes	Latvia, Norway
Work commitments	Belgium, Lithuania, Norway
Family commitments	Belgium, Luxembourg, Norway

In many patients, drug addiction treatment is also complicated by the presence of diagnosed mental health problems as well as the addiction. Treatment required in such cases may be different and its provision more complicated. This suggests again that the best place for such treatment is outside prison, and that the imprisonment of offenders whose main issue is drug addiction should be undertaken only where absolutely necessary. A number of member states noted that the motivation of the ex-offender to continue the programmes was also a decisive factor. This is an important reality, but should not prevent governments from removing every possible institutional obstacle to the successful completion of such programmes, and indeed offering incentives for their completion where appropriate.

Government and private health service providers play the principal role in offering programmes to ex-prisoners after release. However, NGOs often play an important role, firstly in driving government policy advances, and secondly in continuing support in the community.¹⁰⁹

Drug and alcohol rehabilitation programmes, whether in prison or after release, cannot by themselves ensure social reintegration. However, addressing a harmful drug or alcohol dependence provides a platform on which ex-prisoners can base their other rehabilitative efforts. Approaching rehabilitation holistically, alongside other formal and informal programmes and processes, can have a reinforcing effect. The example below from Portugal demonstrates how this can be done.

¹⁰⁸ QCEA's notes of presentation by Stevens et. al., CONNECTIONS conference

¹⁰⁹ Based on responses to the QCEA questionnaire

7.4 A holistic approach to drug rehabilitation

The VanGuarda Project is run by APDES, a Portuguese NGO which runs drug intervention programmes on the street, in nightclubs and at festivals, as well as for sex workers and within the criminal justice system.

In 2007, the Portuguese Ministry of Health implemented a national strategy to fight the transmission of infectious diseases in prisons. In Portugal, 16 per cent of prisoners have HIV/AIDS, 27 per cent Hepatitis C and 10 per cent Hepatitis B (compared to 0.4, 1.5 and 1 per cent respectively for the general population). The strategy made interventions specifically designed for prisoners (including needle-exchange programmes in prison).

This was seen as an opportunity to design a programme that used health interventions as an opportunity to make a wider rehabilitative intervention. APDES provide innovative psychosocial support services. The programmes have four key objectives:

- Prevention
- Harm reduction
- Health education (and empowerment of service users)
- Social reintegration (using methods that encourage participation by the users)

The support services do not focus solely on drug misuse or only on prisoners. Prisoners' training groups look at personal and employment skills as well as health education. Staff members also take part in education training groups facilitated by the NGO, and family mediation services address some of the social dimensions of drug misuse. The GIIIC unit focuses on encouraging entrepreneurship and social reintegration more broadly.

APDES hope that the provision of services by an external organisation will help open up the prison system, with a positive impact on the social dimensions of rehabilitation and reintegration. The programmes aim to positively affect the social reintegration matrix:

- Personal and social wellbeing
- Skills development (personal, social, family and work)
- Connections with family and social support networks
- Employment and community reintegration

All of the above factors are mutually supportive.

The programme has received positive qualitative feedback, and APDES are actively developing further avenues of support: peer-to-peer education (for both prisoners and staff); a dedicated family support unit; and new procedures for employment promotion in the community.¹¹⁰

¹¹⁰ Castro, D. , *VanGuarda Project: A Portuguese Case*, at the CONNECTIONS Conference, held in London, 23-25 June 2010

7.5 Summary and recommendations

Summary

Drug dependence is a significant factor driving much criminality, both because of the expense of feeding a drug addiction and the difficulty of integrating in normal community life if that addiction reaches acute proportions. The relationship between alcohol misuse and criminality is less commented-on, but alcohol is thought to be a factor in much violent crime. Harmful dependence on drugs and alcohol are therefore problems that prisons, if they are to be rehabilitative, should address. However, it must be remembered at all times that prison is an inappropriate environment in which to address drug dependence *per se*; non-custodial forms of treatment should be used except where it is absolutely necessary to imprison offenders. Prison must never be used merely to punish drug addiction, which should primarily be seen as a healthcare problem.

Where there is a compelling argument to imprison offenders who also happen to be dependent on drugs or alcohol, addiction programmes in prison must be available on the same basis as outside. Prisons in all member states that responded to our questionnaire offer prisoners drug addiction treatment. Most also offer alcohol addiction programmes, though provision in this area is less consistent. However, the success of both types of programme is often compromised by a range of factors, especially the discontinuities between treatment inside and outside prison.

There are also healthcare implications concerning the use of drugs in prison. Drugs and alcohol are known to circulate in prisons, despite the best efforts of prison authorities to prevent this. It is probably impossible to completely control the trade in prison contraband; the high profit to be made on the prison black market can tempt visitors or corrupt staff to try and bring contraband into prisons. This means that efforts to treat addiction need to be balanced by pragmatism in confronting the reality that in some cases, prisoners will continue to use drugs. Prisoners who are dependent on drugs and alcohol should be rewarded if they take responsibility for their health and their addictions, but should not be put at risk if they do not. Drug and alcohol treatment in prison should be seen as a healthcare matter, and it should be recognised that prison may not in fact provide the best environment for such treatment.

Recommendations

3. Member states should ensure that they:
 - a. treat drug dependence as a health issue in the community, rather than in prison, except where criminal convictions other than for the drug dependence itself are judged to necessitate imprisonment
 - b. accurately and regularly monitor demand for drug and alcohol treatment programmes so that demand for them does not exceed supply

- c. ensure that **both** drug **and** alcohol treatment programmes are available to all prisoners who wish to participate in them
 - d. **both** ensure that release plans are factored into prisoners' drug and alcohol treatment, so that early release or short sentences do not disrupt their treatment, **and** ensure that drug and alcohol treatment in prison are fully integrated with readily available programmes in the mainstream healthcare system, so that prisoners can make the transition after their release
 - e. offer incentives such as prison privileges or reductions in sentence for good behaviour to prisoners who successfully demonstrate that they have stopped using drugs
 - f. make measures such as needle exchanges available so that prisoners who are using drugs intravenously in prison do so with the minimum possible risk to their health.
4. Member states should ensure that for offenders whose drug or alcohol misuse has been a factor in their criminal behaviour, sentencing decisions should be taken so that:
- a. non-custodial forms of treatment are prioritised except where there is a pressing public safety concern
 - b. in prison, foreign nationals and those who are serving short sentences are not discriminated against by being unable to access treatment programmes solely because they are shortly to be released or transferred, or to be deported at the end of their sentence.

8 Sex offender rehabilitation

8.1 Approaches

Reintegrating sex offenders is a complex problem, not least because of public unease about the threat of recidivism. Even though research conducted in Ireland indicates that the rate of reoffending after a custodial sentence for sex offenders is actually lower than the average for other types of offenders, the nature of the offences committed and their consequences for victims mean that the problem is a sensitive issue of great public concern.¹¹¹

One approach when dealing with released sex offenders is 'containment': minimising the continued risk through surveillance and monitoring. This is a role often fulfilled by probation services (see Chapter 6). Some campaigners and governments have looked to include members of the public in monitoring, especially where there is perceived to be a risk of sex offences against children. One such example from England & Wales (UK) is the campaign for 'Sarah's Law'¹¹². The campaign calls for the publication of information enabling 'every parent to know the identity of serious child sex offenders living in their community'.¹¹³ This approach carries with it the risk of vigilantism, and may tend to drive offenders underground where it is harder to monitor them. It may also generate an illusory feeling that the risks are under control, whereas the unknown, unconvicted offender may be more of a risk. It also reinforces the perception that child sex offences are characterised by 'stranger danger', when in fact most sexual offending against children is carried out by family members or those close to the family.

The alternative to 'containment' is social reintegration. Social isolation and emotional loneliness are major factors in reoffending. The rehabilitation of sex offenders is a touchstone issue for social reintegration. It highlights many of the obstacles and hurdles facing individuals (victims, offenders, and the family and friends of both), as well as professionals and communities, in safely reintegrating ex-offenders. However, it also offers perhaps the outstanding model in recent criminal justice practice for constructive community engagement in the social rehabilitation of ex-offenders: Circles of Support & Accountability (CoSA).

¹¹¹ Irish Department of Justice and Law Reform, *The Management of Sex Offenders: A Discussion Document*, January 2009 [online], accessed 7 April 2010, available at www.inis.gov.ie/en/jelr/final%20report.pdf/files/final%20report.pdf

¹¹² The Child Sex Offender Disclosure Scheme (the official name for Sarah's Law) was extended to a further eight police forces across England & Wales in August 2010 following trials in Cambridgeshire, Cleveland, Hampshire and Warwickshire. The scheme will be fully implemented across England & Wales by March 2011. Further information available at UK Home Office, *National rollout of scheme to protect children*, 2 August 2010 [online], accessed 14 January 2011, available at <http://www.homeoffice.gov.uk/media-centre/press-releases/national-rollout-scheme-protect>. Sarah's law is modelled on Megan's Law, the laws requiring public authorities in the USA to publish information on registered sex offenders.

¹¹³ For Sarah Campaign, *So what is Sarah's Law?* [online], accessed 25 August 2010, available at <http://www.forsarah.com/html/sarahslaw.html>

8.2 Rehabilitation programmes in prison

Inmates convicted of sexual offences tend to make up a small but significant minority of the prison populations of member states.¹¹⁴ Figure 8 overleaf shows the percentage of sentenced prisoners convicted of rape and other sexual offences in CoE member states where data is available.¹¹⁵

As Figure 8 shows, many of the countries who have a high proportion of sex offenders within their prison population are small countries.¹¹⁶ This could be the result of a small prison estate and the corresponding need to ensure that prison is kept back as a sanction, except where it is required for public protection. Yet in France, Italy, and England & Wales (all among the larger jurisdictions in this survey), sexual offenders comprise more than one tenth of each country's prison system.

Sex offender rehabilitation programmes are intended to remove a sex offender's motivation to reoffend, issues that are usually addressed through separate treatment programmes because of the complex range of factors that are believed to influence offending behaviour, including, among others, biological factors, early childhood development, sociocultural stimuli, and emotional difficulties. The complexity of these motivations, and the repulsion felt by many around the nature of the crimes committed, means that reintegration is more complex than for non-sexual offences, because interventions based around (say) better education or steady employment may not answer the deeper questions involved.

Fifteen¹¹⁷ member states told us they provided rehabilitation programmes in prison specifically designed for prisoners convicted of sexual offences. The four countries that stated that they do not have specific programmes in prison are Belgium, Kosovo, Moldova and Monaco.¹¹⁸

¹¹⁴ Nineteen member states responded to the section of the questionnaire relating to the provision of sex offender rehabilitation programmes in prison.

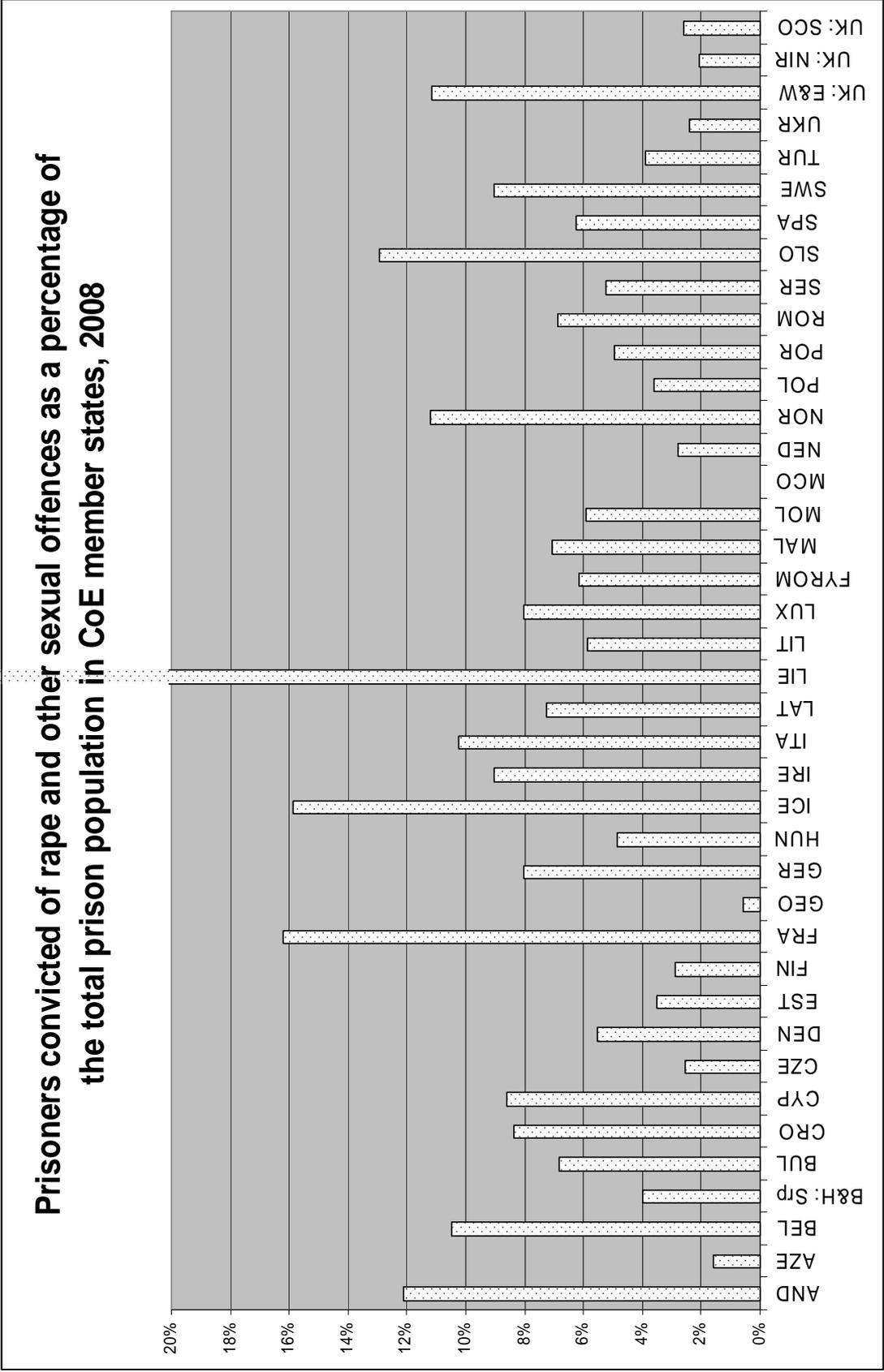
¹¹⁵ Data for this graph are from Aebi and Delgrande (2010), *SPACE I Penal Statistics*, p. 74. Some countries reported separate figures for rape and for other sexual offences; others appear as an aggregated figure. We have added both figures together, where they existed, to create aggregated figures for all countries.

¹¹⁶ The extreme example of this, Liechtenstein, only had a prison population of five in these statistics, and with one prisoner convicted of rape, and another convicted of other sexual offences, it has by far the highest proportion (40 per cent). We have therefore altered the scale of the graph to allow for clearer comparisons of different countries to be made.

¹¹⁷ Czech Republic, Denmark, Estonia, Finland, Berlin (Germany), Ireland, Latvia, Lithuania, Luxembourg, the Netherlands, Norway, Slovakia, Slovenia, Spain and Sweden

¹¹⁸ Belgium's sex-offender treatment programme is provided on an outpatient basis.

Figure 8: Sex offenders as a proportion of the total prison population



8.3 Specific examples of in-prison treatment programmes

A number of member states provided detailed information about sex offender rehabilitation programmes in prison. An overview of some of the responses is provided below to give an insight into some of the similarities, as well as the differences in approach across Europe.

8.3.1 Czech Republic¹¹⁹

The Czech Republic sent us information describing the treatment programme in operation in secure psychiatric units in the Czech Republic – the Global Resocialisation Educational Preventative Programme (GREPP), designed by the Prison Service. There are two main types of GREPP: basic (GREPP 1) and therapeutic (GREPP 2). GREPP 1 takes seven weeks and focuses on the causes of criminal activity, including sex offences.

Just fewer than three quarters¹²⁰ of the Czech prison population (on a given day) are serving sentences of one or more years' imprisonment. The majority of sex offenders will be in this category. The therapeutic GREPP 2 programme is currently being developed to last one year, specifically to target prisoners serving longer sentences. The aims of the programme are:

- to build knowledge and increase recognition of the consequences of offending behaviour (impact on the victim, impact on the offender's position in the community, the impact on the offender's life of having to make frequent relocations if they are 'discovered', conscience etc.);
- to identify what can be changed (can I be treated, will I be able to find out my problems, can I work on them?);
- to discover the primary trigger for offending behaviour (alcohol, drugs, money, mental disorder);
- to find answers to the question "What am I going to do next?", i.e. reintegration back into society.

The therapeutic programmes under the GREPP programme rely on cognitive behaviour analysis.

The broad aims expressed above were developed further in details of a similar programme sent to us by the Swedish Ministry of Justice on their own Sex Offender Treatment Programme.

8.3.2 Sweden¹²¹

Sweden's 'ROS Sex Offender Treatment Program' borrows from a programme originally developed in Canada (which has significant experience of research into and treatment of sex offenders), which has been adapted to Sweden's circumstances since 2002. The Ministry of Justice explained:

The ROS program is built on the principle that every sex offender shall be assisted to identify and work through his risk factors for reoffending. This treatment is done in both group and individual work with a psychologist.

¹¹⁹ Information in this section is taken from the answers to QCEA's questionnaire sent by the Czech Ministry of Justice.

¹²⁰ 74.2 per cent on 1 September 2008. Aebi and Delgrande (2010), *SPACE I Penal Statistics*, p. 79

¹²¹ Information in this section is taken from the answers to QCEA's questionnaire sent by the Swedish Ministry of Justice.

The group meet [for between] 51 and 56 sessions, [held] twice a week. The group session (with 6-8 participants) is three hours and the individual therapy is for one hour a week.

This program is based on evidence which means that every intervention addresses risk factors with methods that have been proven to affect the recidivism rate. The program consists of five treatment components.

- **“Cognitive distortions and management strategies”** is designed to develop awareness of the cognitive processes and distortions which underlie sexual offending behaviour and violence, challenging and subsequently replacing them with more adaptive ones. (The importance of addressing cognitive distortions in sex offenders is well established in the literature.)
- **“Intimacy, relations, and social functioning”** is designed to assist the clients to develop an awareness of the influence of intimacy deficits and deficits in social functioning, and to develop skills in initiating and terminating relationships. This component also aims to improve self-efficacy in relationships with adults, experiencing intimacy and the use of sex as a coping strategy.
- **“Empathy and victim awareness”** contains discussions to define empathy, to develop awareness of and sensitivity to the impact of sexual offences on victims and to develop skills in experiencing and demonstrating empathy, both generally and specifically toward the victim(s) of one’s offence(s).
- **“Emotion management”** is designed to improve skills and abilities to manage the emotions associated with sexual offending behaviour as well as impulse control. This component also addresses improving the ability to communicate effectively and being appropriately assertive.
- **“Deviant sexual arousal and fantasy”** is designed to identify the existence of deviant sexual arousal and/or fantasy as a criminogenic factor. This component also addresses and develops strategies to manage sexual deviant fantasies without sexual offending.

Many parts of the program are emotional, demanding and stressful for the participants. They have to confront their shame and guilt feelings and they have to change their lifestyle. Many of them do, however, report that this is the only way to really change and the dropouts from the program are so far very few.

The program is completed with the **‘Self-Management’** component, which focuses on the individual sex offender even more. During this component the offender has to do his own risk analysis, write his own autobiography and make his own offence analysis. From this, he is assisted to formulate his own self-management plan where he is to develop strategies in order for him to manage his risk for future sex offences.

The programme does not end at the prison gate and can be run for non-imprisoned sex offenders as well as being part of a release programme of reintegration.

8.4 Post-release rehabilitation programmes

The success of sex-offender treatment programmes is often dependent in large part on the support provided after release. Independent research carried out to evaluate the psychological impact of Ireland’s Sex Offender Programme - which ran between 1994 and 2008 - found that while

significant positive psychological changes relating to offending behaviour occurred during the programme in prison, these positive changes did not necessarily transfer into the community and translate into lower reconviction rates.¹²² Of the fourteen states that told us they provide rehabilitation programmes in prison, seven also attempt to continue the programmes after release from prison and encourage ex-offenders to do so.¹²³

Denmark, Estonia, Luxembourg and Slovenia commented on some of the problems facing ex-prisoners continuing sex offender rehabilitation programmes after release from prison. Estonia, Luxembourg and Slovenia said that some offenders had trouble accessing services and programmes after their release because they were not available in the locality where they lived. Estonia said that the cost of travelling to programmes, as well as ex-prisoners' work commitments, also sometimes made it hard for them to continue attending rehabilitation programmes after their release. Denmark stated that a 'lack of motivation among sex offenders make[s] it difficult to continue and complete treatment after release'. All of these responses make clear that while sex-offender treatment programmes can have positive effects, there is a need to pioneer and develop means by which offenders can continue to benefit from them, ideally in their own communities, after their release.

A final element that may be relevant is employment. Research carried out in Northern Ireland (UK) has found that employment opportunities for sex offenders may be lower than other groups of offenders, with 'many finding themselves in low status, poorly-paid jobs which may change on a frequent basis'. Hanson and Morton-Bourgon (2005) argue that employment instability is a key predictor of persistent sexual recidivism, and separate research found that sex offenders in stable employment were 37 per cent less likely to be reconvicted for a further sexual offence.¹²⁴

8.4.1 Circles of Support and Accountability

Circles of Support & Accountability (CoSAs) offer one innovative community-based approach that can help sex offenders living in the community cope with the difficulties they face in rebuilding their lives, whilst simultaneously protecting the community from further harm. It thereby incorporates both supervision and support. Its expansion from its roots in Canada offers insight into many of the broader issues facing individuals and communities in the social reintegration of ex-offenders more generally, and specifically in relation to people who have spent time in prison after committing very serious crimes.

¹²² McAlinden, A., *Employment Opportunities and Community Re-integration of Sex Offenders in Northern Ireland*, (Belfast: Northern Ireland Office, Nov 2009) [online], accessed 2 February 2011, available at http://www.nio.gov.uk/report_no-2.pdf, p. 10

¹²³ The six member states not providing follow-up programmes after release from prison are Czech Republic, Finland, Ireland, Lithuania, Slovenia and Spain.

¹²⁴ Cited in McAlinden, A., *Employment Opportunities ...*, p. 7

Development

The concept of CoSA started life as the innovative but *ad hoc* response of a Mennonite minister and members of his congregation to a specific set of circumstances: the release into their community of a high-risk, repeat child sex offender in the summer of 1994. Heightened local media attention was accompanied by picketing and angry public protests. The police promised expensive round-the-clock surveillance. In response, the Reverend Harry Nigh gathered a small group of churchgoers together to volunteer some of their time to help this offender - Charlie Taylor - to establish himself back into the community. Following a similar intervention with another offender a few months later in neighbouring Toronto, the Mennonite Central Committee of Ontario (MCCO) agreed to sponsor a pilot project to test the feasibility of Reverend Nigh's idea in conjunction with the Correctional Service of Canada (CSC).¹²⁵ During the course of the next decade over 70 CoSAs were established in Canada. The Circles movement grew from these roots.

Circles of Support & Accountability: Mission Statement

To substantially reduce the risk of future sexual victimization of community members by assisting and supporting released men in their task of integrating with the community and leading responsible, productive, and accountable lives.

Correctional Service of Canada (2002)

In the UK, the Religious Society of Friends (Quakers) brought the idea to the attention of the UK Home Office. Intrigued by the impact of CoSA in North America, the Home Office commissioned three pilot projects, which became operational in April 2002. The partner organisations - Quaker Peace & Social Witness, the Lucy Faithfull Foundation and Greater Manchester Community Chaplaincy - achieved a degree of success and the Home Office continued funding at the end of the initial three-year pilot stage.¹²⁶

In April 2008, HTV (Hampshire & Thames Valley) Circles was launched as an independent charity. Alongside the Lucy Faithful Foundation, HTV Circles has been supporting Circles UK with the national development of CoSA across the United Kingdom.¹²⁷

Structure and values

A CoSA consists of four to six volunteers who meet weekly with the ex-offender, known as the 'Core Member'. Circles help the Core Member to 'reintegrate responsibly into the community' by acting as a 'support and safety mechanism for both the Core Member and the community'.¹²⁸

¹²⁵ Wilson, R., Picheca, J. & Prinzo, M., *Circles of Support & Accountability: An Evaluation of the Pilot Project in South-Central Ontario*, Correctional Service of Canada May 2005 [online], accessed 30 March 2010, available at http://www.csc-scc.gc.ca/text/rsrch/reports/r168/r168_e.pdf

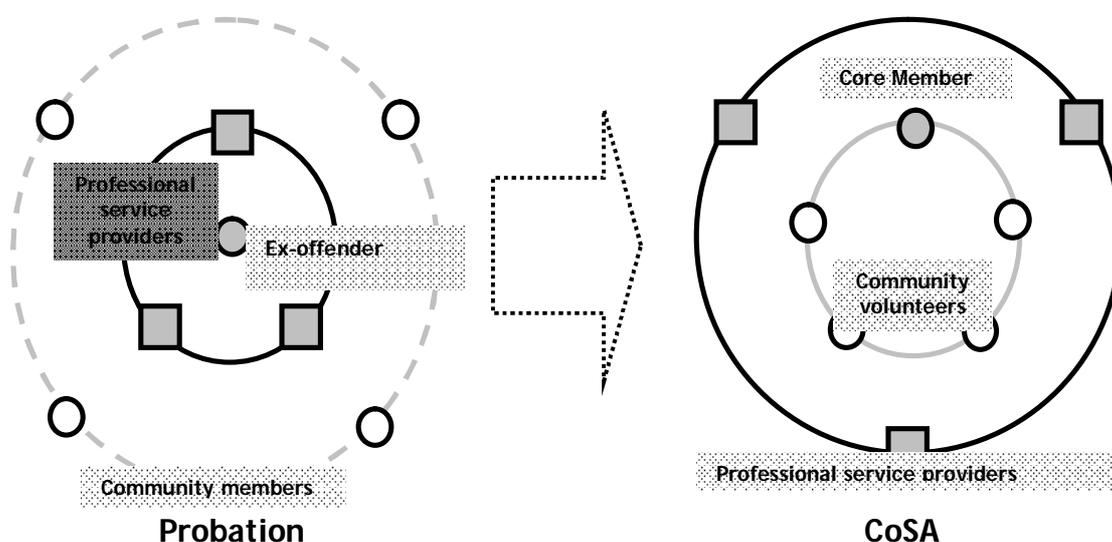
¹²⁶ Wilson, C., 'Focus on practice: A problem shared', in *Safer Society: The Journal of Crime Reduction and Community Safety*, 30, Autumn 2006 [online] accessed 3 October 2010, available at <http://www.nacro.org.uk/data/files/nacro-2008021318-256.pdf>, p. 30

¹²⁷ Quaker Peace and Social Witness, *HTV Circles: Six Years of Safer Communities*, (London: Quaker Communications, June 2008) [online], accessed on 2 February 2011, available at <http://www.quaker.org.uk/files/Circles-of-Support-six-year-report.pdf>

¹²⁸ Circles UK, *Purpose and Values* [online], accessed 31 March 2010, available at http://www.circles-uk.org.uk/index.php?option=com_content&view=article&id=5&Itemid=4

It is important to emphasise that while CoSA began life as a community response to a community problem, it has developed into an initiative that complements the work of statutory agencies, but without volunteers supplanting professionals. The development of the programme has shown that there are gaps in what professionals in criminal justice are able to do; gaps that volunteers are better able to fill. Circles work in partnership with the local police and probation services, as well as with other professionals. However, as demonstrated in Figure 9 below, instead of professional services shielding and isolating the ex-offender from the community, the community is brought inside to form a supporting Circle with the Core Member.

Figure 9: Probation and Circles of Support and Accountability compared



CoSA have at their heart six core values:¹²⁹

- Safety: working towards the objective of 'no more victims'¹³⁰
- Responsibility: holding individuals and organisations accountable for their actions
- Inclusiveness: managing risk through inclusion not exclusion
- Community involvement: recognising the importance of involving members of the community
- Growth and learning: recognising that with support that challenges damaging behaviour, individuals have the capacity to grow, learn and change their behaviour
- Individuality and respect: treating people as people, with humanity and respect.

CoSA attempts to create a physical link between the prison cell and outside world. Offenders for whom CoSA may prove useful are typically identified approximately six months prior to release, informed of the structure and

¹²⁹ Circles UK, *Purpose and Values*

¹³⁰ This is intended to mean both 'no more victims of sex crimes' and also to allude to the idea that the Core Member must, with support, take responsibility for behaviour that is unacceptable, rather than hiding or finding justifications.

purpose of Circles and invited to participate. This allows future Core Members and volunteers to meet and begin to develop trusting relationships **before** the Core Member's release into the community.¹³¹

Recidivism

Recidivism is always difficult to measure, and statistics should be handled with care. Nevertheless, the available research undertaken into the impact of CoSA in both Canada and the UK reveal the positive impact on an ex-offender's sense of well-being, likelihood of reoffending, the seriousness of the offence (in the event of a new crime being committed) as well as the community's sense of safety and security.

A study evaluating the CoSA pilot project in South-Central Ontario was designed to assess the impact on the recidivism rates of high-risk sexual offenders.¹³³ The researchers defined recidivism specifically as 'being charged for a new sexual offense [sic] or having breached a condition imposed by the Court'. The study matched 60 Core Members with an equally sized comparison group with similar offending history and expectation of committing further offences.¹³⁴ As Table 4 indicates, the CoSA members reoffended on all measures at a considerably lower rate:

Recidivism	CoSA Core Members (n=60)	Comparison group (n=60)
Sexual ¹³²	5.00 % (3)	16.67 % (10)
Violent (incl. sexual)	15.00 % (9)	35.00 % (21)
Any (incl. violent & sexual)	28.33 % (17)	43.33 % (26)

Table 4: Evaluation figures for the Circles pilot project

Specifically for new sexual offences, the comparison group had more than three times as many instances of recidivism (10 versus 3), described by the report as a statistically significant difference. This equates to a 70 per cent reduction in sexual recidivism. Furthermore, the researchers noted that a qualitative examination revealed the three instances of new sexual offences in the CoSA group were considered less severe than their most recent previous conviction (i.e. the offence for which they served their sentence prior to being released with the support of CoSA). No reduction in the level of harm caused by new offences was observed amongst the comparison group, with no reduction in the violence or invasiveness of the new offence committed. The overall reduction for all types of reoffending was 35 per

¹³¹ Wilson, R., McWhinnie, A. & Wilson, C., 'Circles of Support and Accountability: An international partnership in reducing sexual offender recidivism', in *Prison Service Journal* 178 (July 2008) [online], accessed 2 February 2011, available at http://www.hmprisonservice.gov.uk/assets/documents/10003BCCircles_of_support&account.pdf, p. 28

¹³² The 'expected sexual' recidivism based on the risk metric adopted by the researchers was 28.33 per cent (17) for the CoSA group compared to 26.45 per cent (16) for the comparison group.

¹³³ Wilson R. et al., *Circles of Support & Accountability*

¹³⁴ In fact, when comparing the offender profiles and risk scores, the researchers noted the CoSA group represented a significantly higher risk of reoffending compared to the comparison group, in spite of best efforts at the homogenisation of control groups. This discrepancy is apparently the result of a selection bias, as the highest risk offenders were deliberately targeted for inclusion in CoSA upon release. Thus, any observed reduction in recidivism rates for Core Members is even more striking.

cent (a level Wilson et al. suggest should be considered 'socially significant').¹³⁵

The evidence from the implementation of CoSA in England (UK) also suggests Circles are reducing the likelihood of sexual reoffending. Between 2002 and 2010, Hampshire and Thames Valley (HTV) Circles created 70 Circles. In this time, only one offender involved in the project has been re-convicted of a new sexual offence.¹³⁶ However, eight of the Core Members were detected to have engaged in 'recidivist behaviour' (i.e. behaviour that suggested they were about to commit an offence), and three were subsequently recalled to prison. Significantly, seven of the eight incidents were detected by the activities of the Circle.¹³⁷ Rather than considering this result a 'failure', the experience emphasises the important function 'Accountability' plays within the CoSA concept.

Personal experience: the human factor

It is not all about reducing reoffending. Much of the policy debate of the last ten years has been dominated by the 'What Works' agenda, and with good reason. However, it is important to recognise the human dimension of what reducing reoffending means. Feedback from one core participant in the UK Thames Valley trial of CoSA frames this point well, and is worth quoting at length:

I have ups and downs in my life, but more downs than ups... some self-inflicted and some not. At various times in my life I've been confident and successful. I have not always been a sex offender. I've had loving tender relationships with adult women. I have the capacity to love and be loved appropriately.

To me, Circles is just another tool in my box...it will not be there forever so I've used the times we've had together to help me understand myself and early on I realised that unless I was completely honest with my Circles I couldn't expect them to help me or for there to be any trust or respect.

Circles is not a soft option and the 'Accountability' tacked on the end is as important as the 'Support' I receive. It is a two-way street that helps me to continually challenge myself and to be challenged, to assist me and aid them in how best to manage myself, and to rehabilitate myself for the day when I fly solo with no need for a Circle of Support and Accountability.

Without going into specifics, my adult life prior to when I began offending was as ordinary as many other peoples' lives, but it was coloured by sexual abuse that I underwent when I was a child. As a young man, I had the feeling of being sexually inadequate when in the company of adult women and still carrying the stigma of being a victim for much of my later childhood and for which I blamed myself.

This is a fact. It is not to detract from my full ownership of my later offences. It's just that I felt safer in the company of children rather than

¹³⁵ Wilson, R. et al, *Circles of Support & Accountability*, pp. 22-26

¹³⁶ Circles UK, *HTV Circles*, accessed 2 February 2011, available at http://www.circles-uk.org.uk/index.php?option=com_content&view=article&id=12&Itemid=20

¹³⁷ Quaker Peace and Social Witness, *Circles of Support and Accountability in the Thames Valley: The First Three Years April 2002 to March 2005*, (London: Quaker Communications, August 2005) [online], accessed on 2 February 2011, available at <http://www.circles-uk.org.uk/images/documents/htv/htv%20circles%20-%20the%20first%203%20years%202002-2005.pdf>, p. 21

mistrusting adults who I saw as likely to let me down and who I couldn't trust.

I was offered a Circle and I have found it to be very rewarding and as a person who has had 'trust' issues with adults I can honestly say that I trust each and every one of them and count them as friends.

With the help of my Circles I have reached a point where I am genuinely remorseful for having created victims of my own when I'd previously been a victim myself and realising that the one can never excuse the other.

I'm certain that having the opportunity to have a Circle has helped me to become the person I am now and has given me the space to reflect on what has gone before, but now I have regained a sense of worth I can continue on my present course in the knowledge I do not have to do it alone.¹³⁸

What this shows is that in rehabilitating sex offenders, engaging them as participants in their own desistance - encouraging the development of what 'Rick' characterises as a more comprehensive 'toolbox' - is arguably far more important than finding external means to control their behaviour. A study undertaken by the Mennonite Central Committee of Ontario ten years after the start of the original circle in Hamilton, to discover the impact on participants, found that two thirds of responding Core Members (who had not been convicted of any new offence) believed it likely that they would have returned to crime without their Circle. 90 per cent reported that they would have had difficulty adjusting to life in the community; again had they not had access to a Circle.¹³⁹ The support and 'tools', or sense of worth, given by this programme, have allowed offenders to break away from the feelings that, *in their own estimation*, contributed to their offending. The experience described in the Canadian study is comparable to the observed impact of Circles trials in the UK.

A roadmap for Europe?

Although the spread of CoSA in Europe has previously been limited to the United Kingdom, the concept has been increasingly gaining currency amongst both academics and practitioners across Europe. Avans University of Applied Sciences in the Netherlands has recently obtained EU funding¹⁴⁰ to develop CoSA in both the Netherlands and Belgium. In conjunction with the Dutch Probation Service, the first pilot project was initiated in December 2009 for two sex offenders in the Den Bosch region.¹⁴¹ By the end of 2010, there will be three Circles, expanding to a total of six in the Netherlands in 2011. Belgium will introduce two Circles in 2011, drawing on the experiences of Canada, the UK, and most recently the Netherlands. The aim is to gather knowledge and build expertise in the implementation of

¹³⁸ Feedback by 'Rick', Quaker Peace and Social Witness, *HTV Circles*, pp. 17-19

¹³⁹ Robin J Wilson, *Circles of Support & Accountability*, p. i

¹⁴⁰ The funding programme *Daphne III*, adopted on 20 June 2007 for the period through until 2013, is part of the European Commission's General Programme 'Fundamental Rights and Justice'. The aim of the programme is 'to contribute towards the protection of children, young people and women against all forms of violence and to attain a high level of health protection, well-being and social cohesion. These general objectives will contribute to the development of Community policies. Further information is available at http://ec.europa.eu/justice_home/funding/daphne3/funding_daphne3_en.htm#part_2

¹⁴¹ CEP (The European Organisation for Probation), *Circles Project: Innovation in sex offender programmes in Europe*, 7 December 2009 [online], accessed 20 May 2010, available at http://www.cep-probation.org/default.asp?page_id=65&news_item=231

CoSA that 'will be combined and brought together in [a] European handbook designed to spread Circles all across Europe'.¹⁴² CoSA is more than simply a re-entry strategy, but an attempt at community building. This aspect is crucial to its success.¹⁴³

A Circle provides the local community the input which society clamours for, but without the dangers of lynch mobs. Public protection would be more difficult, more challenging and more dangerous without the Circles service.

Detective Chief Inspector Neale, Thames Valley Police¹⁴⁴

8.5 Summary and recommendations

Summary

Recidivism by sex offenders is among the most controversial issues in criminal justice in Europe. Especially in the case of child sex offenders, the public response to such crimes is one of abhorrence, and the factors motivating them are often complex, personal, and different to many of those motivating other forms of crime. Criminal justice systems in the Council of Europe therefore usually treat sex offenders with intensive programmes such as those from the Czech Republic and Sweden outlined above. These programmes mostly operate in prisons or secure psychiatric units - a response that could be characterised as part-punitive, part-medicalised.

A holistic approach to rehabilitation is important. No single programme acts in isolation. Most sex offenders, like most other prisoners, will be released in the end; yet they face greater challenges in the sense that the nature of their crimes may make it harder to seek the support of others in coming to terms with what they have done. Assistance therefore needs to be imaginative and able to respond to this problem, and must continue after release, when the offender may be most in need of support, and most at risk of recidivism. The Circles of Support and Accountability projects offer a model for such interventions.

Recommendations

5. The Council of Europe should extend its investigation of good criminal justice practice to identify and share good practice in the reintegration of sex offenders, to complement work already in progress on their management and control.¹⁴⁵ In particular:
 - a. information should be sought on the implementation of CoSA in Britain, Belgium, the Netherlands and elsewhere
 - b. information should be sought on other measures that successfully integrate sex offenders into the community

¹⁴² Reclassering Nederland (the Netherlands Probation Service), private correspondence received by QCEA

¹⁴³ Robin J Wilson et al., *Circles of Support and Accountability*, p. 31

¹⁴⁴ *ibid.*, p. 33

¹⁴⁵ Council of Europe, *Reinforcing measures against sex offenders: Report to the Committee on Legal Affairs and Human Rights*, Doc. 12243, 4 May 2010 [online], accessed on 20 January 2011, available at <http://assembly.coe.int/main.asp?Link=/documents/workingdocs/doc10/edoc12243.htm>

- c. resolutions should be drafted on successes in this area with a view to sharing good practice among member states.
- 6. Member states should balance the management, supervision, monitoring and control of sex offenders with specific measures that seek to support their social reintegration. In particular, they should:
 - a. consider carefully whether voluntary schemes such as CoSA may complement the work of their probation services
 - b. investigate which existing civil society groups may be willing to publicise the scheme among their members
 - c. trial such schemes and monitor and evaluate their success
 - d. implement the programmes more widely if they reduce recidivism.

9 Education and prisoner reintegration

9.1 Why is prison education needed?

It is well documented that many offenders in prison possess educational levels far below those pertaining outside prison. Half of those in custody in Britain have no qualifications, and almost 40 per cent have a reading age lower than that expected of an average eleven-year-old.¹⁴⁶ In Norway, prisoners are more than twice as likely as the general population to have only a primary school qualification as their highest educational achievement.¹⁴⁷ Yet the demand for education in prisons is high. Many prisoners have been educationally disadvantaged and did not succeed in a traditional school context, but many also realise that 'learning [is] the best way to improve their lives.'¹⁴⁸ Education can give prisoners more options in life and give them the choice of other paths than a return to criminal behaviour. It can do so in the form of vocational courses that give prisoners new skills and make them more employable, or it can do so in less instrumental ways by giving them a new perspective on their lives and the choices they have made.¹⁴⁹

In this chapter more than in others of this report, there is a strong emphasis on what happens within prisons, rather than after release. This is because if education is to play a part in rehabilitation and prisoners' social reintegration, efforts need to begin as long before release as possible. Many of the difficulties in using education effectively to promote reintegration can be addressed by changes to prison policy. An example is the widespread problem of prisoners being unable to complete courses, either because they are released before the end of a course (a particular problem for those on short sentences) or because they are transferred to a new prison, where the same course might not be offered, or might already be fully subscribed. Getting prison education right is also important because the period of imprisonment may offer the first chance many prisoners have had to access an education system that might serve their individual needs. As one witness to a UK Parliamentary Committee report on education and skills put it:

...prisoners come from some of the most marginalised sections of our community in which frankly very few of them have ... the skills of an eleven-year-old in terms of reading and writing. That clearly does affect their chances of being able to gain employment once they are released back into those communities. So if you can actually use prison as a positive experience to

¹⁴⁶ House of Commons Committee of Public Accounts, *Meeting Needs? The Offenders' Learning and Skills Service*, HC584, published 30 October 2008 [online], accessed on 19 November 2010, available at <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmpubacc/584/584.pdf>

¹⁴⁷ Hetland, H., Eikeland, O-J. Manger, T., Diseth, Å. & Asbjørnsen, A., 'Educational Background in a Prison Population', *Journal of Correctional Education*, June 2007, accessed 13 November 2010, available at http://findarticles.com/p/articles/mi_qa4111/is_200706/ai_n19432161/

¹⁴⁸ Pat Jones, 'Prisoner education must focus on rehabilitation', *The Guardian*, 5 October 2010, accessed 15 November 2010, available at <http://www.guardian.co.uk/commentisfree/2010/oct/05/prison-education-focus-rehabilitation>

¹⁴⁹ This kind of transformation of attitude is, by its nature, hard to measure, but a celebrated UK example can be found in Erwin James, a double murderer who was educated in prison and now campaigns for prison reform. A brief biography can be seen at <http://www.erwinjames.co.uk/biog.html> (accessed 12 November 2010).

counteract some of the very negative schooling experiences they have, so much the better.¹⁵⁰

If education is to play a part in reintegrating prisoners into society after their release, it has to answer their individual needs, and will likely be more valuable if begun as soon as they go to prison. Unsurprisingly, those best placed to decide what these needs are will be prisoners themselves, and only by being responsive to their interests and wishes, and aiming to help them to meet those objectives, will prison education achieve the most that it can. There should also be co-ordination between prison, probation, and non-governmental organisations, so that gains made in prison are not lost after release.

9.2 Existing international standards

For the above reasons it is increasingly argued that education in prisons aim at more than simply preparation for employment or the 'moral development' of the prisoner. In particular it is recognised, for example in the UN's Standard Minimum Rules for the Treatment of Prisoners, that education should be integrated, as far as practicable, with the educational system outside the prison walls, so that prisoners can continue their education after their sentence is complete.¹⁵¹ A 2009 report by the UN Special Rapporteur on the Right to Education describes the idea thus:

[Education in detention] should be aimed at the full development of the whole person requiring, among other things, prisoner access to formal and informal education, literacy programmes, basic education, vocational training, creative, religious and cultural activities, physical education and sport, social education, higher education and library facilities.¹⁵²

The Council of Europe's 2006 European Prison Rules call for prisons to provide educational programmes which are 'as comprehensive as possible and which meet [prisoners'] individual needs while taking into account their aspirations.'¹⁵³ They also state that 'Education shall have no less a status than work within the prison regime and prisoners shall not be disadvantaged financially or otherwise by taking part in education.'¹⁵⁴

It is not within the scope of this report to comment on the objectives of prison education more generally. However, international prison guidelines are beginning to focus specifically on the role of education in social reintegration. A report given to the CoE's Parliamentary Assembly in 2006 indicates that 'prison does not have the desired effects in terms of successful reintegration', and states that prisoners should have education, vocational training, work, access to information and contact with the outside world, all of which are stated as potential ways to improve

¹⁵⁰ House of Commons Education & Skills Committee, *Prison Education*, HC114-I [online], published 31 March 2005, accessed on 22 November 2010, available at

<http://www.publications.parliament.uk/pa/cm200405/cmselect/cmenduski/114/114i.pdf>, p. 17

¹⁵¹ UNHCHR, *Standard Minimum Rules for the Treatment of Prisoners*, § 77 (2)

¹⁵² UNHRC, *The Right to Education of Persons in Detention: Report of the Special Rapporteur on the right to education*, adopted 2 April 2009 [online], accessed 28 October 2010, available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/11session/A.HRC.11.8_en.pdf, p. 7

¹⁵³ Council of Europe (2006), *European Prison Rules*, § 28.1

¹⁵⁴ *ibid.*, § 28.4

reintegration.¹⁵⁵ Recent surveys of prisoners' own attitudes towards learning indicate that prisoners recognise this as well: in one study in Britain 59 per cent of prisoners surveyed believed they had gained skills that would help them gain legitimate employment on release.¹⁵⁶

The report from which this information is taken highlights the positive impact that recent advances in communication technologies and the internet could, if exploited, have on the successful reintegration of former prisoners into society. Greater internet access was the factor selected by the largest number of prisoners (62 per cent) as something that would make it easier for them to learn.¹⁵⁷

Both the original European Prison Rules and the UN Standard Minimum Rules for the Treatment of Prisoners were written before the advent of the internet, but the UN has begun to focus more on this issue. A recent Human Rights Council resolution called for the provision of 'adequate pedagogical materials for persons in detention, including appropriate opportunities to receive education and training in the use of new information technologies'.¹⁵⁸

The same report also makes clear the importance of individuation in education, urging member states to 'develop individual education plans with the full participation of the detainee, taking into account the diverse backgrounds and needs of persons in detention'.¹⁵⁹

Another area that has come under the spotlight in the CoE has been the inadequacy of prison education for women. QCEA's 2007 report *Women in Prison* identified issues in women's prison education, such as shortfalls in the number and type of courses available to female prisoners compared to males, and a lack of crèche facilities in women's prisons that would effectively prevent women prisoners who had children living with them from participating in potentially rehabilitative prison education courses.¹⁶⁰ QCEA's report made specific recommendations on education, which were adopted by the Parliamentary Assembly of the Council of Europe in 2009.¹⁶¹

¹⁵⁵ See, for example, Council of Europe, *Social Reintegration of Prisoners: Report to the Social, Health and Family Affairs Committee of the Parliamentary Assembly of the Council of Europe*, Doc. 10838, adopted 7 February 2006, accessed on 2 February 2011, available at <http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc06/EDOC10838.htm>, §§ II and III

¹⁵⁶ Prisoners Education Trust, Inside Time, et. al., *Brain Cells: Listening to prisoner learners*, 2009: London, accessed 15 February 2010, available at http://www.prisonerseducation.org.uk/fileadmin/user_upload/doc/offender_learning_matters/BRAIN_CELLS_REP_ORT_11th_MAY_09.pdf, p. 3

¹⁵⁷ *ibid.*, p. 17

¹⁵⁸ UNHCHR, *Resolution 11/6 on the Right to Education*, 17 June 2009 [online], accessed 16 February 2011, available at http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_11_6.pdf, p. 3

¹⁵⁹ *ibid.*, p. 2

¹⁶⁰ Wetton & Sprackett (2007), *Women in Prison*, pp. 75-80

¹⁶¹ Council of Europe, *Women in Prison*, Resolution 1663 (2009) of the Parliamentary Assembly, 23 April 2009, accessed 20 January 2011, available at <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta09/ERES1663.htm>, § 11

9.3 Education and reintegration in Council of Europe member states

9.3.1 Educational achievement on entering prison

Table 5 shows the information CoE member states gave us about the educational levels of prisoners on their initial conviction.¹⁶²

Table 5: Education levels of new prisoners

Czech Republic	The proportions of prisoners at various levels are: less than 0.1 per cent illiterate; 7.3 per cent not finished primary education; 43.2 per cent with primary and lower secondary education; 40.2 per cent with secondary education but no qualifications. ¹⁶³
Denmark	A study from 2007 revealed that 16.4 per cent of the prison inmates had no form of formal education.
Estonia	19 per cent have primary education; 37 per cent have basic (nine-class) education; 13 per cent have vocational education.
Finland	Around 5 per cent not finished basic education; around 50 per cent have not begun any form of vocational training.
Germany (Berlin)	50-60 per cent have no formal vocational qualifications. Many have completed compulsory education but without gaining any certificates.
Ireland	29 per cent ¹⁶⁴
Italy	Illiterate (1.34 per cent); no qualification at all, including primary school (3.49 per cent).
Kosovo	Dubrava: 4-6 per cent illiterate convicts. ¹⁶⁵
Lithuania	21.3 per cent have primary or no education.
Monaco	39.80 per cent ¹⁶⁶
Norway	A study from 2004 indicated that almost half of the prison population has no education beyond primary school.
Slovakia	Illiterate (2 per cent); Incomplete basic education (15 per cent); Basic education (35 per cent); TOTAL without vocational qualification (52 per cent).
Slovenia	14 per cent have not completed primary education. Of these 0.9 per cent are illiterate (both figures from 2009).

The data provided by different countries are not easily comparable, but appear to suggest that between a fifth and two fifths of the prison populations of these countries are less qualified than an average secondary school leaver, with a significant if much smaller group lacking any qualifications whatsoever. This reinforces the point that the provision of education is paramount if the purpose of prison is indeed to prepare prisoners for their reintegration into society.

¹⁶² The ministries in Belgium, Spain and Sweden did not answer this question. Those in Iceland, Latvia, Luxembourg, Moldova and the Netherlands said they did not have data available to answer this question. All data in this table are *verbatim* transcriptions from the information sent us by member states.

¹⁶³ These figures have been condensed from a more detailed table sent by the Czech ministry, which specified figures for male and female prisoners over a ten-year period. Percentages were calculated by QCEA using these figures and those provided in the same table for the total prison population.

¹⁶⁴ No further clarification given.

¹⁶⁵ Dubrava is Kosovo's largest prison.

¹⁶⁶ No further clarification given.

9.3.2 Take-up of prison education in CoE member states

The information received from CoE member states by QCEA suggests that not all of these member states are providing education to the majority of their prisoners. Table 6 shows the numbers of prisoners who achieve formal educational qualifications while imprisoned in CoE member states.¹⁶⁷

Table 6: Prisoners taking part in formal prison education

Denmark	Just over 20 per cent ¹⁶⁸
Estonia	40 per cent prisoners have general or vocational education.
Finland	In 2009 on average 305 prisoners were studying daily - 9 per cent of all prisoners. 2385 studied in total in 2009.
Germany (Berlin)	60.26 per cent
Ireland	39 per cent
Italy	26.89 per cent
Kosovo	Dubrava: 30-35 per cent; Lipjan: Minors: education 80 per cent; Vocational training 50 per cent. ¹⁶⁹
Latvia	General education programmes (13.4 per cent); professional education programmes (14.6 per cent).
Lithuania	17.4 per cent secondary education; 16.1 per cent professional education (+8 prisoners on university courses).
Luxembourg	CPL (closed prison) 20 per cent; CPG (open prison) 40 per cent.
Monaco	87 per cent
Norway	Every prisoner must be active in some way; this includes work, education or other activities, but prisoners cannot be kept in their cells except for specific security reasons.
Slovakia	4.7 per cent (c. 360 inmates)
Slovenia	18 per cent (2009)
Spain	17,441 matriculated (2009-10) ¹⁷⁰

In most CoE member states, well below half of prisoners appear to be enrolled on educational courses. Responses to our questionnaire, shown in Figure 10 overleaf, suggest a number of causes.¹⁷¹ Of the responding member states, 88 per cent stated that a lack of prisoner interest in courses was a factor. A recent study in England & Wales, however, provides evidence to the contrary. It indicates that prisoner interest in education is strong; that prison regimes are often mistaken in supposing prisoners to be uninterested; and that prisoners who do not take part in education may have been deterred by systemic problems, rather than insufficient motivation.¹⁷²

¹⁶⁷ The ministries in Belgium, Czech Republic, Iceland, Moldova and Sweden did not answer this question. The Ministry in the Netherlands stated that it did not have data available to answer this question.

¹⁶⁸ This information was taken from the same study referred to in Table 5.

¹⁶⁹ Dubrava and Lipjan are prisons in Kosovo.

¹⁷⁰ This figure represents 22.7 per cent of Spain's 2009 prison population of 76,519 (taken from information provided to QCEA by the Spanish Justice Ministry).

¹⁷¹ Seventeen countries answered this question. Percentages given here are the proportion of those seventeen that answered 'yes' to reasons QCEA suggested. Slovakia also told us that the commercialisation of the prison education system and financial problems were also reasons for prisoners' non-enrolment in educational courses. Kosovo gave separate (but identical) answers for different prisons, and these have been amalgamated by QCEA into a single answer representing country-wide policy.

¹⁷² Prisoners Education Trust *et. al.*, *Brain Cells*, see in particular page 2, and pages 15-18.

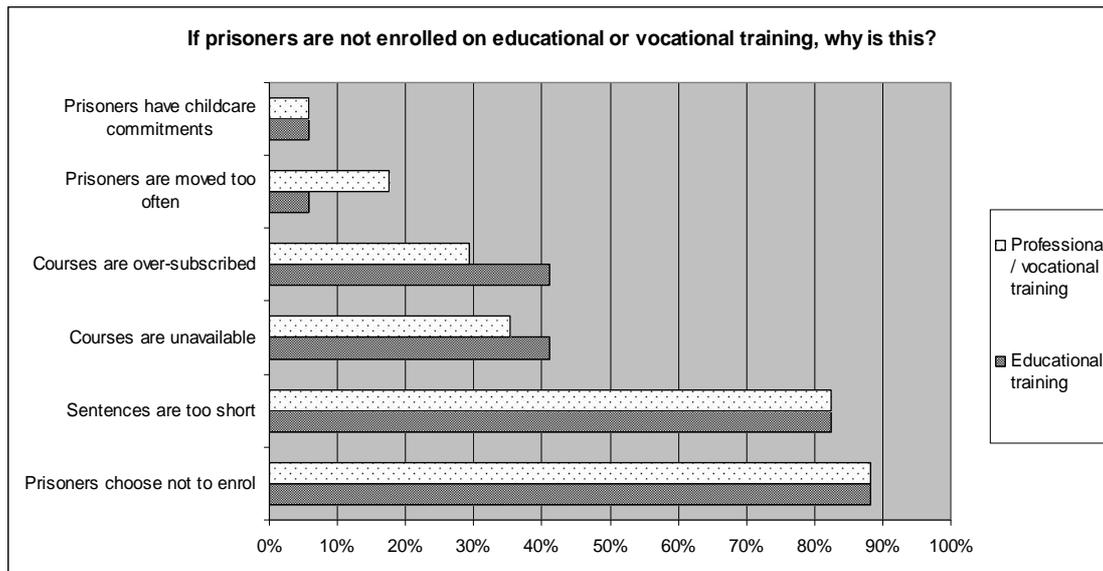


Figure 10: Reasons prisoners are not enrolled in educational courses

82 per cent of countries who responded said that some prisoners could not enrol for educational courses because their sentences were too short. This further undermines the idea that such sentences can effectively fulfil a rehabilitative function.¹⁷³ The large number of countries indicating that prisoners cannot enrol because courses are unavailable or oversubscribed is a worrying reminder that short sentences inhibit prison education. Also, though British NGOs have reported that prisoner education is often disrupted by frequent prisoner transfers, fewer than 20 per cent of responding countries indicated that this factor prevented prisoners from enrolling on educational courses.

9.3.3 Formal educational qualifications and prison education

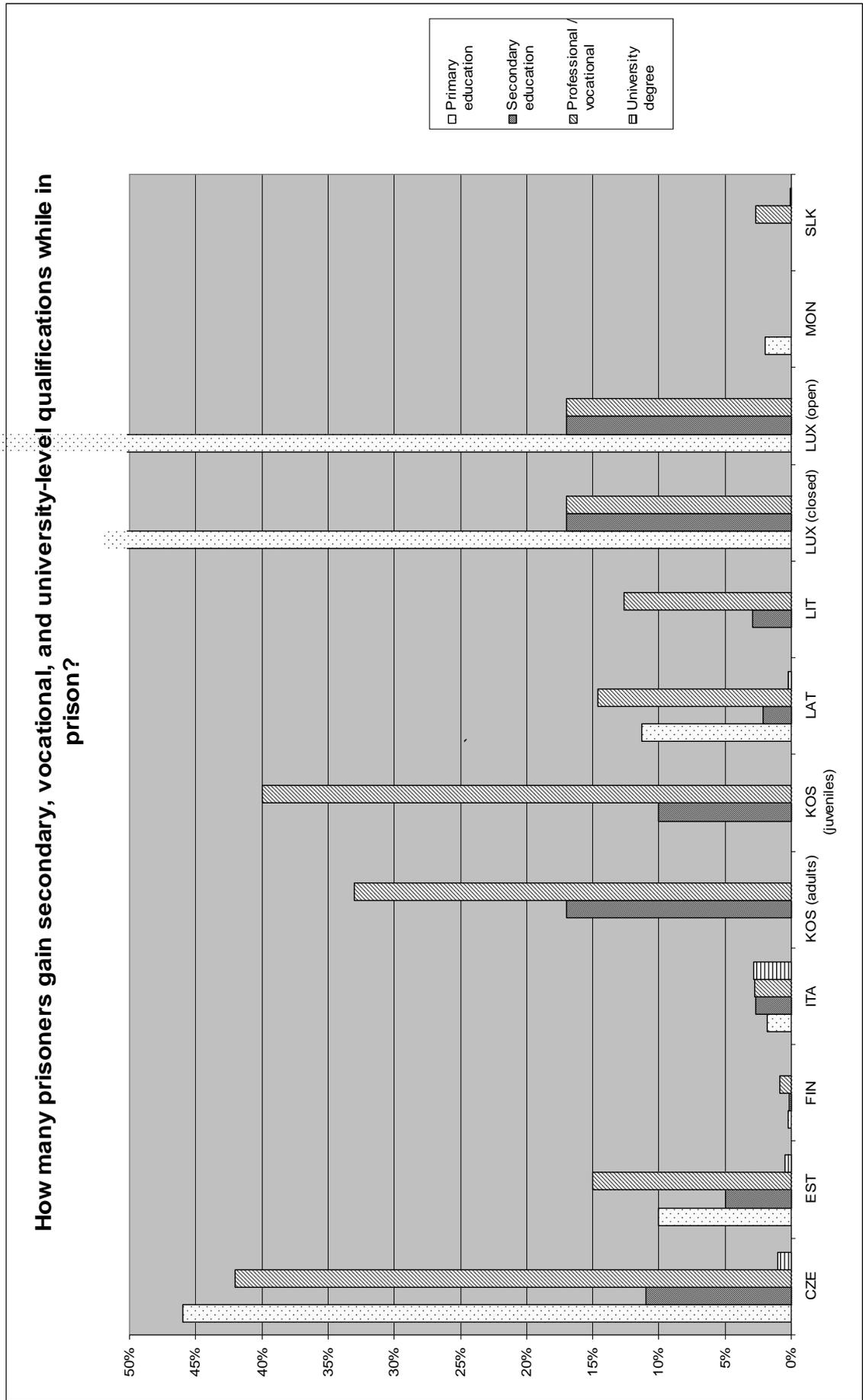
QCEA also asked member states to give information on the number of prisoners gaining formal qualifications while in prison. Figure 11 overleaf gives some idea of the levels of formal educational attainments achieved through prison education.¹⁷⁴ These figures are surprisingly low. Of the countries that responded to this question, only the Czech Republic, Kosovo (for adult prisoners) and Luxembourg see more than ten per cent of their prisoners gaining secondary school qualifications.¹⁷⁵ The picture is slightly better with

¹⁷³ Concern that short sentences do not work towards rehabilitation have been widely reported, for instance in Hughes, M., 'Former head of prisons: short sentences don't stop reoffending', *The Independent*, 9 June 2010 [online], accessed 3 November 2010, available at <http://www.independent.co.uk/news/uk/crime/former-head-of-prisons-short-sentences-dont-stop-reoffending-1995020.html>

¹⁷⁴ The countries answering these questions are listed on the X axis of the chart. Belgium, Denmark, Iceland, Slovenia, Spain and Sweden did not answer this question. Germany (Berlin), Ireland, Moldova, the Netherlands, and Norway answered that they did not have data available to answer the question. Kosovo provided separate percentage figures for their juvenile and adult prisons, and Luxembourg provided separate percentage figures for their closed and open prisons. Since there was no indication of the relative populations of these prisons in either case, and therefore no way to turn the figures into an aggregate, the data have been presented separately.

¹⁷⁵ The Czech government told us that 46 per cent of prisoners gain primary qualifications in prison while only 7.3 per cent lack them on entering prison. The discrepancy between these numbers was not explained. The numbers gaining primary qualifications in Luxembourg prisons is very high, mainly because around 70 per cent of prisoners there are foreign nationals and have to complete basic language courses (counting as primary qualifications).

Figure 11: Rates of educational achievement in CoE member states' prisons

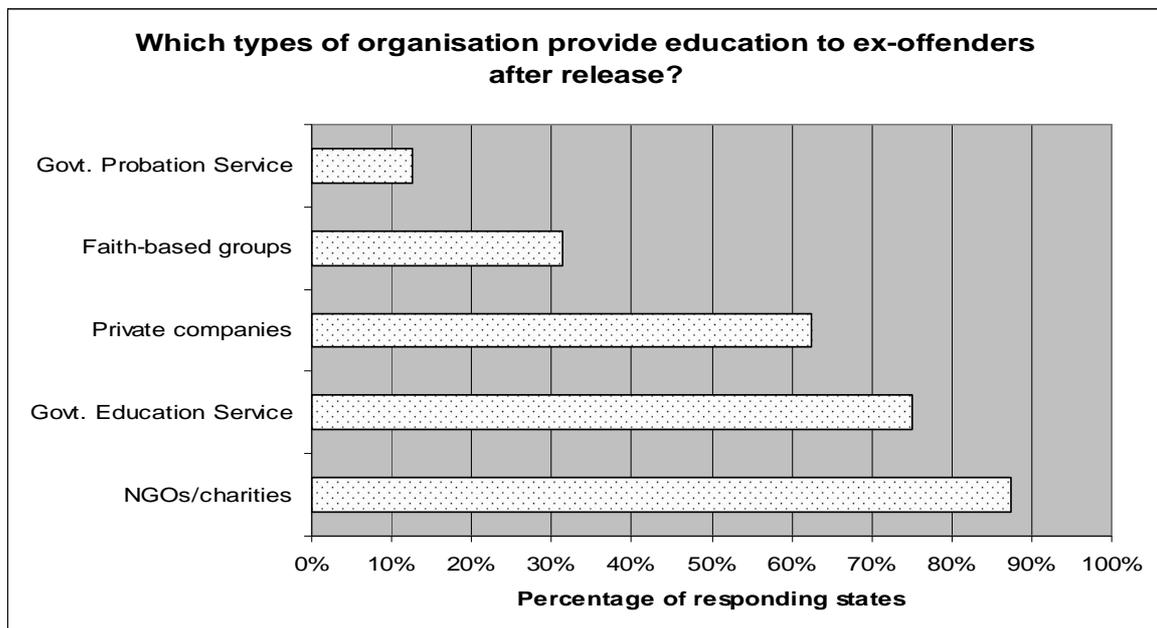


professional/vocational courses, with six of the ten countries that responded to this question saying that more than ten per cent of their prisoners gain qualifications in such courses. However, given that so many prisoners are incarcerated without the education or skills that are taken for granted by those who play an active and lawful economic role in society, it can hardly be seen as surprising if reoffending rates are so high after release. These data show that prisons in many CoE member states are falling short in their ability to use education to ensure that ex-prisoners can reintegrate successfully once 'through the gate'.

9.3.4 The accessibility of education in prison

As noted above, a high number of CoE member states said that one reason for the low take-up of educational courses in prison is that many prisoners' sentences are too short to make these courses worthwhile. This raises several questions, as noted above, not least whether a short sentence can realistically claim to be fit for a rehabilitative purpose. Nevertheless, current policies mean that some prisoners are given short sentences, so how they are to be given greater access to education must be a priority. Courses should be easily accessible to prisoners and must be well-integrated with education systems outside prison, so that prisoners can continue them after release. OCEA's questionnaire posed a series of questions intended to gauge the extent to which this integration has taken place.

Figure 12: Providers of education to released prisoners



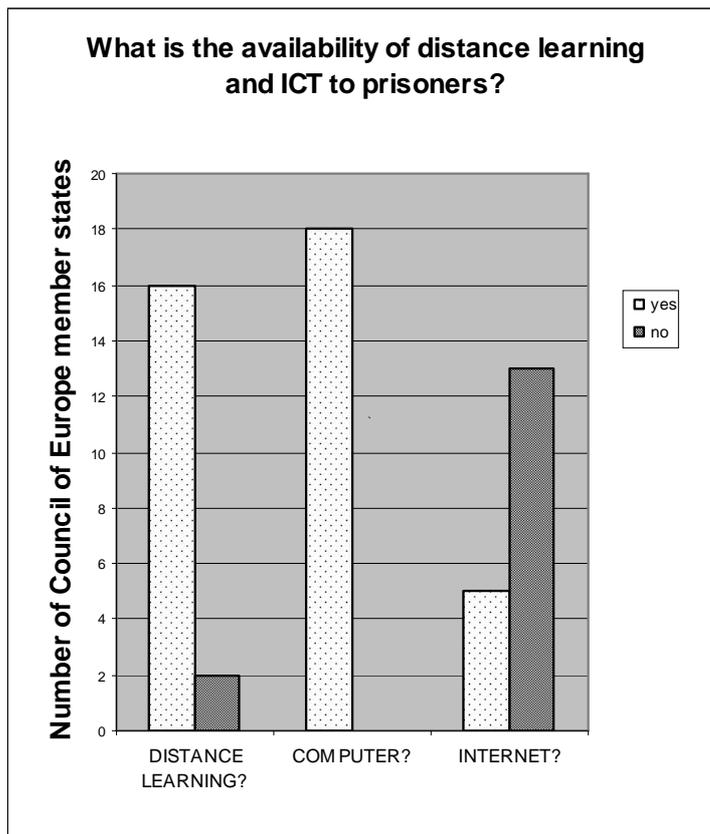
We asked first about the kinds of organisations that offer educational courses to ex-prisoners after they have been released from prison (see Figure 12).¹⁷⁶ This is important because it is better for prisoners who may have a range of different educational needs to be able to choose from a wider range of courses. Prisoners who lack pre-existing school qualifications

¹⁷⁶ Belgium and Sweden did not answer this question. The Netherlands said that they had no relevant centrally-held data.

may often be prevented from taking part in mainstream courses, so ones that are offered by other organisations are potentially more appropriate. Another approach to the same problem could be to plan prison education so that it prepares prisoners for continued education in mainstream courses after release by ensuring that they end their sentence with the equivalent to the basic qualifications that they lack.

The evidence we received from some countries indicates that, in general, courses to gain school qualifications, university degrees, and vocational qualifications are integrated with the state system. Other courses dealing with what might loosely

Figure 13: Access to educational resources



be described as 'life skills' such as parenting and family finances are offered in prisons by private companies, NGOs, charities and faith-based groups.¹⁷⁷ The exception to this rule was the answer we received from the state government of Berlin (Germany), where NGOs offer a full range of basic, vocational and other courses in prisons. It is also interesting to note that of the countries that we surveyed, only in Finland and in Luxembourg is there no involvement at all by NGOs in prison education.

We also asked CoE member states about the availability of distance-learning courses to prisoners (Figure 13). Distance-learning, because it allows prisoners to study anywhere, could provide a way out of the trap set by short sentences; prisoners who start distance-learning courses in prison will not be affected if they move prison and will also be able to complete the course after their release. A limiting factor could be that many such courses place crucial course materials on the internet, or assume that students will be able to be in frequent and easy email contact with their tutors. The provision of distance-learning courses to prisoners therefore often requires that some form of internet access be available to prisoners. It is encouraging that 88 per cent of the countries who responded to this questionnaire offer prisoners the opportunity to take part in such courses. It is also positive that

¹⁷⁷ It is worth pointing out that some of the courses offered by some groups may still be integrated with the state qualifications system.

all eighteen of the countries who answered this question make some form of computer access possible in their prisons.¹⁷⁸

In societies that depend increasingly on computer technology for the provision of products, services and the location and use of information, ex-prisoners who lack skills in exploiting such technologies will find it harder to access services such as housing and employment on their release.¹⁷⁹ This is especially true of those who have served relatively long sentences and who have little or no previous experience of such technology. The problem is exaggerated because in many cases the provision of courses in other key subjects - for example basic qualifications in English and Maths in England and Wales - the course specification requires that some of the work be carried out using the internet. This is the result of a curriculum that is deliberately planned to integrate ICT skills throughout. This has left prison education providers frustrated, because the unavailability of the internet in prisons means that education providers cannot deliver the course as it has been planned. The provision of access to computers, even if only for educational purposes, is positive, but as noted before, communication with the outside world is also important if prisoners are not to be completely cut off from networks of support that may help in their reintegration.

It is therefore worrying that prisoners in only five of the eighteen countries who responded to this question are allowed access to the internet. Some of the responses we received pointed to recent movement in this area. Denmark and Norway said they were trialling schemes to allow prisoners limited access to the internet for educational purposes and the Czech Republic said that a very small number of prisoners in some prisons are allowed supervised internet access. The question of supervision is a difficult one. It is certainly necessary to ensure that prisoners are not able to access inappropriate material, but this implies either higher staffing levels or placing some sort of automatic restriction on internet access. Norway's legislation offers one possible solution, subjecting electronic communication to and from prisoners to the same escalating set of checks (depending on prisoners' security level) as are applied to ordinary mail, and providing a framework that could be used to regulate or restrict internet access as necessary.¹⁸⁰

QCEA also asked member states whether it was possible for prisoners to complete courses begun in prison after their release, and whether they were encouraged in each country to do so (see Figure 14). All but one of the countries said it was possible, and all of these said they encourage prisoners

¹⁷⁸ In some countries, however, this is a privilege that is restricted: the Czech Republic and Norway said that computer use was supervised; Kosovo said that prisoners only have access to computers for educational purposes. In the Netherlands prisoners have 'few opportunities' for computer use and in Finland, Luxembourg and Slovakia, computer use is only possible for lower-security inmates and in open prisons. If computer provision is inadequate to meet demand, especially in countries whose prison systems operate above their stated capacity, then the benefits of computer provision are likely to be less significant.

¹⁷⁹ 61 per cent of prisoners surveyed indicated that they believed their chances of finding work and/or a stable education or training place after leaving prison would be improved by having better internet access while in prison. Prisoners Education Trust *et. al.*, *Brain Cells*, p. 17

¹⁸⁰ Norwegian Ministry of Justice, *Act Relating to the Execution of Sentences, etc.*, 20 January 2004 [online], accessed 8 November 2010, available in English at http://www.regjeringen.no/nb/dep/jd/dok/lover_regler/reglement/2004/Act-relating-to-the-execution-of-sentences-etc-.html?id=420593, §30

to do so.¹⁸¹ We also asked for clarification of the form that this encouragement took. The six countries that answered this additional question gave us a variety of answers. In all cases the education system in prisons is integrated with that outside, so that prisoners are studying for qualifications that are generally available, with the exception of a small number of prison-specific courses that are not intended to lead to qualifications. Estonia told us about a nationwide database of vocational and academic qualifications: this allows prisoners and other citizens to move easily from course to course and from school to school without data being lost about where they have been and what their courses and credentials are. Elsewhere other solutions are found to the problem of ensuring prisoners are able to continue learning after their release. In the German state of Berlin, prisoners are able to return to prison after their release for the purpose of completing courses that they have already started.¹⁸²

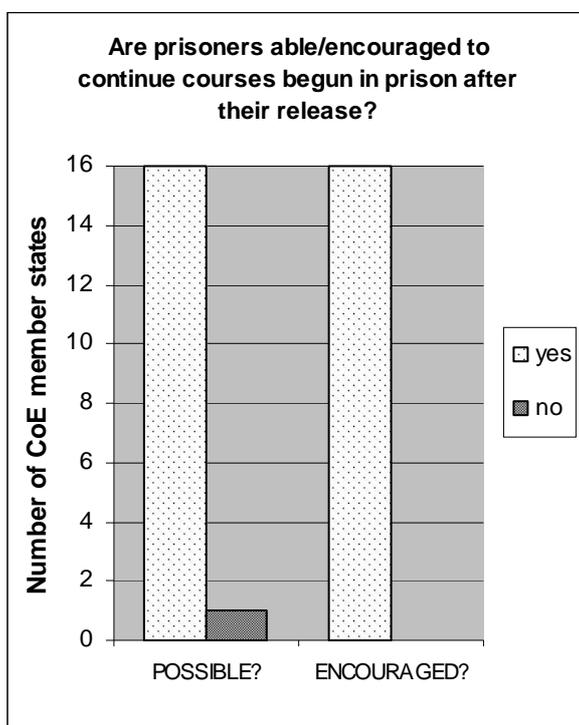


Figure 14: Encouragement to continue educational courses after release

Motivating prisoners appears to be a matter more for educators in prison and for probation officers than for prison staff as such. For example, in Finland, each prisoner makes a detailed release plan with their social worker at which educational needs are identified. Three other jurisdictions (Estonia, Slovenia and the government of the German state of Berlin) specified the inclusion of educational objectives on a release plan as a means of motivating prisoners. In all cases funding is available, but its availability in some cases is dependent on an application and the structure of the education service in that country. In the German state of Berlin younger offenders may be eligible for

funding for vocational courses, under a state assistance programme for younger people, but this assistance has to be applied for and is not available to them as a matter of course simply because of their status as released prisoners. Some other courses in Berlin are funded through a state subsidy to the private company that provides them. Other countries have education systems that are entirely free of tuition fees. In Finland and Estonia prisoners may complete any courses they wish without paying for tuition; in

¹⁸¹ Ireland, Moldova, and Sweden did not answer this question. The Netherlands said they had no centrally-held data to respond to it.

¹⁸² This is probably made more feasible by the comparatively small geographical size of the jurisdiction. However, it seems an imaginative way to make prison education stick with prisoners who are serving short sentences.

Lithuania courses below degree level are free but prisoners must pay tuition fees to complete courses at degree level or above.¹⁸³

These responses, while not exhaustive on the subject, illustrate that different countries are trying to find ways of linking education in prison to that outside prison. However, there is much yet to do. As Estonia put it, 'in the end, it is a matter of prisoners' self-motivation and [economic] welfare'. Earning a salary can be a more important consideration than completing a course, though this point mainly serves to underline the importance of taking prisoners' educational needs into account when completing their release plans. It is likely that motivation will remain an issue whatever prison services do to encourage education, but it is also important that practical matters and a lack of support should not prevent prisoners (who may otherwise be motivated) from gaining qualifications that could contribute towards their future rehabilitation. It is also worth pointing out that motivation is partly internal and can partly be sparked by external stimulus and support. Slovenia told us, for example, that the support of prisoners' families towards their further study was important. Such matters are hard for prison administrations to influence, though by housing prisoners as close to their families as possible, and by ensuring that prisoners have the means to communicate with their families, they may facilitate the links between home and prisoner that may in turn encourage and support educational engagement.

What prison administrations can and should do, however, is stop prisoners' motivation being overcome by practical issues. 63 per cent of the countries we surveyed indicated that courses for ex-prisoners are oversubscribed; 50 per cent that they were too costly or that it was difficult for some prisoners to access the courses in their own locality. In some cases, especially with educational rather than vocational programmes, work and family commitments sometimes prevent prisoners from completing courses that they started in prison. This means that money spent on their education in prison has been to some extent wasted, a potentially rehabilitative course not having been completed.

9.4 Summary and recommendations

Summary

Education has the potential to be a major driver of rehabilitation. At best, it opens prisoners' minds to new possibilities and ways of understanding that can give them a way out of the cycle of reoffending. It can also have knock-on effects elsewhere, for example by raising prisoners' skills so that they are more likely to be able to access a stable job after release, which in itself will help with reintegration. Considered more broadly, courses that encourage prisoners to think in a different light about family and other personal relationships may lead to better communication within families and a more positive, stable home environment.

¹⁸³ The details in this paragraph are explained in a series of emails to QCEA from staff in each country's justice ministry, dated between 23 November 2010 and 10 December 2010.

Yet the level of educational achievement among prisoners in the CoE member states is low, and alarmingly few prisoners are accessing education and gaining qualifications. Most member states' governments identify short sentences and prisoners' lack of motivation as major causes. Rather under half say that oversubscription and the unavailability of courses cause low enrolment, but less than a fifth of those surveyed believe that childcare commitments or prisoner transfers prevent enrolment, though there is some evidence to the contrary. Most member states allow prisoners to make use of distance learning courses, and most make at least some level of computer access possible for prisoners. However, under a third allow prisoners to use the internet, and even these do so with restrictions. In most CoE states, prisoners can begin a course in prison for completion after release, and they are encouraged to do so. However, ex-prisoners face a range of problems in completing such courses, including course availability, cost, and work and family commitments. Provision of education to ex-prisoners after their release relies largely on the work of NGOs, but the state's education services and private companies play a part as well.

Recommendations

7. Member states should ensure that education is placed at the centre of efforts to rehabilitate prisoners. In particular, they should:
 - a. listen to prisoners' own ideas about what their individual educational priorities are
 - b. encourage greater participation in prison education, for example by exploring incentives that can be offered to prisoners for such participation
 - c. adequately fund education provision within prisons, recognising the long-term saving associated with lower reoffending rates
 - d. collect and collate better records about prisoners' educational background before their imprisonment, and their educational attainment while in prison, and use such records as a central measure of the effectiveness of their prison services
 - e. make the identification of educational needs and the planning of education a central part of planning each prisoner's release.
8. Member states should, as far as possible, reduce the practical difficulties that prevent prisoners from accessing potentially rehabilitative education services. In particular, they should
 - a. reduce the negative impact of short prison terms by exploring alternatives to imprisonment (including completion of education and training programmes) where such sentences are used
 - b. prevent women prisoners who have a child with them in prison from being excluded from prison education, by ensuring the prison provides childcare
 - c. explore ways to provide prisoners with greater access to educational materials and courses using computers and the internet

- d. explore ways to enable more prisoners to complete educational or vocational training programmes in the community
- e. link prison education services more closely to those outside the prison walls, so that prisoners are not prevented from completing courses started in prison by their local non-availability after release
- f. explore the standardisation of prison education provision to avoid situations in which prisoners' transfer disrupts their education plans
- g. explore ways in which basic prison qualifications can be accredited as the equivalent of basic school qualifications, so that prisoners can enter other courses in mainstream education after their release
- h. ensure that there is proper recognition and accreditation of **all** courses completed in prison, with resulting qualifications integrated to the country's qualification regime
- i. for courses for which a provider cannot be found outside prison, to allow prisoners to return on a voluntary basis to prison after the completion of their sentence, to finish courses they would otherwise be unable to finish
- j. provide support and advice to prisoners whose family or work commitments might lead them to drop a course they started in prison before completion.

10 Housing, employment and financial management

A significant number of people enter and leave prison homeless, unemployed, or both. Even ex-offenders who had homes and jobs before prison may not do so upon release. Having access to adequate, affordable accommodation and suitable employment opportunities can dramatically affect an ex-prisoner's chance of successful resettlement. In England & Wales, 58 per cent of women and 53 per cent of men in prison identified unemployment and lack of skills as contributing to their continued offending.¹⁸⁴

Housing and employment are inter-related: without a fixed address and a stable home life, holding down permanent employment becomes more difficult; the security of a reliable income helps avoid financial difficulties. Motivation, knowledge and skills are also part of the picture.

The importance of these matters has not been lost on the Council of Europe, as can be seen from its 2006 report on social reintegration.¹⁸⁵ A 2010 study on reintegration found ex-offenders rated employment and housing the most critical factors for successful resettlement.¹⁸⁶

10.1 Housing and homelessness

Homelessness after release is a major problem for a significant number of ex-offenders. It compounds other problems. Prisoners may have lost the accommodation they had before their sentences, and/or may have lost contact with family members. Only six member states provided QCEA with information regarding the proportion of ex-prisoners facing homelessness upon release.¹⁸⁷ Often, it was explained, the information was either not available to or not collected by ministries of justice. It is therefore difficult to estimate the extent of this problem across Europe, but the countries that did collect this information gave a wide range of details. These are presented in Table 7 overleaf.

In England & Wales - where 32 per cent of prisoners are homeless before they enter prison - access to stable accommodation has been found to reduce reoffending by over 20 per cent. The problem is particularly acute for people serving short sentences; they are two to three times more likely to reoffend if they do not have suitable housing.¹⁸⁸

¹⁸⁴ Prison Reform Trust, *Bromley Briefing July 2010*, p. 49

¹⁸⁵ Council of Europe (2006), *Social Reintegration of Prisoners*, §§ III.ii to III.iii

¹⁸⁶ Jacobson, J., Phillips, C. and Edgar, K., 'Double Trouble?' *Black, Asian and minority ethnic offenders' experiences of resettlement*, Nov 2010 [online], accessed 14 December 2010, available at <http://www.clinks.org/assets/files/PDFs/%27Double%20Trouble%27.pdf>, p. 1

¹⁸⁷ Fifteen member states responded to this section of the QCEA questionnaire in total: Belgium, Czech Republic, Denmark, Estonia, Finland, Berlin (Germany), Kosovo, Latvia, Lithuania, Luxembourg, Moldova, Norway, Slovakia, Slovenia, Spain.

¹⁸⁸ Prison Reform Trust *Bromley Briefing July 2010*, p. 48

Table 7: Prisoners who are homeless on release

Country	Approximately what proportion of prisoners is homeless when leaving prison?
Finland	Approximately one third
Ireland	2005 research indicates that around 35 per cent are at risk of homelessness on release
Kosovo	0.5 per cent
Lithuania	4.8 per cent
Luxembourg	Between 1 and 3 per cent
Monaco	28 per cent
Norway	Around 65 per cent are known to be leaving prison into poor-quality housing ¹⁸⁹
Slovenia	3.1 per cent

The availability of 'halfway house' schemes (to give prisoners who lack stable accommodation temporary support until they are able to live independently) varies across the Council of Europe. Four countries indicated that such facilities were not available: Luxembourg, Monaco, Slovenia and Spain. All others indicated that housing matters in general were the responsibility of local authorities, though in some countries NGOs specifically run 'halfway houses'.¹⁹⁰

Some countries indicated close cooperation between the prison/probation authorities and the local authorities to ensure that prisoners were able to access crucial services such as housing. In Norway, the 'return guarantee' gives the Norwegian Correctional Services two specific legal responsibilities: to keep up-to-date records of the convicted person's likely reintegration needs, starting immediately after their imprisonment; and to communicate these needs to other agencies (for example housing authorities) early enough that these services are available upon release.¹⁹¹ This guarantee defines responsibilities and how reintegrative services should be coordinated. As such, it seems a model of good practice, though as the same document makes clear, 'The most important guarantor is the convicted person himself. The return guarantee will not yield the desired results unless the convicted person commits himself to accepting society's services and using them as intended.'¹⁹²

¹⁸⁹ This figure is a reminder that not only homelessness, but also housing quality, can be issues.

¹⁹⁰ The countries who specifically told us that 'halfway houses' existed were Czech Republic, Finland, Kosovo (for female ex-prisoners only), Lithuania and the Netherlands.

¹⁹¹ Norwegian Ministry of Justice (2008), *Punishment That Works - less crime - a safer society: Report to the Starting on the Norwegian Correctional Services*, October 2008, accessed on 13 January 2011, available at <http://www.kriminalomsorgen.no/getfile.php/757321.823.pysuvuxtrf/engelsk.pdf>, pp. 12-13

¹⁹² *ibid.*

There is also an ‘overlap’ between housing and motivation,¹⁹³ and prisoners’ motivation is likely to be affected by the responsiveness of institutions to their needs. Prisoners might genuinely wish to make a fresh start, to move away from their old area and their old networks of friends; but they are more likely to fall back into crime if they are not supported in achieving such aims. This underlines again the importance of dialogue with prisoners themselves, who are best placed to understand what factors have driven their offending in the past. It also means that different parts of the government need to work to common goals. In England & Wales, 2006 guidance from the Department for Communities and Local Government instructs local authorities’ Homeless Persons Units to assume that ex-prisoners have made themselves ‘intentionally homeless’.¹⁹⁴ This undermines efforts to reintegrate successfully, and is a prime example of how the actions of one part of government can undermine those of another.

10.1.1 Employment before and after imprisonment

QCEA asked member states to provide information regarding the unemployment rates among prisoners before and after their prison sentences. These data are presented in Table 8.¹⁹⁵

Table 8: Unemployment before and after prison sentences

Member state	Proportion of prisoners unemployed before conviction	Percentage of prisoners unemployed after conviction
Berlin (Germany)	70-75 per cent (E)	NDA
Czech Republic	80 per cent (E)	NDA
Estonia	69 per cent (E)	54 per cent (E)
Finland	75 per cent (E)	75 per cent (E)
Ireland	70 per cent (E)	NDA
Italy	18.36 per cent	NDA
Kosovo	70 per cent (E)	90 per cent (E)
Luxembourg	NDA	5 per cent (E)
Monaco	39 per cent	38 per cent
Netherlands	54 per cent	NDA
Norway	70 per cent (E, based on 2004 research by Statistics Norway)	NDA
Slovenia	NDA	67 per cent (E)
‘NDA’ = no data available. ‘(E)’ = Estimate		

¹⁹³ Jacobson, J., Phillips, C. and Edgar, K., ‘Double Trouble?’ *Black, Asian and minority ethnic offenders’ experiences of resettlement*, November 2010 [online], accessed 14 December 2010, available at <http://www.clinks.org/assets/files/PDFs/%27Double%20Trouble%27.pdf>

¹⁹⁴ Home Office, *The Corston Report: A report by Baroness Jean Corston of a review of women with particular vulnerabilities in the justice system*, March 2007 [online], accessed 23 February 2011, available at <http://www.justice.gov.uk/publications/docs/corston-report-march-2007.pdf>

¹⁹⁵ Eight countries sent us no answer to this question, or said that they had no data available on unemployment rates either before conviction or upon release.

Such a high level of unemployment in member states, both before and after prison is clearly problematic, as is the seeming lack of information available to key criminal justice policymakers about prisoner employment. Prisoners and ex-prisoners often have multiple problems contributing to their inability to find work. The stigma of a criminal record is also a significant hurdle. There are examples of innovative schemes that aim to overcome some of these barriers.

Case study: Blue Sky Development & Regeneration

'Blue Sky is almost certainly the only company in England where you need a criminal record to get a job.'

Blue Sky Annual Report 2009

Established in 2005, Blue Sky is a not-for-profit company started by the charity Groundwork Thames Valley, which aims to provide ex-prisoners with the opportunities and skills to find permanent employment. Blue Sky's workers help maintain gardens, parks and municipal open spaces, competing with more traditional contractors. Only ex-offenders are employed, with small teams of four to six people being managed by a supervisor who is also an ex-offender; this person is a mentor and leads by example.

As well as completing work, each team member has an individual learning plan. Blue Sky is accredited to provide professional training for qualifications in horticulture spraying, forklift driving, literacy and numeracy. The company also helps employees gain their driving licences, thus increasing employment opportunities.

Blue Sky's project database suggests that only 13.5 per cent of those who have participated in the programme have ended up back in prison. By the end of 2009, Blue Sky had worked with over 150 former prisoners; 21 per cent had been homeless, and 24 per cent were Prolific and Priority Offenders. In total, 57 per cent of those who successfully complete their contract go on into either full-time employment or education.

An independent evaluation of the project highlighted the benefits that ex-offenders felt they had gained from it: self-esteem, confidence, the ability to stick to a work routine, motivation, better communication skills, and better teamwork skills. The evaluation found that success was down to the fact that participants' needs were assessed holistically and matched to individually tailored support. It also identified the use of ex-offenders as supervisors, and the use of team-building activities to reinforce social and communication skills, as key factors.

'It is a great stepping-stone for anyone just coming out of custody. It gets you back into a normal working life.'

Angela, former employee¹⁹⁶

Another programme that uses a careful assessment of individual needs, and then matches it to a training programme based on that assessment, is Passport. This is run in southern Scotland by Access to Industry, an organisation that aims to counter exclusion from the employment market by carefully-structured education and training.

Case Study: Access to Industry's 'Passport' scheme

Passport is an accredited employability programme run by Access to Industry. The Passport scheme builds on the existing Transition 'mini-college' in central Edinburgh, which offers

courses to people recovering from substance misuse problems.

Transition's model rests on a structured but flexible programme, designed specifically for whom mainstream education has failed. Courses are developed with local colleges and are fully accredited by the Scottish Qualifications Authority. Students discuss what they would like to achieve with staff and identify a realistic progression route. They then sign up to a contract of study, with incentives (e.g. bus tokens, lunch vouchers) offered for sticking to its conditions. The conditions are intended to mimic those of employment - punctuality, regular attendance, and so on - and incentives are offered daily rather than less frequently, meaning students cannot collect rewards for days they have not yet attended. The courses also run on a rolling basis, meaning students can start a course when they are ready, without needing to wait for the beginning of the next teaching cycle. They then complete qualifications at their own pace, but with appropriate support. Access to Industry also brokers opportunities to gain work placements, and guarantees an interview for one at the end of courses.

The Passport project builds on this model by extending one-to-one counselling targeted at excluded groups, aiming to bring them within the Transition scheme. Passport deals not only with ex-offenders but also those who are homeless, leaving state care, and street sex workers. Passport offers tailored one-to-one support. For offenders in Edinburgh prisons or Young Offender Institutions (YOI) this begins six months before their release. Weekly meetings plan for the issues that will affect them upon release, as well as identifying their interests and career aspirations and the progression route that will move them in the right direction. A single case manager takes each student all the way through the programme: before release, during their participation in courses and work placements, and for a period of time after they find employment. While students are part of the programme and on work placements, they continue to receive state benefits so that there is no financial disincentive to seek meaningful work.

Students on the Passport scheme carry out individual as well as group work, and are also encouraged to take on challenges outside the normal environment of the 'mini-college'; for example, a team of students from the college worked, with appropriate professional support, to film the 2011 European Offender Employment Forum conference in Edinburgh. They later edited the footage and produced a DVD record of the conference proceedings. Such activities build team-working skills and also instil confidence in the students who take part in them, but crucially they also lead to accredited qualifications, meaningful work experience, and employment opportunities.¹⁹⁷

The success of both Blue Sky and Passport is based on structured and carefully designed programmes that are integrated with the qualifications system in the countries where they operate. They are also successful because they give participants a structured framework within which they can take control of their own futures, with appropriate support. Programmes that treat offenders and ex-offenders as individuals, and respond to their individual needs, are far more likely to lead to successful reintegration.

This is not only a question of forgiving wrongdoing once a criminal sanction has been completed. It is also a matter of recognising potential in individuals whose desire to refrain from offending behaviour in future may be clear. In many cases offenders cannot rely on the social capital - education, networks of friends, and knowledge about sources of finance, for example - that law-abiding members of society take for granted. The cost of

¹⁹⁶ Blue Sky, *Blue Sky Annual Review 2009* [online], accessed 13 June 2010, available at <http://www.blueskydevelopment.co.uk>, p. 9

¹⁹⁷ Information about the Access to Industry programmes is taken from QCEA's own notes from presentations at the European Offender Employment Forum conference, held in Edinburgh, 24-25 March 2011.

providing support for ex-offenders so that they can become productive participants in the economy pales into insignificance compared with the lost tax revenue, wasted potential, and criminal justice spending required if they do not.

10.2 Employment and financial management

The 2006 European Prison Rules state that 'Prison work shall be approached as a positive element of the prison regime and shall never be used as a punishment ... The organisation and methods of work in the institutions shall resemble as closely as possible those of similar work in the community in order to prepare prisoners for the conditions of normal occupational life ... In all instances there shall be equitable remuneration of the work of prisoners'.¹⁹⁸ Programmes improving prisoners' employability can help break the cycle of offending.

Table 9: Types of work available in prisons

Work	Member states
Compulsory (unpaid)	Czech Republic, Latvia, Slovakia
Compulsory (paid)	Czech Republic, Denmark, Estonia, Berlin (Germany), Kosovo, Norway, Slovakia
Optional (unpaid)	Czech Republic, Ireland, Moldova, Norway, Spain
Optional (paid)	Czech Republic, Denmark, Estonia, Finland, Berlin (Germany), Kosovo, Latvia, Lithuania, Luxembourg, Moldova, Monaco, Slovenia, Spain

An overview of some of the work opportunities in European prisons is provided by the responses of member states to the QCEA questionnaire. The responses are summarised in Table 9.¹⁹⁹ In many cases the options available are not mutually exclusive.

Paid work is a subject of some controversy.²⁰⁰ Prisoners are usually (and understandably) happier to work than to remain in their cells during the day; it brings structure and purpose, and can impart new skills if the work is appropriate to the prisoner. There is also a pressing need for the provision of educational and employment opportunities to prisoners who may have low skill levels and/or no history of steady paid work. But debt and material deprivation can undermine all of these gains after release.

We therefore believe there should be further debate on the nature of, and remuneration for, work in prison. The issues are complex, and the possible answers numerous. Ideally, it would be possible:

- to run profitable prison industries producing goods and services for sale on the open market;

¹⁹⁸ Council of Europe (2006), *European Prison Rules*, § 26

¹⁹⁹ Sixteen jurisdictions responded to the section of QCEA's questionnaire regarding employment and financial management: Czech Republic, Denmark, Estonia, Finland, Berlin (Germany), Ireland, Kosovo, Latvia, Lithuania, Luxembourg, Moldova, Monaco, Norway, Slovakia, Slovenia, Spain.

²⁰⁰ See for example Allison, E., 'A fair day's prison work?', *The Guardian*, 9 September 2009, accessed on 17 December 2010, available at <http://www.guardian.co.uk/society/joepublic/2009/sep/09/prison-work-exploitation>

- to use employment in these to train prisoners and prepare them for employment after release;
- to pay prisoners at least the national minimum wage, and
- to allow prisoners to save their earnings or to contribute to family income.

This would help realise the aspiration of the European Prison Rules: that prison regimes should not aggravate the suffering caused as a result of the deprivation of liberty.

However, there are numerous factors that make achieving these aims difficult:

- prison populations are transient and subject to frequent change, making prisoners an unstable workforce
- prisoners, though disproportionately underskilled compared to the general population, do have varied individual skills, backgrounds and interests, making it difficult to impose 'one size fits all' prison enterprises
- prison wages are often extremely low, potentially undercutting wages in the wider labour market and competing unfairly with businesses outside prison
- prison enterprises have to compete with businesses outside prison who can draw on resources unavailable to prison enterprises²⁰¹
- prisons are subject to security procedures and restrictions which may at times restrict the operation of prison enterprises²⁰²
- the lack of spending opportunities inside prisons, as well as the cost of accommodating and feeding prisoners, are used by some to argue that prisoners should not receive the minimum wage.

The impact of some of these issues can be mitigated. Reducing both the use of short prison sentences and the overall prison population would reduce the turnover in prison enterprises' potential workforce, because the number of admissions and releases, along with transfers caused by overcrowding, would fall. Training could be more cost-effective in these circumstances. Allowing prisoners to save for the period after their release or for their families could increase motivation, as well as lessening the pressure on families to send funds into prison.

A fair and graduated wage structure would reinforce this motivation. Any programme that seeks to identify prisoners' own aspirations, support them with advice and training, and engage latent entrepreneurialism could expect to see benefits as well. A British consultancy, Advantage 42, gives advice to offenders and ex-offenders who wish to set up their own business and become self-employed; between December 2009 and September 2010, they

²⁰¹ These resources might include a more stable workforce and the ability to pick and choose workers from a wider pool. Globalisation is also a force here (as in other economic sectors): on a March 2011 visit to HM Prison Edinburgh, we learned that a small-scale manufacturing enterprise in the prison had had to close because it could not compete with businesses in the Far East. Prison work in Edinburgh is now restricted entirely to tasks such as catering that are required for the running of the prison, though prisoners can also choose to participate in vocational education programmes.

²⁰² This is one reason why it is more common to find prison enterprises operating in open or semi-open prisons.

worked with 107 offenders, of whom 30 set up their own business or became self-employed. This is an imaginative way around the problem of employers being reluctant to employ ex-offenders because of their criminal record.²⁰³

There are examples of success in meaningful prison work. In Finland, some prisoners in open prisons who are nearing the end of their sentences will undertake 'civilian work' while on day release, for which they are paid a normal market rate. On a different model, some prisoners in Luxembourg's Givenich semi-open prison participate in the 'Défi-Job' manufacturing programme. This pays them the full Luxembourg minimum wage for their work, whereas those in the Schrassig closed prison are paid slightly over a fifth of the minimum wage for compulsory prison work such as cleaning and catering.²⁰⁴

In England, 'Barbed', a graphic design studio, was set up by the Howard League for Penal Reform in Coldingly Prison in 2005. Prisoners were treated as employees and the studio was run successfully as a viable social enterprise. The intention was to pilot a different model of prison work from the standard prison workshops, and to demonstrate that an alternative, less exclusionary model of prison work was possible. 'Barbed' paid a meaningful wage, including provision for sick pay and holiday pay, and also had grievance, disciplinary and promotion procedures; in other words, it was a normal employment contract.

In order to counter arguments that prisoners were benefiting from free accommodation and food while earning to save, it was a condition of employment that prisoners paid 30 per cent of their earnings into a separate charitable fund. Most prisoners working in the studio found there was not much to spend money on, and saved their earnings or sent them home to family. The prisoners were on long sentences and none were released before the studio closed, so it was impossible to assess the impact on reoffending. However, it is unlikely that the savings prisoners made or the continued engagement with their families did their chances of successful reintegration any harm.²⁰⁵

The 'Barbed' studio was closed in 2009. The circumstances surrounding the closure are contested. Both the Prison Service and the Howard League agree that there were legal ambiguities over the precise tax status of prisoners, making their status as contracted employees hard to define. The Howard League claimed that there were significant difficulties with prison authorities: despite a prison governor who allowed the enterprise to be created, security requirements disrupted work; the disciplining of a prisoner employee for possession of a mobile phone in the prison wings meant that his participation in the scheme was withdrawn on disciplinary grounds

²⁰³ ESF-Works.com, *The Advantage 42 Entrepreneurial Skills Programme* [online], accessed 1 April 2011, available at <http://www.esf-works.com/projects/projects/400769>

²⁰⁴ Details of the Finnish and Luxembourgish schemes are from their governments' responses to our questionnaire. At the time of writing, Luxembourg's is the highest national minimum wage in Europe; Finland does not have a single minimum, but operates a system whereby sectoral minimums are negotiated between unions and employers.

²⁰⁵ Howard League, *Prison Work and Social Reform: The Story of Barbed* [online], accessed 16 February 2011, available at <http://www.howardleague.org/prisonwork/>

without warning; and prison officers were alleged to have a negative and obstructive attitude to the scheme's working.

The history of 'Barbed', its success, and its closure all demonstrate that genuine prison enterprises are viable, but also highlights philosophical problems lurking behind this issue:

- Do prisons **aim** to punish or rehabilitate? And (a separate question) do they **actually** punish or rehabilitate?
- If prisoners are securely enough contained so that society is defended from their actions, what additional controls on their freedom are appropriate? For example, should they be denied the right to enter into normal contracts with legitimate employers, if it is possible for them to carry out this work within the secure environment of a prison?
- Does society aspire for prisoners to be responsible individuals, or quasi-children? How is this to be achieved? Do their legal status and rights, **as actually enjoyed**, support these aims?
- Is a 'debt to society' more effectively paid through tax and charitable payments from a genuine wage, or through participation in low-paid, untaxed prison work?

These are challenging and open-ended questions. Meaningful reintegrative prison work (i.e. work paying a meaningful wage) appears to operate primarily in less secure prisons as a form of preparation for release.

This may be good for reintegration, but is unlikely to address the longer-term problems of financial unpreparedness, social isolation and criminal stigma that undermine reintegration more generally. All of these problems are exacerbated in long sentences of imprisonment; and it is offenders on long sentences who are most in need of work, rather than endless educational courses with no outcome or reward.

Within a prison system whose objectives are dominated by security concerns, participation in meaningful work would appear to be regarded as a privilege for acquiescent behaviour, rather than as a right or a precondition of stable, law-abiding living. It will take imagination and disciplined thinking about priorities for this reality to transform into something more positive.

10.2.1 Remuneration for prison work

We asked member states to provide information about wage rates that were paid to prisoners for their prison work. The data sent by those governments who did respond were varied, and careful explanation is needed as to how we have processed these data to compare them. Firstly, not all countries have legislation for a single national minimum wage. Some member states have systems of collective sectoral bargaining, rather than a single national figure.

We have given a national minimum wage figure only where a single such figure exists and is mandated by specific legislation on the subject. Where

possible, we have checked and if necessary updated the figures provided by member states when they completed our questionnaires in the spring and summer of 2010.²⁰⁶ Some countries sent only the details of their **national** minimum wage, not of their **prison** wages; we have presented these in the graph for interest. All minimum wages shown in Figure 15 have been rendered as hourly figures, assuming a 52-week, a 12-month year, and a 40-hour week.

Secondly, some countries provided a variety of wage figures for work requiring different levels of skill and qualification. Others sent us details of a range of wages paid to prisoners dependent on experience, or in one case whether the prisoner's work was done in the prison itself, or on conditional release at the end of a sentence. In the interests of comparison, we have, where possible, indicated a 'low', 'medium' and 'high' figure for prison wages paid; this has deliberately not been described using words such as 'unqualified' and 'qualified', because not all countries said they differentiated the level of wage paid according to qualifications; some did so according to the type of work, for example. Some countries gave us a wage 'band' figure for a given level of work (e.g. '€ 0.5 to € 0.83'); where this was the case we took the average of the two figures at either edge of the band, and used it as a single figure to represent that band as a whole.

Finally, we have rendered all of the currencies into Euros for the sake of easier comparison.²⁰⁷

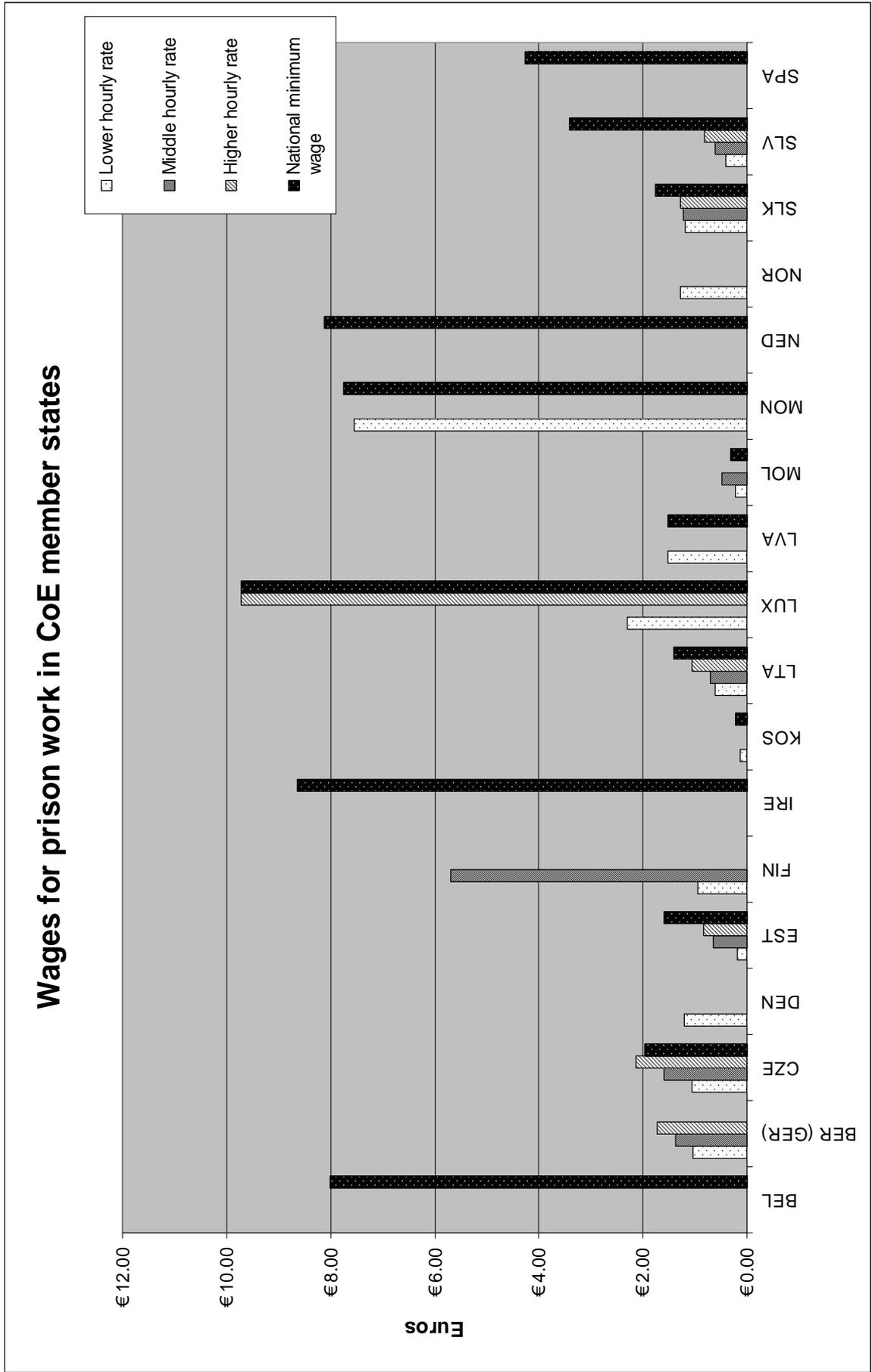
While these data have been heavily processed to enable comparison and should therefore be accepted with caution, they do provide valuable information. The comparison can be seen in Figure 15 overleaf. Five countries²⁰⁸ indicated that there is a single, flat wage for all kinds of prison work. In all of the others who responded, there is some degree of variation in the rates paid for prison work. In some cases, this is determined by the work they do - in Moldova, for example, prisoners doing 'agricultural' work earn a lower rate while those in a prison workshop earn a higher rate. In other countries prison wages are graduated according to experience and the level of qualification required to carry out a certain job - the state of Berlin in Germany, for example (which also allows prisoners to graduate from one level to the next as and when they complete educational or vocational training courses), or Lithuania, where the wages for different kinds of prison work are specifically tied to particular fixed percentages of the national minimum wage. Ireland was the only country that reported that work in prisons is entirely unpaid.

²⁰⁶ We have done this using the Eurostat figures available through Google Public Data, accessed 11-14 January 2011, available at <http://bit.ly/qYxE81>.

²⁰⁷ The following currencies were converted into Euros (at the specified rate) using the conversion tool on the www.xe.com website on 13 and 14 January 2011: Czech koruna (CZK 1 at € 0.04); Danish krona (DKK 1 at € 0.13); Latvian lats (LVL 1 at € 1.41); Lithuanian litas (1 LTL at € 0.28); Moldovan leu (MDL 1 at € 0.06); Norwegian krona (NOK 1 at € 0.12). While these data have been heavily processed to enable comparison and should therefore be accepted with caution, they do provide valuable information.

²⁰⁸ Denmark, Kosovo, Latvia, Monaco and Norway

Figure 15: Remuneration for prison work in CoE member states

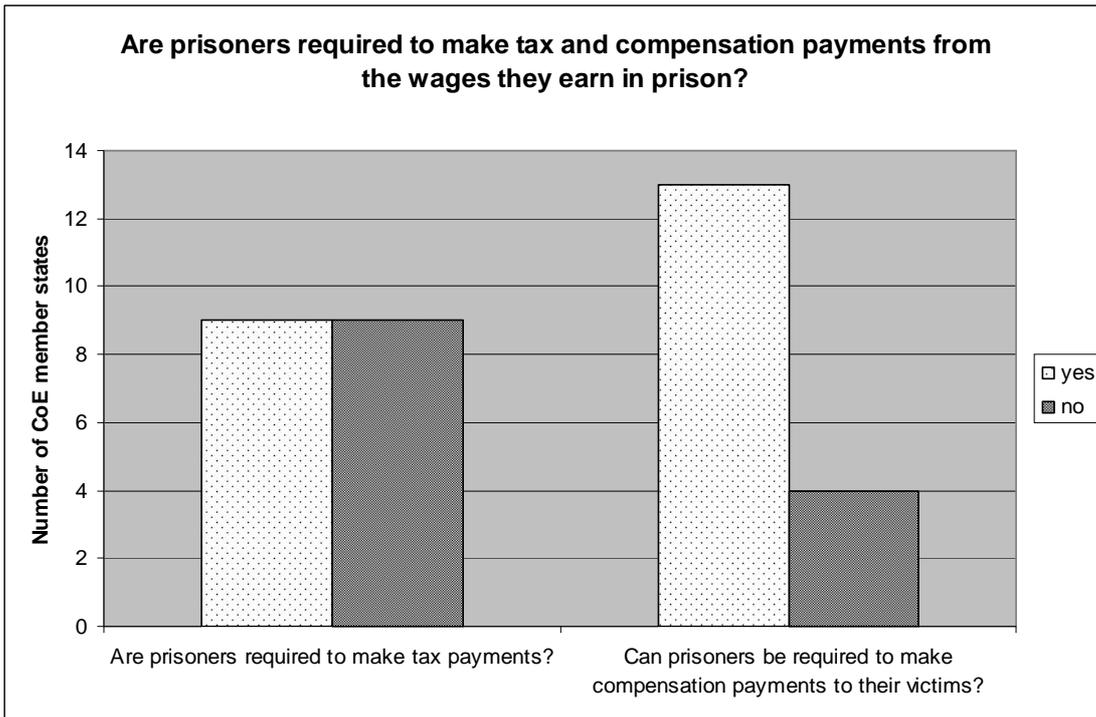


10.2.2 Deductions from prison earnings

Deductions from prison wages are also important to consider. We asked whether taxes were payable on wages earned in prison, and whether prisoners could be required to make compensation payments to the victims of their crimes from their earnings in prison. The results are presented in Figure 16. Prisoners' wages are subject to some form of taxation in nine states, and are not in nine others. A number of the jurisdictions who answered 'yes' indicated that prisoners continued to pay social security or national insurance contributions, but that their incomes were usually below the thresholds for income tax.²⁰⁹

It should also be made clear that in some cases prisoners' wages fall well below income tax thresholds, meaning that in fact only those working in the most skilled jobs, or those earning higher wage levels, will become eligible for income tax. It was far more frequent for countries to require prisoners to make compensation payments to their victims - fifteen of the nineteen who answered this question can require prisoners to make such payments, though all made clear that it is at the discretion of a judge whether, and how much, they do so.

Figure 16: Deductions from prison earnings



The combined effect of prison wages that are often far below the minimum wage, deductions for tax, social security and accommodation or food costs,²¹⁰ and compensation payments being taken for victims, means that

²⁰⁹ This was the case in Berlin (Germany), Finland, Latvia, Lithuania, Luxembourg, and Slovakia.

²¹⁰ The Czech Republic and Italy told us that deductions for the costs of imprisoning them are made from some or all prisoners' wages. In the Czech Republic up to 30 per cent of wages can be taken for child support, 40 per cent for prison expenses, 12 per cent on other deductions such as victim compensation (dependent on the court verdict), 4 per cent on 'other deductions', 2 per cent on a 'storage charge', leaving 12 per cent for discretionary spending by those prisoners who have had the full set of other deductions.

prisoners may often be working effectively for nothing. This may have a particularly strong impact on those prisoners with dependents, be they children, elderly parents, disabled spouses or others, as it will limit their ability to support those outside prison.

The 2006 European Prison Rules also state that 'in all instances there shall be equitable remuneration of the work of prisoners'. This does not mean that member states are required to pay prisoners a rate equal to that received outside of prison. However, there are several advantages to paying a fair wage for prison work. It would promote the idea that work pays. Allowing prisoners to earn enough so that they can build a 'pot' of savings could help them contribute to their families, and/or help in the challenging period of transition after release. Both could aid their successful rehabilitation and desistance from crime. Allowing prisoners to manage and save an income could also develop their financial skills.

Recommendation Rec (2006)2 of the Committee of Ministers to member states on the European Prison Rules

26.11 Prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to allocate a part of their earnings to their families.

26.12 Prisoners may be encouraged to save part of their earnings, which shall be handed over to them on release or be used for other approved purposes.

10.2.3 Financial management

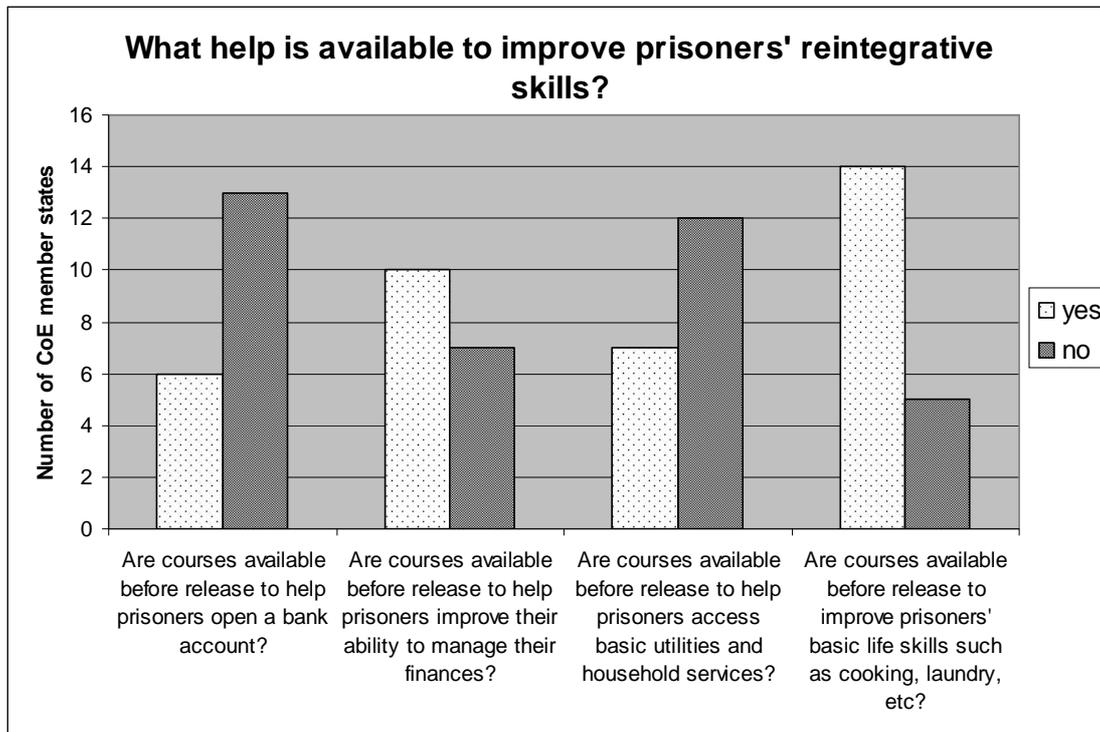
We asked member states about prisoner indebtedness. Few of them collect accurate data. The only country who said their answer was based on research data was Norway, which cited a study by the Norwegian statistics service from 2004, which found that 80 per cent of prisoners were likely to face debt problems after leaving prison; mainly because they would face immediate costs but have no job to go to upon release. Ten countries said they had no data available to answer this question, and two more did not answer at all. Other governments gave us estimates. The Czech Republic reported that approximately 95 per cent of ex-prisoners faced getting into some level of debt after release from prison. Finland and Luxembourg estimated 80 per cent (with Luxembourg saying that a further 5 to 10 per cent left prison already in debt). Estonia and the Netherlands estimated that 65 and 70 per cent (respectively) of prisoners would face debt.

Even estimates such as these suggest that debt may often be a factor in reoffending. Indebtedness, like many other problems and issues faced by prisoners and ex-prisoners, has multiple causes that can be addressed across different areas of a programme of rehabilitation. But though financial acumen is not a sufficient cause of a law-abiding life, it is certainly a necessary part of a larger picture. Courses in personal financial management should be made widely available. Figure 17 overleaf shows the extent to which they already are.

Of the sixteen responding member states, ten specifically offer programmes designed to improve financial management. How they are provided varies.

Some states (for example Ireland) offer a course as part of general pre-release training, others (for example Slovenia) offer them as part of an optional range of prison courses, and a third group does not offer these courses as standard, but instead as tuition that can be arranged on an *ad hoc* basis when the prison authorities decide, after consultation with individual prisoners, that they would benefit from such training.

Figure 17: Courses to improve financial and other reintegrative skills



Another concern is that prisoners are often excluded from mainstream financial products. When asked the percentage of people held in prison who have personal bank accounts all but two responding member states stated that they did not collect the information. Six countries described systems where prisoners had credit accounts into which their earnings were paid while they were in prison, and similar arrangements are in place in other countries. However, an internal credits system within the prison system is very different to the wide variety of financial products available to members of the public outside the prison system. Managing an internal credit account will provide some practice in financial management. It will not motivate prisoners in the same way as managing an account available to them after release.

Six of the eighteen responding member states stated there were specific programmes targeted at helping prisoners to open bank accounts. These were Estonia, Berlin (Germany), Italy, Latvia, Netherlands and Slovenia. In addition, Belgium, Denmark, Finland and Luxembourg noted that whilst there were no specific programmes, prisoners would be able to get help and advice on opening a bank account if they wished. Not having a bank account can be a significant obstacle for prisoners. It can jeopardise job opportunities and make access to rented accommodation more complicated,

thus compounding social and financial exclusion more generally and reinforcing numerous conditions that contribute to reoffending. It can also mean that prisoners lack a credit history, which makes it hard to sign up for other services.

One promising scheme, trialled in England & Wales, is described below:

Case study: Prisoner Bank Accounts in England & Wales

Since 2006, the Cooperative Bank has been running a project to enable prisoners to open basic bank accounts. Started in HMP Forest Bank, Manchester after an approach from a member of staff, the service has grown from 22 accounts opened in one prison in 2006 to more than 3,663 accounts being opened across 25 prisons by the end of 2009.

Opening a bank account in the UK requires proof of identity and usually evidence of a fixed address - former prisoners often struggle to meet both requirements. Having no bank account also makes it harder to access certain domestic utilities, such as gas and electricity, without relying on far more expensive pre-payment options such as cash or card meters. This in turn can increase financial pressure on ex-offenders after their release. When the project started, 69 per cent of prisoners in HMP Forest Bank had either never had a bank account or no longer had one. The project bypasses proof of identity problems by opening the account whilst the offender is still in prison.

The project grew exponentially, driven by very high demand from prisoners. The social status conferred by being able to pay by card is also significant, symbolically including ex-prisoners in the norms of society. The practical benefits - such as being able to arrange to have social security entitlements paid directly into your bank account on release - also ease resettlement.

'I know it seems a bit trivial but sometimes it seem important [because] you just feel like everyone else ... It's been years and years since I ever imagined using a card in a shop.'

Ex-prisoner account-holder

Research carried out by the Ministry of Justice in 2007 with a sample of 107 former prisoners indicated the programme might also reduce the likelihood of reoffending. Within 12 months 33.6 per cent of the sample had reoffended, a reduction on the national average reoffending rate of 47.2 per cent within one year of release.²¹¹

10.3 Summary and recommendations

Summary

Making sure that ex-prisoners have a chance to access housing and employment is of paramount importance to the prevention of reoffending. Neither is likely to achieve their full benefit unless prisoners can successfully manage their own finances after their release.

Many interventions can be offered in prison that will help maximise the chances of successful rehabilitation. Prisoners are often without a stable home when they enter prison, and many return to society with no or substandard housing. In some cases the fact of their imprisonment may be used as a spurious justification for their being denied access to

²¹¹ Jones, P., *Still Banking on a Fresh Start: Progress Report on the impact of the Cooperative Bank's project to enable prisoners to open basic bank accounts*, December 2009 [online], accessed 5 June 2010, available at <http://www.unlock.org.uk/userfiles/file/unlockingbanking/Still%20banking%20on%20a%20fresh%20start.pdf>

accommodation after release. 'Halfway houses' provided by prison and probation authorities provide only a short-term solution but do so positively in numerous member states. Different authorities are responsible for housing in different member states, and they are rarely the same as those responsible for ex-prisoners. But collaboration and communication between these different authorities is clearly important, and could take their cue from the well-defined Norwegian 'return guarantee', which defines the responsibilities of both sides so that they cooperate to ensure that ex-prisoners have the best possible chance of reintegrating with law-abiding society.

Prisons can do even more to resolve the problem of prisoner unemployment after release; the provision of education and work programmes can and do have great benefits. However, opportunities to integrate this work into life outside the prison walls are being missed. Prisoners' ties with family and friends (which can in turn help with areas like housing) can be made more positive if they are able to contribute financially while in prison. Prison administrations are missing a rehabilitative opportunity if prison programmes do not both cover effective financial management skills and provide the opportunity to put them into practice by allowing serving prisoners to plan for their release and save a proportion of their earnings whilst in prison. The provision of such opportunities in Council of Europe member states appears to be inconsistent, as does the relationship between prison wages and national minimum wages.

Recommendations

9. Member states should give active consideration to the role that can be played in prisoner reintegration by meaningful and fairly paid work **accessible throughout the whole of a prison sentence**. In particular, they should:
 - a. consider allowing social enterprises to be set up in prison
 - b. consider clarifying and defining the terms on which prisoners can conclude contracts with employers in prisons
 - c. strive to resolve ambiguities over prisoners' tax status, after due debate and consultation on the desirability of prisoners' tax payments
 - d. clarify the relationship and balance between security and rehabilitation, as applied to the question of prison work, lest those ambiguities lead to destructive conflict between prisons and prison employers
 - e. find ways to reconcile the legitimate security concerns of prison and the legitimate business concerns of employers, so that it is possible (initially at least) to resolve disciplinary issues within the framework of the employment contract
 - f. engage in open public debate and consultations about the means and ends of prison work and their impact on the desired results of imprisonment
 - g. consult the public to find a socially acceptable means of accommodating the fact that prisoners have few living costs,

for example by ensuring a proportion of prisoners' wages are set aside for charitable donations

- h. support the aims of long-term rehabilitation by ensuring that prison enterprises are not expected to take on an unsustainable burden of employing short-sentence prisoners in menial, unskilled work.

10. Member states should prepare prisoners for reintegration by:

- a. monitoring the unemployment rate of prisoners before and after their incarceration, and making this an explicit measure of the success of imprisonment
- b. ensuring that prisoners have, and know they have, access to education in effective personal financial management
- c. ensuring that prisoners are able to reinforce their financial skills by allowing them to save for their families, or for the period after their release
- d. working with banks and other private- or third-sector organisations to help remove practical obstacles to prisoners' management of their finances after release, for example by helping prisoners to open bank accounts outside prison.

11. Member states should ensure that prisoners are able to access housing after release by:

- a. keeping accurate records of prisoners' housing situation before prison, updating this during the sentence, and using it to identify housing needs after release
- b. ensuring good communication between prison authorities and those responsible for housing, and defining clearly institutions' responsibilities towards prisoners
- c. ensuring that prisoners' own needs and wishes are taken into account, for example making housing authorities aware of prisoners' own wishes as to where they feel they need to be housed in the interests of their rehabilitation.

11 The role of family and friends in reintegration

11.1 Prisoners' social networks: potential and challenges

We have used the term 'family' throughout this chapter. This is likely to be interpreted to mean 'immediate' or 'nuclear' family, but there will be cases where prisoners do not believe their blood family to be the best environment for their rehabilitation, and where a close friendship may provide appropriate support. Or prisoners may come from cultures with extended family structures, especially if they are foreign nationals. In these cases, extended family may offer support that might otherwise be inaccessible because of distance.

In assessing how prisoners' social connections can facilitate their reintegration, the key principle is individuation: prisoners should be listened to and their individual circumstances and feelings taken into account.

11.1.1 How families help reintegration

Families play a crucial role in the reintegration of prisoners, offering stability and support of a kind that prisoners may not have access to elsewhere.²¹² Social isolation and loneliness are significant factors in some kinds of offending, notably sex offending (see Chapter 8 for more details), and with other types of crime a stable family can provide a degree of social capital that may reduce criminality. A report in England & Wales estimated that while they are in prison, a third of prisoners lose their house, two thirds lose their job, a fifth face financial problems, and slightly more than two fifths lose all contact with their family.²¹³ Services such as housing are often not in place after release; criminal records can hinder the search for employment; incomes may be meagre and debts build rapidly; and in many cases prisoners do not have a bank account or recent credit history, making it even harder to access basic services.²¹⁴ Managing such issues can be a challenge for many even when they occur one at a time; dealing with the full set at once, often with no previous experience of successfully doing so before, can seem overwhelming. It is common for prisoners who have served shorter sentences or who have been convicted of minor crimes not to be supervised by a country's probation service after their release, and it is common for probation services to struggle to fulfil their role for those who are supervised, because they are inadequately funded.²¹⁵ In the challenging period immediately after release from prison, the benefits of positive support from close relatives or friends can make the difference between

²¹² Finnish Criminal Sanctions Agency, *Family on the Other Side of the Wall* [online], accessed 17 November 2010, available at <http://www.rikosseuraamus.fi/16019.htm>

²¹³ UK Local Government Association (2005), *Going Straight: Reducing Re-Offending in Local Communities* [online], accessed on 10 January 2010, available at <http://www.lga.gov.uk/lga/publications/publication-display.do?id=22309>, p. 5

²¹⁴ Eric Allison (2009), 'Bank accounts open prison doors', *The Guardian*, 3 December 2009 [online], accessed on 17 November 2010, available at <http://www.guardian.co.uk/commentisfree/2009/dec/03/bank-accounts-prisoners-co-operative>. See Chapter 10 for more discussion of this scheme.

²¹⁵ Research carried out in 2009/10 by QCEA indicated that no Council of Europe member states allocate more than 25 per cent of their corrections service budget to probation. Loffman & Morten, *Investigating Alternatives to Imprisonment*, p. 44

recidivism and reintegration. At best, such relationships can provide any or all of the following:

- housing and transportation in the initial reentry period;
- emotional and financial support;
- support in adjusting to technological and other changes that have occurred during the period of imprisonment;
- connections to potential employers;
- positive reinforcement for law-abiding behaviour;
- child care and/or elder care if those issues are preventing prisoners from attending work or educational courses;
- a source of reconnection to a wider community, and
- monitoring of health symptoms and changes, especially when prisoners have completed drug or alcohol rehabilitation.²¹⁶

All factors that can lead to a greater chance of rehabilitation are to be welcomed. Family support can provide 'social capital, access to opportunities, resources, the support to personal and local networks ... skills acquisition is not enough'.²¹⁷ One study conducted in Florida followed the visiting patterns of prisoners and found that those who had received regular family visits, especially in the months leading to their release, presented a lower risk of recidivism than those who did not.²¹⁸ Other anecdotal evidence suggests that voluntary befriending services can give prisoners who might lack family contact a sympathetic and supportive ear, as well as a potential source of advice.²¹⁹

Contact with families is known to have a positive impact on the rehabilitation of prisoners. Charles Clarke, when he was UK Home Secretary, summed it up in a 2009 report:

I believe that we sometimes fail to give enough emphasis to the powerful impact of supportive relationships [on] prisoners - to realise that offenders often care deeply about letting down those closest to them, and want to show they can change, but somehow just never get there. An offender is much less likely to reoffend if he feels part of a family and a community, from which he receives support as well as owes obligations.²²⁰

However, it is important also to understand that prison isolates; it can cut prisoners off from potential support, and alienate families. It should only be used where strictly necessary, and prisons should be designed to minimise these effects.

²¹⁶ VERA Institute of Justice, *Why Ask About Family? A Guide for Corrections* [online], accessed 21 February 2011, available at <http://www.vera.org/download?file=3181/Why-ask-about-family-Final.pdf>, p. 4

²¹⁷ MacNeill, F., speech at National Offenders Management Conference

²¹⁸ Bales, W. & Mears, D. "Prisoner Visitation and the Impact on Recidivism" *Paper presented at the annual meeting of the American Society of Criminology (ASC)*, Nov 01, 2006 [online], accessed 22 February 2011, available at http://www.allacademic.com/meta/p125265_index.html

²¹⁹ See, for example, the testimonials from prisoners who have benefited from similar programmes, cited in New Bridge, *Befriending* [online], accessed 2 November 2010, available at <http://www.newbridgefoundation.org.uk/befriending.html>

²²⁰ Ministry of Justice and Department of Education, *Reducing reoffending: supporting families, creating better futures* (2009), (Ministry of Justice: London, 2009), cited in Prison Reform Trust, *Bromley Briefing July 2010*, p. 22

11.1.2 The impact on families of a member's imprisonment

The impact of imprisonment on prisoners' family relationships is likely to differ depending on the nature of the relationship between the individuals concerned. In Table 10 we suggest three types of family relationship that frame the discussion that follows. Especially in the first two cases, they may often overlap in a single individual).

Table 10: Nature of prisoners' family/friend relationships

Nature of relationship to prisoner	Example	Possible impacts of imprisonment
The family member is, was or will be to some extent responsible for the prisoner's care	Parents, grandparents, other 'elders' within family structure	Deep impact on their own lives, potentially including the following: <ul style="list-style-type: none"> - Social shame, stigma or anger arising from the imprisonment/criminality; - Financial difficulties arising from the loss of an income and the costs of making prison visits; - Disruption of childcare arrangements, possibly leading to less discipline in the household and more worries about the child's development; - Worries about how to deal with the prisoner's release and possible reintegration into family life; - Loss of part of their own network of emotional and social support.²²¹
The family member is or was in an intimate or romantic relationship with the prisoner	Partners or ex-partners, especially those with whom the prisoner has children	Deep impact on their lives/development, in all cases potentially including: <ul style="list-style-type: none"> - Loss of a source of financial and emotional support For children especially, risks of developmental difficulties, including: <ul style="list-style-type: none"> - Lack of understanding if they have not been told about a parent's imprisonment; - Social shame, fear, stigma, guilt, anger, and a feeling of abandonment if they have; - Low self-esteem; - Altered relationships with other family members; - In some cases, increased health problems and regressive behaviour such as bed-wetting; - Worsened performance and attendance rates at school; - Worsened risks of being taken into social care; - Increased aggression, antisocial, or criminal tendencies; - In the long run, a higher chance of offending behaviour and the child's own involvement in the criminal justice system in later life.²²²
The family member is, was or will be to some extent dependent on the prisoner	Usually children, but could include others, e.g. dependent adults	Deep impact on their lives/development, in all cases potentially including: <ul style="list-style-type: none"> - Loss of a source of financial and emotional support For children especially, risks of developmental difficulties, including: <ul style="list-style-type: none"> - Lack of understanding if they have not been told about a parent's imprisonment; - Social shame, fear, stigma, guilt, anger, and a feeling of abandonment if they have; - Low self-esteem; - Altered relationships with other family members; - In some cases, increased health problems and regressive behaviour such as bed-wetting; - Worsened performance and attendance rates at school; - Worsened risks of being taken into social care; - Increased aggression, antisocial, or criminal tendencies; - In the long run, a higher chance of offending behaviour and the child's own involvement in the criminal justice system in later life.²²²

²²¹ VERA Institute of Justice, *Why Ask About Family*, p. 4

²²² Robertson, O., *The Impact of Parental Imprisonment on Children* (Quaker United Nations Office: Geneva, 2007) [online], accessed 3 February 2011, available at <http://www.quno.org/geneva/pdf/humanrights/women-in-prison/ImpactParentalImprisonment-200704-English.pdf>

Imprisonment has 'hidden costs' to prisoners and their families. Communities and groups affected by imprisonment are typically those already struggling with high rates of unemployment, crime, drug use and poverty.²²³ Imprisonment frequently exacerbates these problems, causing social exclusion, greater financial difficulties, and feelings of abandonment and rejection (particularly among children who have the truth of an imprisoned parent's whereabouts concealed from them). Parental imprisonment can lead to children displaying worse behaviour and achievement in school, and affect their mental and physical health. Some children, notably those who have had little contact with the imprisoned parent, may find their lives are largely unchanged, while some may benefit from being separated from parents who behave dangerously or disturbingly.

Whatever the effects of imprisonment on children and families, they are rarely taken into account at any stage of the criminal justice process, including in sentencing decisions. Sentencing officials should make decisions that have the best interests of children (who have usually committed no crime) as a primary consideration. Where such decisions lead to a custodial sentence, prisons should enable prisoners to continue to contribute to family life.

The impacts on families of a member's imprisonment are grave, and clearly they put family life under severe, sometimes irredeemable strain. Edgar and Newell describe the impact that the imprisonment of a relative can impose:

The question, 'Who has been hurt [by imprisonment]?' can alert us to the many ways that the crime, and the ways that society has reacted to it, have been harmful to the families of offenders. Some of the damage is immediately obvious: families can be stigmatised by association; their financial situation is almost inevitably worsened; and relationships are broken, not just by the emotional aftermath of any offence, but by the practical obstacles imprisonment raises in making it difficult to maintain family ties.²²⁴

11.1.3 Implications for prison administrations

Some children may be relatively undamaged by a parent's incarceration. Notably, those who have previously had little contact with parents may find that their lives are largely unchanged. Others may benefit from separation from a parent who behaved dangerously, neglectfully or disturbingly. However, good or bad, the impact on prisoners' families of the decision to imprison a parent is rarely considered, and it should be.

Where sentencing officials decide that prison must be used, prison administrations should, as far as possible, enable prisoners to continue to contribute to family life. This can be achieved through regular visits (including conjugal visits); regular access to other means of maintaining contact; regular and routine access to temporary and conditional release as

²²³ Oliver Robertson, *The impact of parental imprisonment on children*, (Quaker United Nations Office: Geneva, 2007) [online], accessed 16 February 2011, available at <http://www.guno.org/geneva/pdf/humanrights/women-in-prison/ImpactParentalImprisonment-200704-English.pdf>

²²⁴ Edgar, K., and Newell, T., *Restorative justice in Prisons*, p. 112

a means of preparing for reintegration; and offering opportunities for prisoners to contribute their prison earnings to their families.

In reality, a variety of factors stand in the way of such contact. Prisoners are often held a long way away from their families; in Britain, a 2006 study estimated that over half of prisoners were held more than 80km from home.²²⁵ This increases transport costs for family visits, and potentially also necessitates an additional cost: overnight accommodation. This may make visits prohibitively expensive. In such circumstances, there may be a cost in terms of time off from work, especially where the family member's working hours do not match the visiting hours of the prison. These costs too will be increased by distance.

The problems associated with location are generally exaggerated for women prisoners and those who are nationals of another country. Women's prisons tend to be fewer and farther between, exacerbating the problems of distance. The cost of international travel for a foreign prisoner's family may make visits impossible. Not all prisons are well-served by public transport, making visits to remote prisons difficult for those who do not have the means for private transport. Even booking a visit can be difficult: one survey of UK prisoners' families reported frustrations in this area, with one third of respondents reporting not having been able to get through to book a visit by phone, and 65 per cent saying they wished to be able to book visits by internet or email.²²⁶

An unfavourable prison environment may also discourage visits, with security arrangements such as intrusive searches, unsuitable meeting spaces and a lack of privacy often making visits a frightening and negative experience, especially for children.²²⁷ While some of these measures are necessary for prison security, proper attention to their extent and impact may lead some to be lessened. In any case they can be mitigated by prisons making available information about what to expect. These measures allow families to prepare, especially where children are involved.

An alternative to visits, and one that may be irreplaceable for foreign national prisoners, is access to postal and telecommunications services so that prisoners may keep in contact with their families. Yet as our questionnaire indicated, even these methods are subject to major restriction. A complaint to the media and telecoms regulator in England and Wales in 2009 triggered an investigation which uncovered that prisoners making telephone calls were charged as much as seven times more than those making the equivalent call from a payphone outside prison. The effect was that half of all calls from prisons lasted for less than three minutes.²²⁸ For foreign national prisoners, there may be additional difficulties involved:

²²⁵ Action for Prisoners' Families (2006) Press release: Record numbers call helpline as families face Christmas with a loved one in jail, quoted in Robertson, O., *The Impact of Parental Imprisonment on Children*, p. 23

²²⁶ Prison Reform Trust, *Bromley Briefings Prison Factfile*, December 2010 [online], accessed 14 January 2011, available at <http://www.prisonreformtrust.org.uk/uploads/documents/FactFileDecember2010.pdf>, p. 22

²²⁷ Robertson, O., *The Impact of Parental Imprisonment on Children*, pp. 25-26

²²⁸ Prison Reform Trust, *BT has reduced the prohibitively high cost of calls from prison payphones in England and Wales*, 2 April 2009 [online], accessed 22 February 2011, available at <http://www.prisonreformtrust.org.uk/PressPolicy/News/ItemId/13/vw/1>

time differences and the additional costs involved in international phone calls may make family contact impossible. Prison administrations should show understanding for such difficulties by making adjustments to the ordinary rules to enable foreign nationals to remain in contact with their families. The difficulty of visits by family from other countries makes it particularly important that foreign nationals have ready and flexible access to other means of staying in touch.

Most of these difficulties are exaggerated when prison systems are near or above their intended capacity. When prisons are subject to overpopulation and government expenditure is constrained, the amount of monitoring and supervision necessary strains both budgets and staff members.²²⁹ Prison overcrowding often results in increased numbers of prisoner transfers at increasingly short notice, and this in turn makes it harder for prisoners' families to maintain regular contact: they repeatedly need to accustom themselves to new journeys, new visit regulations, and (potentially) increased travel costs.²³⁰ Again, these difficulties are likely to be exaggerated when the prisoners in question are women or foreign nationals.

11.2 International frameworks of regulation

All of the relevant international standards state that prisoners' interests and rehabilitation are best served if they are able, as far as possible, to profit from positive relationships with friends and family outside the prison walls. This follows from the principle that 'the treatment of prisoners should emphasise not their exclusion from the community, but their continuing part in it.'²³¹ The UN Standard Minimum Rules for the Treatment of Prisoners, from which this quote is taken, go on to suggest that family contact is essential to a prisoner's rehabilitation and chance of reintegration into society:

From the beginning of a prisoner's sentence consideration shall be given to his future after release and he shall be encouraged and assisted to maintain or establish such relations with persons or agencies outside the institution as may promote the best interests of his family and his own social rehabilitation.²³²

In this connection, both the UN Minimum Standards and the European Prison Rules stipulate clearly that prisoners should be allowed to have regular, albeit supervised and sometimes monitored, contact with their families and with 'reputable friends', so as to maintain these relationships in 'as normal a manner as possible'.²³³ The European Prison Rules make clear that this is not an absolute right, but in most circumstances prisoners should be allowed an 'acceptable minimum level of contact'.²³⁴

²²⁹ Lawrence, S., Mears, D. P., Dubin, G., & Travis, J. (2002), *The practice and promise of prison programming*. Washington, DC: Urban Institute, 2002. <http://www.urban.org/url.cfm?ID=410493>, pp. 2-3

²³⁰ Bobbitt, M., & Nelson, M. (2004). *The front line: Building programs that recognize families' role in reentry*, New York: Vera Institute of Justice, accessed 17 November 2010, available at http://207.5.76.189/publication_pdf/249_476.pdf, pp. 4-6

²³¹ UNHCHR, *Standard Minimum Rules for the Treatment of Prisoners*, § 61

²³² *ibid.*, § 80. § 79 also states that emphasis should be given to relations between a prisoner and his or her family.

²³³ *ibid.*, § 37. Also see Council of Europe (2006), *European Prison Rules*, § 24.4

²³⁴ *European Prison Rules* (2006), § 24.2

Both the UN Standard Minimum Rules and the original European Prison Rules were written before the advent of the internet, and the 2006 revision of the latter did not take the opportunity explicitly to include standards for the provision of means of electronic communication. Nevertheless, the implication of these Rules is clearly that prisoners should be allowed to communicate with their friends and family on a normal basis unless there is a strong reason not to do so. Even when restrictions are imposed in individual cases, the 'acceptable minimum' still applies. It is to be expected that as electronic communication, especially over the internet, becomes more widespread, that the means of communication allowed to prisoners will also need to move to keep up.

Additionally, the UN's Convention on the Rights of the Child makes clear that children are not to be separated from their parents against their will except where a due process has determined that such separation is in their best interests because of abuse or neglect (Article 9/1); and that even when separated from one parent because the parents have decided to separate from each other, children are to be allowed to maintain direct contact and personal relations with both parents (Article 9/3).²³⁵ It is clear from this that whatever society may think of a prisoner's right to have contact with their children, there is an overwhelming right of children to have contact with their parent; prisons should facilitate this.

As one report on prisoner reintegration presented to the Parliamentary Assembly of the CoE put it, 'in the vast majority of cases, family contacts help ensure stability and maintain prisoners' sense of responsibility'.²³⁶ It is clear, then, that international prison regulations recognise the importance of contact between prisoners and their family and friends, as well as being able to stay in touch with events in the wider world.

11.3 The situation in Council of Europe member states

11.3.1 Contact with family and friends

OCEA asked member states for information about the proportion of prisoners that are kept within 80km of their home. Most responding states replied that they did not collect this information. Only Kosovo (100 per cent), Monaco (56 per cent) and the Netherlands (30-40 per cent) were able to answer this question with a precise or even estimated numerical answer. Slovenia said that a majority were held within 80km of home. Finland, Ireland and Norway replied that they tried where possible to house prisoners close to their families, but had no comprehensive data. All other countries either did not answer or answered that they did not have data available.

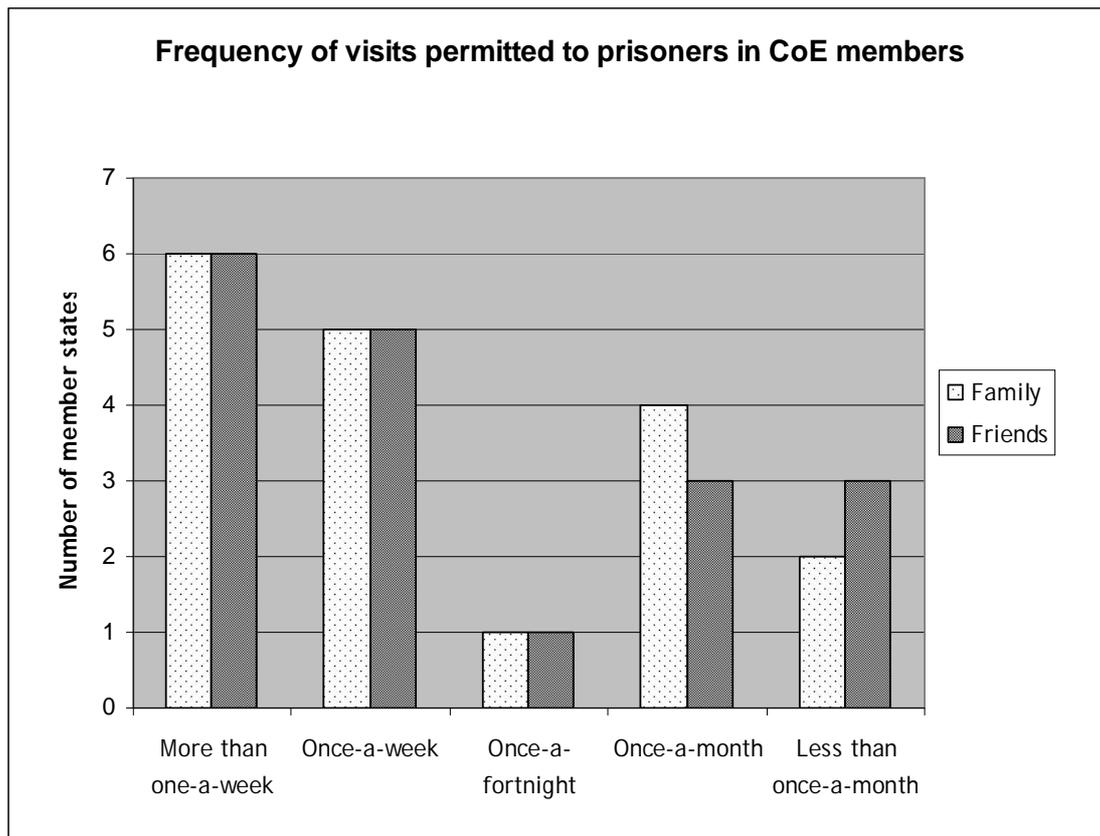
We also asked about the frequency with which prisoners were allowed to receive visits from both family members and friends. The responses to this question are collected in Figure 18, which shows a mixed picture. It was encouraging to see that more than half of the countries who answered this

²³⁵ UNHCHR, *Convention on the Rights of the Child*, UN General Assembly Resolution 44/25 of 20 November 1989 [online], accessed 22 February 2011, available at <http://www2.ohchr.org/english/law/crc.htm>

²³⁶ Council of Europe (2006), *Social Reintegration of Prisoners*, § 46

question said that prisoners had the right to visits once a week or more often.²³⁷ Visits should be available 'as often as possible',²³⁸ and restrictions on such visits must never go so far as to cut off contact altogether.²³⁹ So it is surprising to see that as many as six responding countries allow prisoners visits only once a month or less.²⁴⁰ Lithuania told us that its prisons completely withdraw visiting rights from prisoners who are under disciplinary measures, which appears to be clearly in breach of these parts of the European Prison Rules. Only one country indicated explicitly that visit frequencies were decided on an individual, per prisoner basis.²⁴¹

Figure 18: Frequency of visits allowed to prisoners



We also asked how often, and in what way, prisoners are allowed to make direct contact with the outside world while inside prison (Figure 19 overleaf). Nineteen countries answered this question.²⁴² All those who answered allow prisoners to send a letter once a day or more, though prisoners in the Czech Republic may only send two parcels per year; only

²³⁷ Those with visits more frequently than every week were Iceland, Ireland, Italy, Monaco, Luxembourg and Slovenia. Those with weekly visits were Denmark, Finland, Germany (Berlin), Netherlands and Spain.

²³⁸ European Prison Rules, § 24.1

²³⁹ *ibid.*, § 24.2

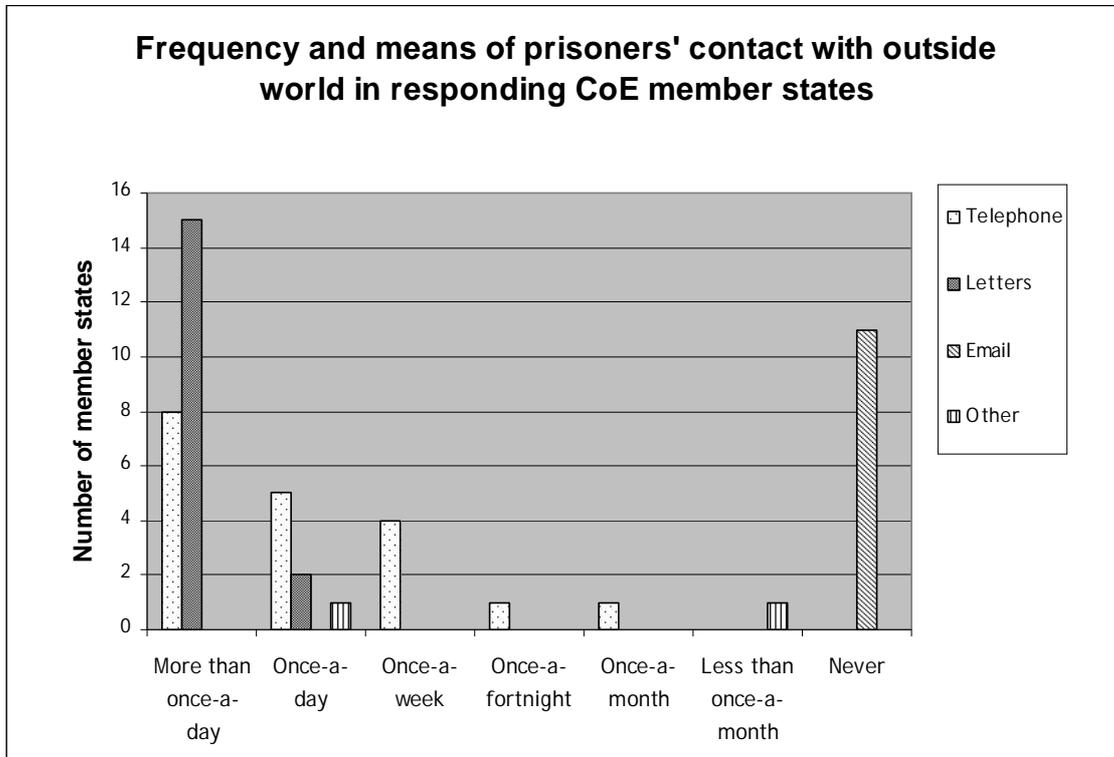
²⁴⁰ Countries that allow prisoners monthly visits are Czech Republic, Estonia, Luxembourg and Slovakia (for family visits). Those allowing visits less frequently than once a month are Latvia, Lithuania, and Slovakia (for visits by friends; visits by family are allowed monthly).

²⁴¹ Norway told us that the frequency of visits was a matter for individual prisons to decide, depending on the security level of the prisoner and the length of time until his or her release. Visits, they said, generally became more frequent as prisoners neared their release and the prison prepared them for their reintegration into society.

²⁴² Belgium did not answer this question.

Latvia and Slovakia did not make clear how much post prisoners were allowed to send.

Figure 19: Prisoners' contact with the outside world



The picture for phone calls was less even; while fourteen countries allow prisoners to make one call or more per day, there are certain groups of prisoners in certain countries who have far less access to telephone calls.²⁴³ Lithuania allows prisoners under disciplinary measures only one call per month, while normal prisoners have one per week and those in low security prisons have no restrictions. Kosovo allows sentenced prisoners one call per day, but those on remand one or two calls per week, which may be explained if remand is being used to reduce the risk of remanded prisoners attempting to intimidate witnesses or otherwise interfere with their trials. Ireland allows a minimum of one call per week but this varies depending on the prisoner's circumstances. Moldova and Monaco told us that prisoners were allowed one phone call a fortnight and one call a month respectively.

It was also striking how seldom prisoners are permitted to send emails: eleven of the nineteen member states answering this question said that prisoners could never send emails, and most of the others impose strong restrictions, for example only allowing this means of communication to select prisoners in open prisons.

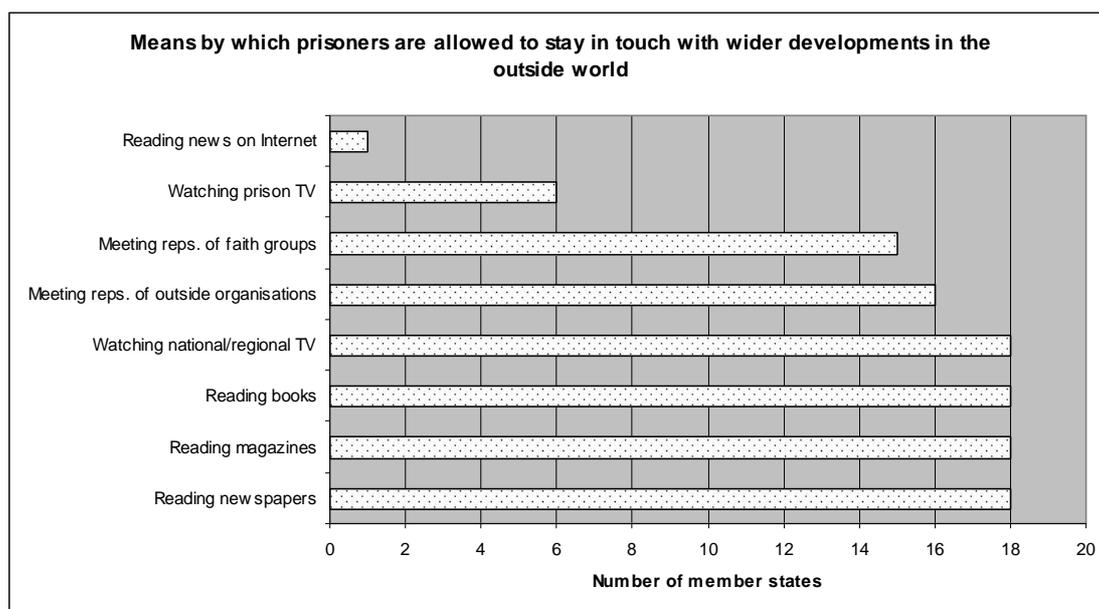
²⁴³ Norway sent us the relevant section of their Criminal Code in lieu of an answer, which does not specify any restrictions on the number of calls prisoners can receive. In the interests of comparing the data we have registered this as 'more than once a day'.

11.3.2 Other means of reducing social isolation

We asked member states about the other means by which prisoners could keep in touch with developments outside prison (Figure 20).²⁴⁴ All eighteen countries who answered this question allowed prisoners to read newspapers, books, and magazines, and to watch national and regional television. Sixteen of those eighteen countries allow representatives of outside organisations into prison, and fifteen allow access to prisons for representatives of faith groups. Six countries allow prisoners to watch prison TV.²⁴⁵ Slovakia, however, was the only country that said its prisons were allowed to use the internet to follow the news. They added that prisoners could access offline content that had earlier been saved; only small, trusted groups of prisoners were able to access the internet live and online.

It is clear also from some of the answers in the education section of our questionnaire that some countries are taking active steps to ease prisoners' transition to family life after their release, for example by providing courses on parenting skills and family finances. This approach should be encouraged.

Figure 20: Prisoners' means of contact with the outside world



11.4 Good practice in family engagement

The 'Family Futures' project, run by the Prison Advice & Care Trust (PACT), provided training to prisoners soon to be released from Wormwood Scrubs, a Category B prison in north-west London.²⁴⁶ The project gave prisoners and their families an opportunity to bring worries and issues about their reintegration into the open before the prisoner was released. The pilot

²⁴⁴ Norway and Belgium did not answer this question.

²⁴⁵ For some countries, such as Slovakia, this only applies in certain prisons.

²⁴⁶ All details in this case study are summarised from Champion, N., Hardisty, M., and Keen-Downs, A., *Family Futures: A review of pact's resettlement pilot scheme at HMP Wormwood Scrubs*, Prison Advice and Care Trust: London [online], accessed 12 March 2010, available at <http://www.prisonadvice.org.uk/files/Family%20Futures%20-%20pact%27s%20resettlement%20pilot%20project%20at%20Wormwood%20Scrubs.pdf>

demonstrated that involving families and friends in planning for a prisoner's release both improved family relationships and reduced recidivism. The crucial lesson arising from it was that families were involved in and consulted about the reintegration of the prisoner long before release.

Table 11: Prisoners' and families' concerns about reintegration

Percentage of prisoners who had concerns about life after their release	61%
Percentage of prisoners' families who had concerns about life after the prisoner's release	72%
Percentage of prisoners who believed their family had concerns about life after their release	34%
Prisoners' concerns included: families having moved on without them (8 per cent); arguments (15 per cent); new responsibilities (15 per cent); changes that have happened (15 per cent); fitting back into family life (10 per cent); I've moved on but my family haven't (10 per cent); drug/alcohol use in the family (8 per cent); parenting worries (8 per cent)	
Family concerns included prisoner's ability to find work (15 per cent); arguments (15 per cent); prisoner's ability to fit into family life (13 per cent); disruption to my life (12 per cent); prisoner's drug use (24 per cent); parenting (8 per cent); having to care for prisoner (5 per cent); having to support prisoner financially (8 per cent).	

Using a random sample of prisoners due to be released, staff used separate questionnaires sent to both prisoners and their families to gauge what were both sides' greatest areas of concern. Table 11 collects some of the aggregate figures from these questionnaires. Because the needs analysis generally revealed a gulf between the prisoners' and their families' concerns, the project then provided specific interventions intended to improve communication between the two sides. These included tailor-made workshops focusing on some of the most commonly-expressed worries, namely:

- Relationship building;
- Communication and conflict resolution skills;
- Issues concerning children, including child law and parenting from prison;
- The impact of a prisoner's (or family member's) drug use upon the family;
- Preparation for release back into family life, including expectations and issues that might arise while the prisoner was on Home Detention Curfew.²⁴⁷

The workshops were accredited with a qualification in family relations. Individual prisoners attending the workshops were also able to refer themselves (free-of-charge) to relationship counsellors if they reported concerns about one or more of their close relationships. Access to these counselling sessions, as well as the resettlement workers administering the

²⁴⁷ An early release scheme in England & Wales, in which prisoners are released from prison several weeks or months before the end of their sentence, are electronically monitored, and have restrictions placed on their movement, typically being required to be at home between certain hours at night.

scheme in prison, was continued after the prisoner's release, so that they could continue to get advice after they were outside prison. Similar sessions of counselling and advice were available to families through the same scheme. The project also included other *ad hoc* additions such as assistance with Christmas card and letter-writing for prisoners who had not previously sent letters or cards to their families because of problems with reading and writing.

Prisoners' and families' assessments of the scheme were positive. One prisoner, who had at the time of making this statement had been out of prison for nine months, said:

When I came out last time, I felt like a stranger within the family at home. I couldn't cope with all the arguments. It sounds sad but in the end I couldn't wait to get back into prison. After my dad started working with pact [the charity organising the scheme] he was like a different person. He said that he was going to give me the time and space to get myself sorted this time and give me the time to go to him if I have any problems. He said this time when I get out we have to talk through things calmly. We have a history of explosive arguments, but I think it is different this time. I was shocked, but feel happier now about leaving. I think it is going to work out.

One family member's assessment focused similarly on how the training had helped both sides to avoid flashpoints, thereby providing the stability upon which offenders were able to build:

It gave us an opportunity to sort things out as we go along, rather than trying to find help when we are in the middle of a crisis, which might be too late, because by then we'll have gone back to our old destructive behaviours.

Seeing the impact of the programme on one family is also instructive.

The benefits of family involvement in release counselling

Client A was a prolific offender who had been in and out of the criminal justice system for thirty years as a result of his crack and heroin addictions. His wife was an ex-offender who had been arrested for petty theft to fund her own addiction. She had beaten her own addiction some years before and stopped committing crime. They had been married for more than twenty years and had two adult children and a teenaged daughter.

Client A referred himself to the pact service because he was worried that his marriage was on the verge of ending, because of his broken promises to reform, his repeated prison sentences, and his continued drug use. He said that he wanted to stop reoffending but found it hard to do so. He attributed this to his own dysfunctional childhood, and admitted that he used difficulties at home, and his wife's 'nagging' (which he understood were the result of her expectations of his future behaviour) as an excuse to go out and use drugs. When he did so, he swiftly lost control of himself and returned to criminality. He also felt that he had spent so long in prison that he was unable to use autonomy and independence wisely upon release. He said [in 2006]: 'I have been away [in prison] since 2000. Going home will be like walking on egg-shells. She keeps going on about my past behaviour ... it is on very shaky ground ... she has fears and insecurities. It can drive me mad, because I don't want to cause her stress, I don't want to see her deteriorate.'

His wife told the project workers that when he was out of prison, A had 'picked fights' and used them as an excuse for drug use. She said she had often enjoyed his times in prison because she had independence and peace. She found having him back in the home after these absences difficult, because it upset what had been a steady routine.

Both attended separate workshops about release. A said after these workshops:

I learnt to listen more attentively and also to see things from her angle ... I was a provider to the wife and kids but I now realise there's more to being a partner than that. Rowing [arguing] is not the way to go about things ... I realise now it ain't all about me. The truth of the matter is that it's about her and the kids. In order to keep the family I know I need to be the husband and father I can be. I want to keep engaging in programmes like drugs and relationship courses to prevent me from slipping back ... I gave my all to the group, I dug deep and shared, it was serious to me. Not about me, it was about my wife and kids.

The couple then had a joint counselling session during which their expectations of each other after release were discussed and a release plan was agreed, containing (for example) the agreement that he would be at home every evening after he was released.

Client A was released in July 2007. At the time the report containing this case study was written, he and his wife had received ongoing support from the prison release advisers. He had not reoffended and was attending drug rehabilitation programmes and seeking regular employment.

Because the bulk of reoffending statistics in England and Wales are compared on a two-year rate, it was difficult to draw firm conclusions on the programme's wider effectiveness; the funding for the programme was cut following the 2007 financial crisis, meaning the sample size was small and the period under review short. Nevertheless, preliminary results were promising, indicating (under a careful statistical disclaimer) a reoffending rate of seventeen per cent within two years.

Whatever the reliability of these preliminary statistical conclusions, it is easy to see the reasons for the apparent success of this intervention. First and foremost, the programme based its work on *listening to prisoners' and their families' concerns about their individual situation*. Though many of the issues affecting different prisoners may be generic, the precise mix will always be unique. Interventions that recognise this will always have a better chance of succeeding than one with a one-size-fits-all approach.

Secondly, the 'Family Futures' programme made a detailed assessment of needs and then used this to link prisoners and their families to other rehabilitative services. In this case, the other services were relationship counselling and drug addiction treatment, but again, *each family will have its own needs*, and more complex interventions might be needed where there were young children, for example.

Thirdly, the programme started from the assumption that it was better to mend the prisoner's existing relationships if at all possible. We can see from this case study that by allowing both sides to air their concerns and plan for release together, it meant the prisoner's family's love and concern to enable and support the prisoner's own motivation, and to remove excuses that both he and his wife knew he used for his continued drug use and subsequent reoffending. This approach makes the most of an existing support base, rather than relying on expensive professional support for the prisoner.

It is perhaps worth adding that prisoners who feel their relationship with their families has irrevocably broken down (or who think their family environment will not be conducive to their rehabilitation) might be able to nominate friends to fulfil this supportive role.²⁴⁸

11.5 Summary and recommendations

Summary

Prisoners' family relationships are among the most important factors in their rehabilitation. A stable home environment can be a base of strength while a prisoner faces the challenges of finding a new job and adapting to a new lifestyle 'on the outside'. This is especially true when the prisoner in question has served a long sentence. Family contact is so important because it has the capacity to reinforce most or all other potentially rehabilitative interventions. Families do this by offering practical support and reinforcement, but perhaps more importantly because they reinforce prisoners' motivation and tenacity in pursuing goals.

Prisons must therefore facilitate contact between prisoners and their families, so that the socially isolating effects of prison are mitigated. Unnecessary practical restrictions on family contact should be removed. Most CoE member states we surveyed do not centrally monitor or track the average distance of prisoners from their families, though some countries have the explicit aim of keeping prisoners close to their homes where possible. A majority in our sample allow prisoners to receive visitors once a week or more, but a significant minority allow visits as infrequently as once a month, and one country (Lithuania) unacceptably cuts off visits altogether as a disciplinary measure. Prisoners' communication with family and friends is relatively unrestricted if using letters or making telephone calls, but a significant number of countries do not allow daily telephone calls, and prisoners rarely have access to email or other electronic means of communication. This reliance on pre-internet media is apparent also in the means by which prisoners are allowed to keep up with events and developments in the outside world. Print media and television are dominant, and very few prisoners are able, as a matter of course, to keep up with news and developments using the internet. Good practice in resettlement planning suggests that quality family contact can have a great impact even on serial reoffending. If prisons facilitate an honest and full exchange of views, taking into account the needs of both sides, families can help to make reintegration work.

²⁴⁸ There have been some promising advances in this area in the highly specific and specialised field of sex offender rehabilitation, under the Circles of Support and Accountability programme. This is covered in more detail in Chapter 8.

Recommendations

12. Member states should ensure that prisons recognise the strain placed on prisoners and their families by imprisonment and release, and provide support as appropriate. In particular, prisons should:
 - a. aim to appraise themselves of a prisoner's family and social networks, and their rehabilitative potential, from the beginning of the prisoner's sentence
 - b. when receiving a new prisoner (either at the start of a sentence or after a transfer), immediately and directly inform the prisoner's family about how they can stay in contact, what the regulations are regarding visits, and who to contact with questions or worries
 - c. facilitate communication between prisoners and their families about the problems that have been caused by their imprisonment and the worries that arise from the prospect of their release
 - d. involve prisoners and their families in the prisoner's release planning well before the release date
 - e. link needs identified by the prisoner and their family to courses, counselling or other interventions that will assist their reintegration
 - f. recognise the potential that families have to reinforce and build on the prison's own work
 - g. allow prisoners home on conditional release before the end of their sentence so as to acclimatise them to life outside prison gradually.
13. Member states should facilitate continued contact between prisoners and their families during the period of a prisoner's incarceration. In particular, they should:
 - a. collect and compile information on how far prisoners are kept from their families, aiming to reduce this distance wherever possible
 - b. remove restrictions on prisoners' communication with their families, including those that arise from the cost of such communication being beyond prisoners' means
 - c. recognise that the rights of prisoners' children to parental contact are independent from judgements about whether the prisoner has a right to see their children
 - d. make it easier for prisoners to use appropriately controlled and restricted internet access to communicate with members of their family and keep abreast of developments in the outside world
 - e. collect feedback from families and prisoners about the quality of prison visits and, as far as possible, act on this feedback to mitigate the stresses of visits
 - f. expand the availability of longer visits, conjugal visits and conditional release for family contact.

14. Member states should recognise the individuality of prisoners and the fact that their rehabilitation may not be served by the same measures in all cases. In particular, they should:
- a. be flexible in allowing prisoners who have no family ties, or feel that their family is not the appropriate environment to live in post-release, to nominate and involve others such as extended family members or trusted friends in their reintegration
 - b. publicise befriending schemes to prisoners
 - c. mitigate the isolation of foreign prisoners whose families are unable to visit them in person by making available additional opportunities for contact by other means and being flexible by allowing greater flexibility in the prison regime (for example by allowing them to make and receive calls outside the usual hours where necessary).

12 Prisoners and voting

12.1 Voting rights and restrictions

'Imprisonment is by the deprivation of liberty a punishment in itself'.²⁴⁹ However, whether the 'deprivation of liberty' includes the restriction of the right to vote remains an issue of contention. The 1966 International Covenant on Civil and Political Rights, to which all CoE members are parties, makes clear that every citizen should have the right and opportunity to vote 'without unreasonable restrictions'.²⁵⁰ The accompanying General Comment adopted by the UN Human Rights Committee states:

'The grounds for such deprivation should be objective and reasonable. If conviction for an offence is a basis for suspending the right to vote, the period of suspension should be proportionate to the offence and the sentence.'²⁵¹

The debate regarding what is 'objective and reasonable' does not stop when ex-offenders step through the prison gate. For example, in some jurisdictions in the United States imprisonment for even relatively minor crimes can lead to disenfranchisement even after the term of imprisonment has ended.²⁵² This is rarely the case in CoE member states, but diverse arrangements exist.

12.2 The situation in Council of Europe member states

Of the responding member states,²⁵³ Denmark, Ireland, Kosovo, Latvia, Lithuania, Norway, Monaco and Slovenia impose no legal restrictions on a citizen's right to vote because of imprisonment. The Kosovan Ministry of Justice also noted that foreign citizens held in prison in Kosovo have the right to vote.²⁵⁴

The Czech Republic, Moldova and Slovakia stated that some categories of prisoners were excluded from voting in some or all elections.

- In the Czech Republic, there are no restrictions on either accused or convicted imprisoned persons in local elections. In regional and European elections, some categories of prisoners face restrictions.
- Moldovan citizens imprisoned for violent, indecent, dishonest (including housebreaking and theft) and drug-related crimes are excluded from voting in all types of elections. These restrictions do

²⁴⁹ Council of Europe (2006), *European Prison Rules*, § 102.2

²⁵⁰ UNHCHR, *International Covenant on Civil and Political Rights*, § 25

²⁵¹ European Court of Human Rights, *Case of Hirst v. the United Kingdom (application no. 74025/01)*, Judgment, 6 October 2005, accessed 4 August 2010, available at <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=787485&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>, § 27

²⁵² Two states, Kentucky and Virginia, disenfranchise for life anyone convicted of a felony. Nine others disenfranchise felons for periods of time after the end of their imprisonment.

²⁵³ Fifteen of the member states who responded to the questionnaire completed the section regarding what categories of prisoner (if any) are excluded from voting in local, regional, national and European elections.

²⁵⁴ Submissions by relevant national authorities in response to *QCEA Questionnaire on the Social Reintegration of Ex-Prisoners*, q. 55

not apply to crimes against property, motoring offences or the handling of offensive weapons.

- In Slovakia, there are no restrictions on the vote in national elections for Slovak citizens in prison, be they convicted or on remand, except for some particularly serious crimes: those serving sentences of ten years or more may be disenfranchised. The same is true for elections to the European Parliament, except that citizens of all European Union Member States are allowed to vote in European elections. The franchise for local and regional elections is limited to persons held on remand in the district of their last permanent residence.²⁵⁵

Of the member states responding to this section of the questionnaire, only Belgium, Estonia and Luxembourg impose a universal ban on the right to vote of imprisoned persons.²⁵⁶ Other CoE member states that at the time of writing do not allow prisoners to vote (but who did not return our questionnaire) are Armenia, Azerbaijan, Bulgaria, Cyprus, Georgia, Hungary, Portugal, Romania, the Russian Federation and the United Kingdom.²⁵⁷

The restrictions on the right to vote of imprisoned persons are lifted immediately upon release back into society in all the above cases, with the exception of Belgium and Luxembourg (which both responded to the QCEA questionnaire) and Armenia (which did not).²⁵⁸ In Belgium, the restriction starts at the point of sentencing and can range from five years to life in the most serious cases, running concurrently with the prison sentence (which may be a different length). Thus, the prohibition does not automatically lapse upon release. In Luxembourg, 'a life-time exclusion from voting is compulsory' for any person sentenced to ten or more years' imprisonment. For those sentenced to a prison term of between five and ten years, the exclusion from voting can range from ten to twenty years, although lifetime exclusion remains an option.²⁵⁹

Table 12: Restrictions on voting in CoE member states and observer states²⁶⁰

Countries that allow prisoners to vote (without restrictions):	Albania, Bosnia & Herzegovina, <i>Canada</i> , Croatia, Denmark, Finland, France, Iceland, Ireland, Latvia, Lithuania, Kosovo, Monaco, Montenegro, Norway, Serbia, Slovenia, Sweden, Switzerland, Ukraine
Countries that allow prisoners to vote (under certain conditions):	Austria, Czech Republic, Germany, Greece, Italy, <i>Japan</i> , FYR Macedonia, Malta, Netherlands, Moldova, Slovakia, Spain, Turkey
Countries that do not allow prisoners to vote:	Azerbaijan, Bulgaria, Cyprus, Estonia, Georgia, Hungary, Portugal, Romania, Russian Federation

²⁵⁵ Submissions by relevant national authorities in response to *QCEA Questionnaire on the Social Reintegration of Ex-Prisoners*, q. 55

²⁵⁶ Submissions by relevant national authorities in response to *QCEA Questionnaire on the Social Reintegration of Ex-Prisoners*, qq. 55-56

²⁵⁷ Council of Europe, *Abolition of restrictions on the right to vote: Report to the Committee on Legal Affairs and Human Rights*, Doc. 10553, 18 May 2005 [online], accessed 5 August 2010, available at <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/Documents/WorkingDocs/Doc05/EDOC10553.htm>, § 29

²⁵⁸ *ibid.* This source does not make clear whether 'release back into society' was intended to mean the end of a sentence of imprisonment, or whether it includes time spent on temporary or conditional release, such as parole.

²⁵⁹ Submissions by relevant national authorities in response to *QCEA Questionnaire on the Social Reintegration of Ex-Prisoners*, q. 56

²⁶⁰ Council of Europe, *Abolition of restrictions on the right to vote*, § 29

Countries that do not allow prisoners to vote and continue to impose restrictions after release:	Armenia, Belgium, Luxembourg, <i>United States</i> ²⁶¹
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The situation for convicted prisoners in Council of Europe member states and observer states (in italics) is summarised in Table 12. No clear pattern in prisoner voting rights is discernible by either geography or by political tradition: to illustrate this, the United Kingdom and the Russian Federation both exclude prisoners from taking part in elections, while the Republic of Ireland and Ukraine place no legal obstacles on a prisoner's right to vote.

Whilst member states' attitudes to a prisoner's right to vote remain varied, the positions adopted by the Committee of Ministers of the CoE and the European Court of Human Rights are clear, as can be seen from Britain's confrontation with the European Court of Human Rights on the issue.

12.3 Hirst v. the United Kingdom

Protocol 1 (1952) of the 1950 European Convention on Human Rights

Article 3: *The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.*

On 6 October 2005, in the case of *Hirst v. the United Kingdom*, the European Court of Human Rights in Strasbourg ruled by a majority of 12 to 5 that the United Kingdom's blanket ban on convicted prisoners voting:

'strips of their Convention right to vote a significant category of persons and it does so in a way which is indiscriminate ... It applies automatically to [convicted] prisoners, irrespective of the length of their sentence and irrespective of the nature or gravity of their offence and their individual circumstances. Such a general, automatic and indiscriminate restriction on a vitally important Convention right must be seen as falling outside any acceptable margin of appreciation ... and as being incompatible with Article 3 of Protocol No.1.'²⁶²

The British Government had argued in an earlier hearing that 'prisoners have forfeited the right to have a say in the way the country is governed for that period [of detention]. There is more than one element to punishment than forcible detention. Removal from society means removal from the privileges of society, amongst which is the right to vote for one's representative'.²⁶³ The applicant successfully argued that, 'the right to vote is not a privilege. In the twenty-first century, the presumption in a democratic State must be in favour of inclusion'.²⁶⁴

This ruling by the European Court does not mean that all categories of prisoners must be allowed to vote. It does mean, however, that the United Kingdom cannot legally disqualify people imprisoned in their jurisdictions from the right to vote in elections simply because of the fact of their

²⁶¹ The USA is a federal system and the situation varies from state to state.

²⁶² European Court of Human Rights, *Hirst v. the United Kingdom judgment*, § 82

²⁶³ *ibid.*, § 16

²⁶⁴ *ibid.*, § 59

incarceration. Similar judgments in other cases have suggested that the same interpretation would be taken in cases relating to other states' law.²⁶⁵

At the last general election in the United Kingdom on 6 May 2010, Britain had still not implemented the ruling of the Court, even on an interim basis. The CoE warned that the failure to implement the judgment could result in the illegitimacy of the 2010 general election.²⁶⁶ Their worries were not addressed until after the election, but on 2 November 2010, a junior minister in the British government announced plans to implement the judgement of the European Court to the House of Commons in Westminster. 'This is not a choice', said Mark Harper, 'it is a legal obligation', and it was noted in the House of Commons that Prime Minister David Cameron was reportedly 'exasperated' and 'furious' about the decision.²⁶⁷ A motion to retain the blanket ban was passed in Parliament on 10 February 2011 by 234 votes to 22, suggesting that (at the time of publication) the political wrangles over the ban's removal have some distance left to run.²⁶⁸

Nevertheless, the changes are clearly required by Britain's own human rights law. This judgment and others like it suggest that any implementation of the changes should affect the vast majority of prisoners in order to redress the balance.

12.4 Civic reintegration

International treaty obligations and European case law, as outlined above, unequivocally establish that the local, regional, national and European franchise is a basic entitlement, in all but the smallest minority of cases. This entitlement is still being disregarded by a number of member states. There are good reasons for these governments to make a 'choice' and extend the franchise to prisoners. Prison reform campaigners argue that an indiscriminate prohibition of prisoner voting will in all likelihood perpetuate social exclusion. As social exclusion is a key driver of criminality and reoffending, far from acting as a deterrent to future crime, an indiscriminate ban may possibly contribute to an increased risk of an individual reoffending. At the very least, denying convicted prisoners the option of fulfilling their democratic obligations serves no purpose in either protecting the public or reforming the offender.²⁶⁹ At worst, the limiting of the franchise, in the words of a Canadian Supreme Court judgment,

²⁶⁵ The European Court has also ruled that blanket bans implemented based on a general rule (in this case, a rule by Austria that prisoners serving a sentence of over one year) are also unlawful. European Court of Human Rights, *Case of Frodl v. Austria* (Application no. 20201/04, Judgment, 8 April 2010 [online], accessed 27 December 2010, available at <http://www.prisonreformtrust.org.uk/uploads/documents/Austria.doc>

²⁶⁶ Council of Europe, Interim Resolution CM/ResDH(2009)160: Execution of the Judgment of the European Court of Human Rights Hirst against the United Kingdom No. 2, 4 March 2010 [online], accessed 1 January 2011, available at <https://wcd.coe.int/wcd/ViewDoc.jsp?id=1556821&Site=CM>

²⁶⁷ 'Prisoners' Right to Vote, House of Commons, 2 November 2010', in *Hansard*, accessed 13 December 2010, available at <http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm101102/debtext/101102-0001.htm#10110260000003>

²⁶⁸ Watt, N. & Travis, A., 'MPs decide to keep blanket ban on prisoners' vote', *The Guardian*, 10 February 2011 [online], accessed 11 February 2011, available at <http://www.guardian.co.uk/politics/2011/feb/10/mps-blanket-ban-prisoners-vote?intcmp=239>

²⁶⁹ Prison Reform Trust and UNLOCK, *Barred from Voting: The Right to Vote for Sentenced Prisoners*, February 2010 [online], accessed 5 August 2010, available at <http://www.prisonreformtrust.org.uk/uploads/documents/votesbriefingfeb2010.pdf>, p. 6

'undermines the legitimacy of the government, the effectiveness of the government, and the rule of law'.²⁷⁰

In the 2005 European Court of Human Rights cases, the judgment referred to the submission by the AIRE Centre,²⁷¹ which highlighted the recommendations of the Committee of Ministers concerning the management of prisoners serving long sentences.

Recommendation Rec (2003)23 of the Committee of Ministers to member states on the management by prison administrations of life sentence and other long-term prisoners

General principles:

3. *Consideration should be given to the diversity of personal characteristics to be found among life sentence and long-term prisoners and account taken of them to make individual plans for the implementation of the sentence (individualisation principle).*
4. *Prison life should be arranged so as to approximate as closely as possible to the realities of life in the community (normalisation principle).*
5. *Prisoners should be given opportunities to exercise personal responsibility in daily prison life (responsibility principle).*²⁷²

Although the recommendation makes no explicit reference to the right of prisoners to vote, the 'individualisation', 'normalisation' and 'responsibility' principles support 'the extension of the vote to prisoners by fostering one of their possible connections with society, increasing their stake in society and taking into account their personal circumstances and characteristics.'²⁷³ Extending the right to vote to prisoners would complement the aims of prisons' resettlement programmes.

Extending the right to vote to prisoners - and ensuring offenders can exercise that right - is unlikely by itself to reduce the rate of reoffending amongst ex-prisoners. However, ensuring that a citizen's right to vote is maintained has several important functions. It helps to maintain a person's connections to society and enables them to have some say in the laws that affect them; imprisonment does not render prisoners unable to reach informed decisions. Prison should not seek to remove what defines us as people and citizens.

²⁷⁰ The judgement continues: 'It is more likely to erode respect for the rule of law than to enhance it, and more likely to undermine sentencing goals of deterrence and rehabilitation than to further them.' Canadian Supreme Court, *Sauvé v. Canada (Chief Electoral Officer)*, 31 October 2002 [online], accessed 5 August 2010, available at <http://csc.lexum.umontreal.ca/en/2002/2002scc68/2002scc68.html>

²⁷¹ AIRE Centre: Advice on Individual Rights in Europe (<http://www.airecentre.org>)

²⁷² Council of Europe, *Recommendation Rec (2003)23 of the Committee of Ministers to member states on the management by prison administrators of life sentence and other long-term prisoners*, adopted 9 October 2003 [online], accessed 20 July 2010, available at <https://wcd.coe.int/ViewDoc.jsp?id=75267&Site=CM>

²⁷³ European Court of Human Rights (2005), Judgment in *Hirst vs. UK*, § 54

12.5 Summary and recommendations

Summary

Several CoE member states exercise a blanket ban on prisoner voting, and numerous others a variety of bans that apply to individual categories of prisoners. In some cases, the ban extends after the prisoner's release. The recent *Hirst vs. United Kingdom* case is one of a range of judgments from the European Court of Human Rights (ECtHR) in which it is made clear that a blanket ban based solely on the fact of imprisonment is not acceptable. At best, disenfranchising prisoners fails to protect the public or reform the offender. At worst, it undermines democracy and the legitimacy of the government, and contributes to the continued exclusion of the prisoner.

Recommendations

15. The Council of Europe should consider:
 - a. clarifying in which cases it considers it acceptable for member states to remove the franchise from prisoners.
16. Member states should:
 - a. remove all blanket bans on prisoners voting
 - b. define clearly the basis on which prisoners may receive bans and issue sentencing guidelines
 - c. remove any restrictions that are judged to be necessary as soon as the prisoner's sentence is over.

13 Restorative justice and prisoner reintegration

13.1 What is restorative justice?

Restorative justice (RJ) is 'a process whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future.'²⁷⁴ Restorative justice has sometimes been seen as an alternative to custody, but properly understood, restorative approaches can be applied at any stage of the justice process. RJ is relevant **within** or **alongside**, as well as **instead of** justice processes conducted by the police, courts, prisons and probation.

The UNODC *Handbook on Restorative Justice Programmes* describes RJ as 'an evolving response to crime that respects the dignity and equality of each person, builds understanding, and promotes social harmony through the healing of victims, offenders and communities'.²⁷⁵

The focus of the traditional criminal justice process is on detecting law-breaking, establishing proof of culpability, and assigning and enforcing sanctions. The primary objective in RJ is to repair the harm done through an agreement reached by dialogue, which by its very nature must be specific to the parties (individuals) concerned.

This chapter provides an introduction to the development of restorative justice principles and programmes in Europe, and specifically how the success of RJ programmes in preliminary stages of the criminal justice system (often for young offenders) show potential benefits for victims of serious crimes.

13.2 Benefits to victim and offender

Edgar and Newell's description of the priorities of the restorative process in practical terms is illuminating for the uninitiated reader:

'Dialogue is the first step because it is how the process defines harm. The second step is empowerment, as victims, offenders and their supporters decide on what to do. The third step chronologically is the action taken by the offender to repair the harm.'²⁷⁶

This process defines the characteristics that make restorative justice unique: reparation, empowerment (of both victims and offenders), and communication. These same characteristics should form the basis of preparations for social reintegration. Preparation for release should be guided by:

1. Communication about the process of social reintegration - between prisons and the support agencies in the community whose help will be

²⁷⁴ Cited in Edgar & Newell (2006), *Restorative justice in Prisons*, p. 11

²⁷⁵ UNODC, *Handbook on Restorative justice Programmes*, 2006 [online], accessed 14 September 2010, available at http://www.unodc.org/pdf/criminal_justice/06-56290_Ebook.pdf, p. 7

²⁷⁶ Edgar & Newell, *Restorative Justice in Prisons*, p. 11

needed; between prisons, probation and the offender; and between prisoners and their families.

2. Empowerment - enabling prisoners to take the steps required to prepare adequately for the difficulties they will face upon return to the community; supporting prisoners where they need it; and bringing families into the process, acknowledging their role in supporting released prisoners.
3. Addressing the harm done - which should address two dimensions:
 - a) Ensuring that all prisoners have opportunities voluntarily to make amends for the harm they have done, either through victim offender mediation or through service to the whole community, and
 - b) Responding to the harm done by imprisonment such as, for many prisoners, the loss of housing, employment, financial stability and the damage to their family relationships.

Empowerment is an essential attribute of RJ programmes for victim and offender, as well as their communities. It allows offenders to accept responsibility for their crime, as well as to take responsibility for repairing the damage done. In practical terms, the process attempts to restore the emotional (and sometimes financial) losses of the victim(s), as well as to redevelop their sense of security. For the offender(s), it is hoped (and the available evidence suggests) that taking part in this discursive process, taking ownership of the crimes committed and being able to express remorse can have a positive impact on their future reintegration into society.

Obliging offenders and victims to meet would undermine the purpose of their doing so, and potentially inflict further emotional harm. 'No one can be forced to feel regret, guilt or to make restitution; however, when one shows a willingness to do so, the system should honour it'.²⁷⁷ Appropriate RJ programmes can have a positive impact both in addressing harm and in assisting social reintegration.

13.3 Prisoner reintegration and victims

RJ has mostly been trialled in cases of relatively 'minor' crime. Victims of serious crime have sometimes been denied access to the unique benefits that RJ processes can provide. The opportunity to offer RJ programmes in prisons has potential benefits for social reintegration, and very great potential in terms of victim satisfaction. Support for victims is a major outcome consistently demonstrated by various evaluations conducted on existing programmes - one study found that victims of crime were less likely to suffer post-traumatic stress disorder, and to be able to return sooner to work.²⁷⁸

²⁷⁷ Gyökös, M. and Lányi, K., *European Best Practices of Restorative justice in the Criminal Procedure 2010*, Ministry of Justice and Law Enforcement of the Republic of Hungary, Budapest: 2010 [online], accessed 4 June 2010, available at www.eucpn.org/download/?file=RJ_ENG.pdf&type=8, p. 5

²⁷⁸ *ibid.*, p. 272

Implementing RJ in prisons poses problems for practitioners and philosophers alike. The prison system has historically been centred on a retributive, punitive understanding of justice, which seems wholly opposed to the restorative approach. There is even perceived to be a risk that the engagement of restorative principles with the penal system will undermine its traditional retributive function. This need not be the case.

13.4 Extending restorative justice in the existing system

OCEA's report *Investigating Alternatives to Imprisonment* (February 2010) outlined the four broad frameworks on which various RJ programmes are modelled:

Table 13: Models of restorative justice²⁷⁹

<p>Victim-Offender Mediation (VOM): Victim-offender mediation is a face-to-face meeting between the victim and perpetrator of the crime in the presence of a trained mediator. The practice may appear under a variety of different names, with the word mediation substituted for dialogue, conferencing or reconciliation. The victim and offender may be joined by family and community members or other stakeholders. The meeting is an opportunity to discuss what happened, its impact and their feelings about it. If possible, they may choose to create a mutually agreeable plan to repair the harm done by the crime. VOM is the restorative practice most institutionalised in the criminal justice systems of member states.</p>
<p>Family Group Conferences (FGC): Family Group Conferences are meetings where extended families are invited to come together with the aim of resolving conflict or problem behaviour. FGCs are primarily used for cases involving young people, and the meetings can include professionals from social and education services. One particular feature of FGCs is private planning time - usually for the youth and their family - which can help address the problems young people face in conveying their emotions.</p>
<p>Restorative Conferencing: A more general concept, usually consisting of a structured intervention by a facilitator involving all those affected by an incident. The conference focuses on the facts and consequences of an incident for all those involved, and seeks to repair the harm. The outcome is often a mode by which the offender can provide reparation.</p>
<p>Indirect/Direct Mediation: Indirect mediation accommodates a situation in which the victim and/or offender do not want to meet. The mediator 'shuttles' dialogue between the two parties. Conversely, direct mediation involves face-to-face contact with an impartial mediator. Both differ from VOM in that the parties are assumed to be on a level moral playing field, with responsibilities that may often need to be shared on all sides. This sense of shared blame may be true in some criminal cases; in many it is not.</p>

Research suggests that although RJ produces a slightly reduced rate of repeat offending for minor crimes, especially property crimes (when compared to traditional criminal justice approaches), programmes using RJ to target more serious and violent offenders can have a more marked effect in reducing recidivism rates after release from prison.²⁸⁰ Though this may seem counterintuitive, it perhaps makes sense if the human dimension is considered: the greater the impact of the crime on the victim, the greater the need of the victim to unburden themselves of the harm done, or at the least to have it acknowledged by the perpetrator

²⁷⁹ Loffman and Morten, *Investigating Alternatives to Imprisonment*, pp. 80-81

²⁸⁰ Gyökös, M. and Lányi, K., *European Best Practices of Restorative Justice in the Criminal Procedure*, p. 20

One 2010 review gathered the findings of a range of RJ studies from Britain and Australia, comparing their impact on reconviction rates for different types of crime. It found that RJ reduced the frequency of reconviction, when compared to traditional criminal justice sanctions, for ten out of twelve types of crime. The two where there were no improvements were property crimes committed by juveniles, and drink-driving. It is also striking that of the five studies reviewed which investigated the impact of RJ in violent crimes, all five showed reduced reconviction rates for offenders who had participated in RJ meetings. It was also found that the effects of RJ were greater for adult than for juvenile offenders.²⁸¹

RJ principles are also gaining ground more widely.

Restorative Circles: Community justice *outside* the Criminal Justice System

Restorative principles are increasingly penetrating areas that are not 'criminalisable'. Restorative Circles is a community-based initiative that brings restorative principles to the solving of community disputes and discord, outside the traditional legal and criminal justice establishment. The idea began life in Brazil, the creation of Dominic Barter, an Englishman who attempted to tackle the violence of the neighbouring *favelas* of Rio de Janeiro by bringing together informal community leaders to design through open and honest dialogue an appropriate and workable system of conflict resolution.

'Many countries, many communities', Dominic states, 'have been discovering that the current structures they have for dealing with conflict, whether in the judicial system, or in their schools, or in their local communities or in family are not working for them as well as they'd like [them] to'. Restorative Circles is an alternative to the formal structures of the criminal justice system, which recognises community conflict as an on-going phenomenon, not a series of discrete crimes. 'The process begins', Dominic continues, 'when we recognise that what affects me affects you too.'

Restorative Circles is a living process of community-building, not social *reintegration* but pro-active social *integration* through the recognition of shared experience, facilitated by a process of dialogue and searching question. It is simultaneously *instead of* and *as well as* the formal criminal justice system, if we recognise that justice everywhere is interconnected.²⁸²

13.5 Restorative justice in prison

If a prisoner is willing to take responsibility and accept the consequences of their actions, and if the victim(s) are willing to engage in an RJ procedure, then prison administrations should provide the opportunity to do so. There is a justifiable fear that victims of serious offences may face re-victimisation, either because the restorative process is manipulated by the prisoner or simply owing to the physical environment of the prison. The restorative dynamic perceives justice as a process that actively compensates suffering

²⁸¹ Strang, H., *Restorative justice Research in Australia and the United Kingdom: What do we know?* [online], accessed 23 February 2011, available at [http://www.lawlink.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/Heather_Strang_NSW_CPD26Feb10.pdf/\\$file/Heather_Strang_NSW_CPD26Feb10.pdf](http://www.lawlink.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/Heather_Strang_NSW_CPD26Feb10.pdf/$file/Heather_Strang_NSW_CPD26Feb10.pdf)

²⁸² Rohde-Liebenau, B., 'Restorative Circles - a Testimony for Justice?', *Around Europe*, 324 (July-August 2010) [online], available at <http://www.quaker.org/qcea/aroundeurope/2010/AE324.pdf>; Restorative Circles, 'A video interview with Dominic Barter', August 2009 [online], accessed 4 September 2010, available at <http://www.restorativecircles.org/an-interview-with-dominic-barter>

and repairs harm. However, justice must also be understood as constituting a legal construction, and legal safeguards must be in place to protect victims from further victimisation. Balance is required. Visiting a prison - where the emphasis is on risk minimisation and security - is not a pleasant experience for even the most dispassionate of visitors.

Nevertheless, if the victims of more serious crimes are denied access to restorative justice procedures, the danger of re-victimisation persists, as the person is denied the opportunity to partake in a process designed to address the emotional and psychological impact of the crime, and allow the victim to rebuild their life. The challenge is to make it work.

13.5.1 RJ in Belgian and Spanish prisons

Belgium was the first member state in the Council of Europe to implement a prison-based model for RJ programmes. These were developed during the major reforms in Belgium's criminal justice system that occurred in the aftermath of the arrest of Marc Dutroux in August 1996.²⁸³ As part of the reforms, the Justice Minister, for the first time, explicitly linked the primary purpose of the correctional service - social reintegration of the offender - with the concept of RJ.²⁸⁴

Starting in 1997, the Ministry carried out experiments in six Belgian prisons in conjunction with researchers from the Universities of Leuven and Liège. 'The idea [was] to create freedom in the most controlled social institution so that prisoners can take up responsibility for their acts and deal with the conflict situation between victim and offender'.²⁸⁵ Following appraisal of pilot schemes, the decision was taken in June 2000 to initiate RJ programmes right across the prison estate.

In order to guide the change process, an RJ consultant was appointed in each of Belgium's 31 prisons. Their overarching objective was to alter the mind-frame of a punitive system focused overwhelmingly on the offender, in which the victim and the damage caused to them by the crime were almost wholly neglected. The first step, therefore, was to inform and educate all stakeholder groups within and outside the system, and only after this initial phase had been undertaken, could activities for both prison personnel and inmates be developed.²⁸⁶

²⁸³ Marc Dutroux was arrested in 1996, and convicted in 2004, of the kidnap, torture, rape, sexual abuse and murder of four teenaged girls, the murder of an accomplice, and a host of lesser crimes. The emergence of grave blunders in the investigation of his crimes led to public indignation, which deepened with the growing perception that there had been an institutional cover-up of those shortcomings. Outrage began soon after the arrest as the facts emerged, and was sustained throughout the tortuous eight-year wait before the case came to trial. There were a series of public protests, including (in October 1996) the so-called 'White March', in which it is estimated that 300,000 people (approximately 3 per cent of Belgium's population) marched in Brussels to demand changes in the system. The scandal surrounding the case led to numerous resignations at several levels of government, and far-reaching reform of the criminal justice system, targeted in part at orienting the system more firmly towards the needs of victims.

²⁸⁴ Biermans, N. & d'Hoop, M-N, *Development of Belgian prisons into a restorative perspective: paper given at Positioning Restorative Justice, Fifth International Conference*, Leuven, 16-19 September 2001 [online], accessed 3 February 2011, available at www.restorativejustice.org/10fulltext/biermansandhoop, p. 1

²⁸⁵ *ibid.*

²⁸⁶ Mariën, K., 'Restorative justice in Belgian Prisons', in Gyökös, M. and Lányi, K., *European Best Practices of Restorative Justice in the Criminal Procedure*

Such initiatives, however beneficial, do not preclude the development of Victim Offender Mediation in prison for more serious offenders (defined in Belgium as crimes punishable by five or more years in prison). Previously in Belgium, mediation in criminal matters (including VOM) had been restricted first to juvenile offenders (in the 1980s) and then for adults only in the case of minor crimes (1990s). The experiments with VOM for imprisoned offenders started in 2001.²⁸⁷

The underlying ambition to return ownership of the harm caused from the criminal justice system, and place it in the hands of the victim and offender, can still be fulfilled for serious offences, but requires careful management. Mediation within prison (i.e. after sentencing) may be more desirable (for the victims) than mediation at a pre-trial stage: for example, the victims may understandably fear that the offender may agree to participate in pre-trial RJ procedures solely to obtain a more lenient sentence. However, any party should be able to request mediation (in theory at any stage of the criminal justice process) if the potential benefits of RJ to victims, offenders and communities are to be realised. Even in the prison setting, this must remain a voluntary process (although there are debates around the level and impact of compulsion associated with mandatory RJ information sessions for prisoners at the pre-mediation stage).

In Flanders between 2001 and 2009, Suggnomé - an umbrella organisation and forum for VOM - received 630 requests for mediation, facilitating 343 mediation processes, including 84 face-to-face meetings.²⁸⁸ The reasons behind a decision to engage with VOM can vary greatly for each party. For victims or their families, small, hitherto-unknown details about the crime may take on great significance in the recovery/grieving process, as well as more obvious 'why?' questions, such as 'why did you do it?' The offender is not passive in this process, though, and for some offenders the ability to explain themselves and seek forgiveness may be equally significant for both parties. The need to repair the damage in any way possible, even just by answering questions, is also often important.²⁸⁹

The circumstances, aims and outcomes of each mediation session are individual to the participants. Facilitation by a mediator is important. The uniqueness of each mediation does create difficulties in drawing general observations, but an individual case study from Spain can illuminate general issues surrounding the efficacy of RJ processes. The summary below is of a mediation process held in Catalonia, Spain for a sexual offence where the victim was the sister of the offender's friend. The case was presented as a workshop to the European Forum for Restorative Justice:

The offender had already been in prison for five years. He had been convicted of rape. He and the victim had known each other; they had grown

²⁸⁷ Bram Van Droogenbroeck, 'Victim Offender Mediation in Severe Crimes in Belgium: "What Victims Need and Offenders can Offer"', in Gyökös, M. and Lányi, K., *European Best Practices of Restorative Justice*, pp. 230-235. In Belgium, mediation is initiated by the victim in 10 per cent of cases, but by the offender in most. It is believed that this is owing to a lack of publicity for situations in which RJ has been successful.

²⁸⁸ *ibid.* In Belgium, mediation is initiated by the victim in 10 per cent of cases. Higher degrees of victim involvement have been seen in other justice regimes, suggesting that educating the public as to the potential benefits of RJ should be part of its implementation in other jurisdictions.

²⁸⁹ *ibid.* Mediation was carried out in respect of 124 property crimes, 108 murders and 111 sexual offences.

up in the same neighbourhood, he had been friends with the victim's brother, and the victim's father had been his teacher at primary school. The case, with his agreement, was referred to mediators by the director of his prison rehabilitation programme. He felt ashamed, and felt he needed the victim to hear him admit the crime, since at trial he had denied his role in the crime, under the guidance of his lawyer, and had in fact blamed the offence on the victim.

Mediators contacted the victim to inform her of the request and let her know about the process - as well as to give her a choice about whether to participate. Before the mediation the victim felt she had rebuilt her life. She had married and was pregnant. Her family had had no opportunity to receive the professional help she had had, and were still deeply angry. But the victim felt she could not overcome her trauma because her father and brother had vowed to take revenge after the offender's release. Her husband, who met the victim some time after the crime, felt that mediation offered a chance for him to discuss his feelings as well. The victim realised after the chance of mediation was offered that she wanted acknowledgement from the offender that she had not 'invented' the offence.

After individual meetings with victim, family members and offender, mediators set up a group meeting in prison. The victim and her brother did not want to attend this meeting but participated through their father and her husband. The father explained that though he could never forgive the offender, he would no longer be angry if the offender took responsibility for the crime and admitted the harm caused. He explained that his daughter needed the same. An agreement document as to the facts of what had happened and the effects it had had was drawn up and signed between the participants. The father said he hoped the offender would do more with his future and that the offender's family would never have to suffer as the victim and her family had.

An evaluation two months later heard from the victim that she felt that she could finally leave the rape behind. Her family members commented that they felt a sense of relief, peace and calm they had not had before. The offender reported similar feelings, and became eligible for release shortly after this case study was written up in 2007.²⁹⁰

The case study illustrates several of the benefits of RJ mediation in prisons. RJ was not a 'soft option' for the offender; he served the same prison sentence as he would otherwise have done. However, after having avoided taking responsibility for his crime at trial, he was able to demonstrate his remorse to those affected by the crime. Although the family did not forgive him, they felt their needs arising from the crime had been met by RJ. This case study illustrates how traditional sanctions for serious offenders can be complemented by RJ. The offender's reintegration also appears to have been helped by the mediation. This does not prove on its own that reoffending rates would be improved more widely by greater use of RJ, but in enabling some kind of resolution and restoration to take place, this mediation had positive effects. Perhaps the most striking was the responsiveness to the needs of those involved. The victim did not feel that she had harm left to restore; yet the family were in control of the start and

²⁹⁰ Case study from Guillamat, A., de la Camara, B., and Casado, C., *Victim and offender reintegration in a serious crime case: learning from mediation during the sentence* [online], accessed on 21 January 2011, available at http://www.euforumj.org/readingroom/Barcelona/workshop_2.pdf, pp. 48-51

continuation of the mediation process, which met needs left unmet by the experience of a prosecution, trial and conviction.

The scale of further possible development of RJ in prison varies greatly, and includes activities that are not, strictly speaking, RJ programmes (but are guided by restorative principles): for example, information sessions for prisoners on the consequences of crimes to victims; a 'compensation fund' allowing prisoners to undertake voluntary work in the community, earnings from which are paid to the victim.²⁹¹

Edgar and Newell's *Restorative Justice in Prisons: A Guide to Making it Happen* provides a framework for practitioners to develop a restorative prison **regime**: focusing on healing harm; practising respect and trust; empowering prisoners in a confidential, emotionally safe setting; and promoting mutual personal accountability in the daily life of the prison.²⁹² Prison environments are characterised by violence, both physical and emotional. Mediation can serve a useful function in overcoming the differing types of conflict which occur in a prison setting.

The involvement of prisoners' families in release planning should also be guided by restorative principles. Edgar and Newell advocate greater efforts to engage families, beginning with the recognition of their experience:

As a general rule, the ways offenders' families are harmed by crimes and imprisonment are rarely acknowledged and even less often addressed. If this is true, then a first step in seeking to involve families is to listen to their perspective on what they have lost, what their needs are, and what they would like to happen next.²⁹³

Facilitated dialogue may enable the family to acknowledge the ways that the offence has damaged them, and part of the reintegration agreement might be for prisoners to make commitments to their families.

Shadd Maruna identifies four principles which should guide reintegration by restorative justice:

- Community led (e.g., mentoring, circles of support)
- Reparation-focused and strengths-based (volunteer and leadership roles, meaningful employment)
- Symbolic re-integration rituals (reversing 'status degradation ceremonies')
- Full restoration of rights and citizenship²⁹⁴

These illustrate the direction and main aims for efforts to inform reintegration by restorative justice.

Restorative justice practices cannot be imposed, but if they are supported and allowed to develop organically within the wider criminal justice system,

²⁹¹ *ibid.*

²⁹² Edgar & Newell, *Restorative Justice in Prisons*, p. 96

²⁹³ *ibid.*, p. 113

²⁹⁴ Shadd Maruna *Restorative Re-integration: helping prisoners rebuild their lives*, Northern Ireland: NIACRO (2005), [online], accessed 25 February 2011, available at www.shaddmaruna.info/pdf/NIACRO.ppt

they can offer a practical guide to the social and human aspects of social reintegration.²⁹⁵

13.6 Summary and recommendations

Summary

Procedures based on restorative justice provide a structure within which those directly affected by a crime can decide how to deal with its aftermath. This kind of decision is often left to chance in more traditional sanctions, and both victims and offenders can struggle to overcome the impact of the crime on their lives as a result. RJ can have different applications. It has the potential to turn offenders away from crime when their activities first bring them into contact with the justice system: hitherto the use of RJ has mostly aimed to provide an alternative to incarcerating those who have committed minor offences, in the hope that real understanding of the consequences of their actions may prove a more persuasive deterrent than a prison term.

But the enormous, life-changing effects of more serious crimes, especially those involving violence, mean that RJ practices **also** have enormous potential as a tool to mitigate the isolating effects of imprisonment. In facilitating contact between the prisoner and those affected by their actions, RJ provides the forum for a genuine admission of guilt and remorse. It can thereby facilitate the reintegration of serious offenders who have been imprisoned. RJ can also involve the community in the rehabilitation of offenders. As such, it returns power to those whose lives have been affected and can assist prisoners' reintegration. In particular, many people in prison feel remorse, yet prison systems offer few opportunities that enable prisoners voluntarily to make amends. The neglect of the human need to put things right frustrates prisoners' legitimate desires to become contributing members of society.

Recommendations

17. The Council of Europe should consider further investigation of the contribution that can be made by RJ practices to offender rehabilitation. In particular:
 - a. further research into the implementation of RJ in prisons should be carried out with a view to sharing good practice and preparing guidelines on its use.
18. Member states should implement RJ programmes for prisoners, alongside other programmes aimed at the rehabilitation and reintegration of offenders. In particular:

²⁹⁵ An international consortium led by the Hungarian *Foresee Research Group* is undertaking a European Commission-financed investigation into the use and suitability of mediation and Restorative justice in prison settings. More information is available at European Forum for Restorative justice, *Mediation and Restorative justice in prison settings* [online], accessed 3 February 2011, available at www.euforumrj.org/Projects/projects.mereps.htm

- a. consideration should be given to the use of RJ (particularly victim-offender mediation) for prisoners who have committed serious crimes
- b. preparations for release should be guided by restorative principles, with the parties involved open to acknowledging harms, and taking responsibility for repairing the harm done
- c. the release of prisoners at the end of their sentence should be guided by the principle that their full citizenship rights be restored to them
- d. prison administrations should consider carefully whether a prison itself is the appropriate environment for RJ meetings to take place
- e. if they decide it is, all necessary steps should be taken to provide a suitable environment within the prison in which RJ meetings can take place, and to mitigate the impact of security measures on victims visiting prisons.

14 Conclusion

Society expects a dramatic change from those who are released from prison, yet it is well known that many prisoners lack the resources and motivation they need to make and consolidate that change, and that prison itself can worsen this situation. A variety of responses present themselves.

Society could 'wash its hands' of offenders, continue to adopt harsher punishments, and invest ever-increasing resources in a prison estate that continues to grow and grow. The consequence would be the criminalisation, and economic and social exclusion, of an increasing number of people, who will pay little or no tax, and whose upkeep will be a burden on others. As Chapter 5 shows, this has been the pattern in many Council of Europe member states over recent years. It is a race to the bottom. The cost to society is enormous, and the cost to prisoners' families, who have committed no crime, is grave. Worse, such conditions of imprisonment solve nothing, because they fail to address the causes of offending behaviour.

Another response would be to do away with prison altogether, and to adopt entirely rehabilitative community-based sentencing options. This would cost less than prison, but would do nothing to control behaviour that was dangerous, and similarly would do nothing to protect the public from genuinely disruptive and dangerous behaviour. If over-reliance on prison is ineffective and inhumane, the existence of some level of imprisonment is probably unavoidable. Whenever it is used, it must rehabilitate prisoners.

Prison should be used only where necessary, and must offer genuine opportunities to develop the resources needed to desist from crime. It should respond to prisoners' needs. The vast majority will eventually be released, but the deprivation of liberty alone does nothing to prepare them for the change that society expects of them. It may be that 'harsh' punishments in fact demand very little from offenders, meeting their basic physical needs and taking away their liberty, but demanding little more than patience and acquiescence. This is not challenging enough.

Prisoners' needs are individual and usually complex, but may often include the following:

1. The need to be recognised as individuals, with the potential for change, and responsible for their own actions;
2. The need for education, skills and employment;
3. The need for stable housing and positive relations with supportive individuals, usually family;
4. The need for gains made in prison to be followed up and consolidated after release;
5. The need for health, in particular to be free of debilitating addictions.

If society, through a properly-administered prison system, is able to meet these needs, then there is a better chance that its own (and victims')

expectations of offenders are met: that they show remorse and make good (as far as possible) the damage they have done, most importantly by changing their behaviour. If society does not meet these needs, then resources will be poured into an ever-increasing void, and the misguided attempt to solve the problems of exclusion by further exclusion will continue. This cannot be a sensible way forward.

15 Appendix I - Prison populations 1999-2010²⁹⁶

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Albania			3,053		3,778		3,491		4,300	5,041		
Andorra			48	55	61	61				71		
Armenia	7,247	7,390	5,772	5,469	2,841	2,866	2,879	2,873	3,520		3,965	
Austria	6,975	6,862	7,236	8,081	8,487	9,000	8,700	8,766	8,889	7,909	8,308	
Azerbaijan	21,565	22,677	21,206	20,313	21,026	18,259		19,559			20,986	
Belgium	8,539	8,890	8,819	9,037	9,058	9,245		9,597	9,879	10,002	10,159	
Bosnia & Herzegovina (federal)		1,041		1,372	1,366		1,509	1,526		1,750		
Bosnia & Herzegovina (Republika Srpska)			849	876	899	1,052	955	952	928	924		
Bulgaria	11,174	10,097	8,965	8,988	9,422	10,066	10,871	11,436	11,058	10,271	9,408	
Croatia		2,565	2,679	2,641	2,803	3,022	3,485	3,833	3,833	4,734		
Cyprus	247		369	345	362	481	550	592	632	671		
Czech Republic	23,060	21,599	19,476	16,211	17,271	18,325	18,927	18,574	18,915	20,502	21,746	22,013
Denmark	3,477	3,382	3,236	3,435	3,641	3,767	4,041	3,932	3,646	3,530	3,715	
Estonia		4,655	4,777	4,775	4,443	4,417	4,450	4,349	3,566	3,467		3,555
Finland	2,743	2,855	3,135	3,433	3,578	3,570	3,888	3,778	3,551	3,526	3,492	
France			46,376	50,714	55,382	55,028	55,355	52,009		59,655		
Georgia			7,343	7,688		7,091		11,731	18,310	18,170	21,239	
Germany	80,610	79,507	78,959	74,904	81,176	81,166	80,413	78,581	75,719	75,059	72,043	

²⁹⁶ Figures in this table are assembled from: OCEA's questionnaires; Aebi, M. & Delgrande N., *Council of Europe Annual Penal Statistics: Space I Survey 2008* (Strasbourg: 22 March 2010) [online], accessed on 2 February 2011, available at http://www.coe.int/t/DGHL/STANDARDSETTING/PRISONS/SPACEI/PC-CP%282010%2907_E%20SPACE%20Report%20I.pdf; and King's College London International Centre for Prison Studies, *World Prison Brief Online* [online], accessed 20 March 2010, available at http://www.kcl.ac.uk/depsta/law/research/icps/worldbrief/wpb_about.php

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Greece			8,343	8,500		8,760	9,984			12,300		
Hungary	15,110	15,530	17,275	17,838	16,507		15,720		14,353	14,911	15,373	
Iceland	87	90	100	93	109	120	116	118	115	140	175	
Ireland		2,948	3,025		3,366	3,417			3,305		3,895	
Italy	51,814	53,615	55,275	55,670	54,237	56,068	59,532	39,005	43,957	55,057	64,595	
Kosovo		520	734	989	1,250	1,195	1,298	1,288	1,128	1,314	1,485	
Latvia	9,409	8,815	8,831	8,673	8,366	7,646	6,965	6,548	6,548	6,548	7,200	
Liechtenstein	24			17	18		10		7	10		
Lithuania		7,601	9,755	9,414	6,701	6,841	7,010	7,082	6,911	7,022	7,447	
Luxembourg	384	384	341	438	509	635	715	764	758	762	679	
Macedonia			1,413	1,248	1,598	1,618		2,026	2,050	2,235		
Malta	219	256	250	277	268	289	294	376	370			560
Moldova	9,449	10,037	10,633	10,633	10,924	10,591	9,377	9,452	9,042	7,895	6,830	6,535
Monaco		19	15	11	18	13	17	14	10	12	8	
Montenegro				710	734		816		961			
Netherlands	9,630	10,732	11,448	11,747	13,980	16,455	17,600	16,250	14,466	16,416		
Norway	2,328	2,446	2,634	2,736	2,850	2,970	3,051	3,159	3,330	3,276		3,369
Poland	56,765	70,544	79,634	80,467	79,281	80,368		87,901	87,776	84,321		85,530
Portugal	13,093	12,944	13,260	13,918	13,835	13,152		12,870	11,587	11,017		11,493
Romania	49,790	48,267	49,840	48,075	42,815	39,031	36,700	34,038	29,390	26,551		27,638
Russia			962,700	919,330	864,590	847,004	763,054	869,814	871,693	891,738		862,300
San Marino	5	4	3	2	0	1	2	2	3	2		

Appendix I - Prison populations 1999-2010

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Serbia	5,000	6,160	5,566	6,000	7,487	7,500	7,775	8,000	8,978		10,526	
Slovakia		9,941	7,433	7,758	8,873	9,422	8,897	8,249	7,986	8,166	9,316	
Slovenia	1,431	1,136	1,155	1,120	1,099	1,126	1,132	1,301	1,336	1,318	1,360	
Spain		45,104	47,571	51,882	56,096	59,375	61,054	64,021	67,100	73,558	76,519	76,753
Spain (excluding Catalonia)					48,654	51,272	52,747	55,049	57,725			66,688
Catalonia	6,093	6,045	6,095	6,287	7,257	7,879	8,271	8,820	9,329			10,065
Sweden	4,116	4,263	4,765	5,081	5,320	5,722	5,508	5,533	5,275	5,399	5,486	
Switzerland	5,844	5,399	5,137	4,937	5,241	5,977	6,137	5,888	5,715	5,780	6,084	
Turkey		71,860	61,336		64,051	67,772		65,458	85,865	101,100		118,929
Ukraine	206, 191	218, 083	222, 254	192, 293	197, 641	191, 241	192, 047	170, 923	154, 055	149, 690	144, 380	
England & Wales	64,529	65,194	66,403	71,218	73,657	74,936	76,675	78,454	80,067	82,023		85,086
Northern Ireland			877	1,058	1,220	1,295	1,275	1,466	1,445	1,562		1,425
Scotland			6,172	6,417	6,569	6,885	6,742	7,131	7,412	7,893		7,747

16 Appendix II - Prison populations per 100,000²⁹⁷

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Albania	33.0	43.5	48.1	52.5			109.3	122.4	130.9	139.3		
Andorra			72.5	82.9	90.8			40.4	116.5	72.6		
Armenia			111.0	148.0	106.8	84.9	87.8	188.8	108.4	128.8	122.0	
Austria	85.1	83.1	85.1	92.3	96.9	106.0	106.8	105.4	100.9	96.3	99.0	
Azerbaijan				225.0	199.3	220.9	203.3	211.9	234.3	256.6	240.0	
Belgium	82.3	84.7	85.4	90.2	83.9	88.0	89.7	95.6	95.1	98.4	94.0	
Bosnia & Herzegovina (federal)				49.7	48.7	51.3	53.8	54.3	54.7	67.0		
Bosnia & Herzegovina (Republika Srpska)				58.3	63.7	68.3	72.9	64.5	64.5	64.3		
Bulgaria	132.0	115.0	114.0	121.7	128.2	140.2	157.7	158.8	150.7	147.6	124.0	
Croatia	44.5	44.4	59.9	58.2	58.4	64.1	78.5	84.1	91.8	105.4	107.0	
Cyprus			48.6	45.1	44.2	66.7	63.2	70.8	105.8	104.3		
Czech Republic	224.0	219.0	207.0	164.2	167.1	178.0	186.4	185.6	184.8	200.6	209.0	
Denmark	67.0	61.5	58.9	64.1	66.4	69.7	76.4	69.2	66.3	62.9	66.0	
Estonia	300.0	328.0	350.0	340.9	353.8	337.9	327.4	321.6	262.6	279.6	265.0	
Finland	50.4	52.3	58.7	66.7	66.0	66.0	73.0	70.6	69.2	67.3	67.0	
France	88.5	80.1	77.1	87.6	93.1	90.5	91.8	91.6	99.9	104.1		
Georgia				186.0	147.5	165.0	200.6	302.7	395.7	421.2	483.0	
Germany	98.3	97.1	95.8	95.2	96.4	96.5	95.7	95.8	94.5	90.7	88.0	

²⁹⁷ Figures in this table are assembled from: OCEA's questionnaires; Aebi, M. & Delgrande N., *Council of Europe Annual Penal Statistics: Space I Survey 2008* (Strasbourg: 22 March 2010) [online], accessed on 2 February 2011, available at http://www.coe.int/t/DGHL/STANDARDSETTING/PRISONS/SPACEI/PC-CP%282010%2907_E%20SPACE%20Report%20I.pdf; and King's College London International Centre for Prison Studies, *World Prison Brief Online* [online], accessed 20 March 2010, available at http://www.kcl.ac.uk/depsta/law/research/icps/worldbrief/wpb_about.php

Appendix II - Prison populations per 100,000

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Greece	71.4	76.2	79.0	78.4	81.0	83.8	86.6	90.9	99.9	110.0		
Hungary	151.0	158.0	171.0	177.4	167.7	162.2	162.4	155.0	149.6	151.8	153.0	
Iceland	33.8	29.0	38.8	37.3	38.8	39.6	40.5	39.9	38.1	46.0	55.0	
Ireland		76.4	80.0	78.0	75.3	82.0	78.2	74.3	80.4	84.8	85.0	
Italy	89.3	92.7	95.0	99.8	101.7	96.9	102.0	65.2	78.4	96.0	107.0	
Kosovo	355.0	353.0	364.0	363.1	348.9	333.3	313.4	285.3	285.5	291.4	319.0	
Latvia					53.1	20.4	28.9	28.6	17.5	29.0		
Liechtenstein	384	240.0	291.0	326.4	287.6	227.1	233.4	237.0	219.3	217.2		
Lithuania	90.2	90.4	80.9	85.6	111.1	121.3	152.3	163.6	154.9	138.5		
Luxembourg												
Macedonia	61.4	69.0	69.9	61.2	78.4	86.1	104.8	100.1	99.7	108.4		
Malta			67.2	71.7	71.9	73.0	74.0	84.7	113.9	143.0	138.5	134.0
Moldova			250.0	290.4	296.5	287.8	249.7	230.0	187.8	167.7	175.9	184.0
Monaco					112.7	107.7	102.7	113.5	110.2	103.5		
Montenegro					104.9							
Netherlands	84.0	90.1	95.4	100.8	112.7	123.5	133.9	124.9	113.1	102.8		
Norway	58.5	59.0	59.2	58.8	64.0	65.0	67.2	67.8	70.9	70.6	70.0	
Poland	141.0	169.0	207.0	208.7	211.1	207.8	216.5	229.9	234.2	216.0	220.0	224.0
Portugal			132.0	132.8	136.7	129.6	122.4	119.4	108.9	101.2	104.6	108.0
Romania	229.0	221.0	225.0	229.5	208.2	184.6	175.1	166.8	140.5	122.5	125.8	129.0
Russia			671.0	638.6	601.4	548.0	576.8	608.6	626.9	630.9	620.0	609.0
San Marino						0.0	3.4	3.3	3.4	6.7		

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Serbia					74.9	93.0	103.7	114.1	121.6	128.3	143.0	
Slovakia	128.0	297.0	139.0	145.9	164.1	176.7	172.5	160.7	151.2	152.4		
Slovenia	47.3	57.3	58.0	56.2	55.1	56.4	56.7	65.0	66.5	65.6		
Spain	114.0	114.0	117.0	126.2	135.8	140.3	142.4	146.1	150.2	159.7	162.9	166.0
Spain (excluding Catalonia)						144.1						
Catalonia						120.0			130.3	133.6		
Sweden	61.9	64.1	68.5	73.0	75.6	81.7	78.3	79.0	75.0	75.8		
Switzerland	88.5	89.2	71.6	68.7	72.0	81.8	82.4	79.0	75.6	76.2	79.0	
Turkey	108.0	110.0	93.2	86.7	92.0	99.9	75.8	91.7	120.7	131.2	147.6	164.0
Ukraine			406.0	405.7	413.3	406.3	381.1	355.3	332.7	322.5	314.0	
England & Wales	122.0	124.0	126.0	137.1	139.1	140.4	142.7	145.1	147.5	152.8	153.4	154.0
Northern Ireland			51.6	63.8	69.8	75.7	77.5	86.2	82.1	85.8	82.4	79.0
Scotland				128.7	131.4	135.6	133.4	140.6	144.9	156.8	152.9	149.0
Mean				141.3	138.0	137.0	144.8	147.4	138.6	140.4		
Median				92.3	96.9	109.9	105.8	114.1	109.5	109.2		

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'We cannot impose these serious penalties upon individuals unless we make a great effort and a new effort to rehabilitate men who have been in prison, and secure their chance to resume their places in the ranks of honourable industry. The present system is not satisfactory.'

Winston Churchill, in a speech to the House of Commons, 20 July 1910

Quaker Council for European Affairs Aisbl

Square Ambiorix 50

B - 1000 Bruxelles

Phone: +32 2 230 49 35

Fax: +32 2 230 63 70

E-mail: info@qcea.org

Website: www.quaker.org/qcea (until summer 2011)

www.qcea.org (thereafter)

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